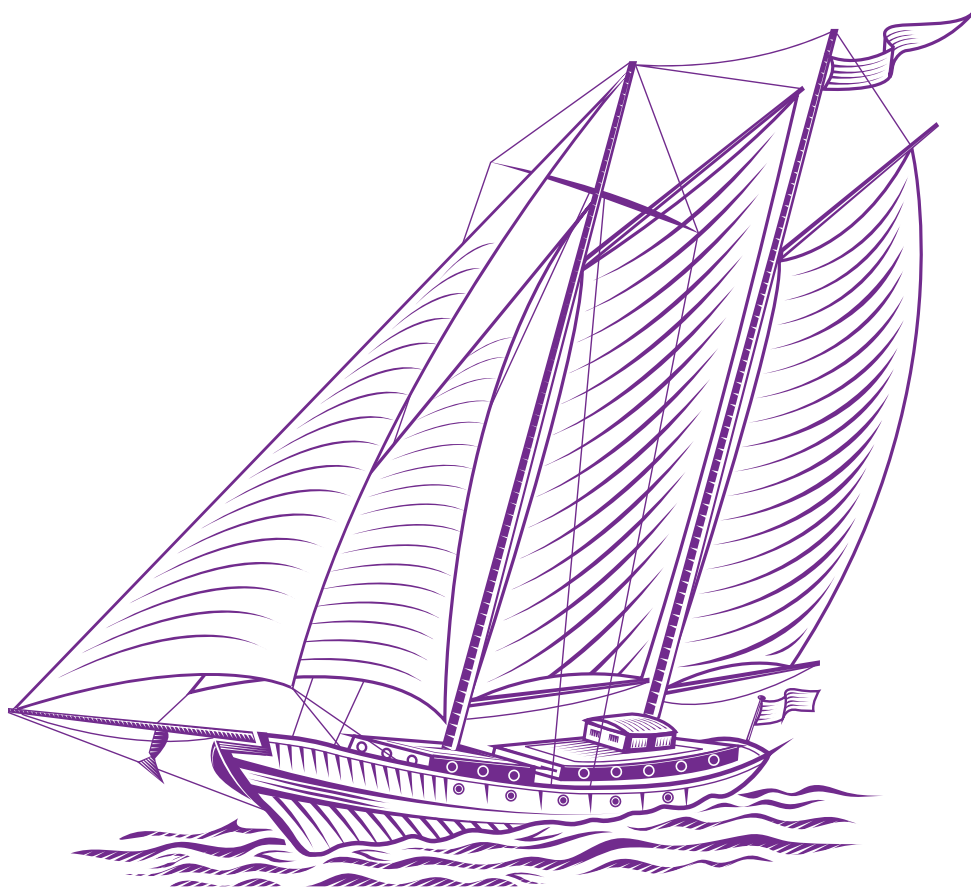




STUDIA UNIVERSITATIS  
BABEŞ-BOLYAI



# NEGOTIA

---

3/2011

**YEAR**  
**MONTH**  
**ISSUE**

**Volume 56 (LVI) 2011**  
**SEPTEMBER**  
**3**

**S T U D I A**  
**UNIVERSITATIS BABEȘ-BOLYAI**  
**NEGOTIA**  
**3**

---

**Desktop Editing Office:** 51<sup>ST</sup> B.P. Hasdeu, Cluj-Napoca, Romania, Phone + 40 264-40.53.52

---

**CUPRINS – CONTENT – SOMMAIRE – INHALT**

PIOTR SIEMIĄTKOWSKI, The Poles and their Perception on Employment Opportunities in the European Union Countries.....	3
SARKA BRYCHTOVA, DELIA FRATU, The Present Tourism Situation in Two European Regions: Pardubice and Brasov - Analysis and Comparison .....	15
MARIA-ANDRADA GEORGESCU, Cutting the Personnel Expenditure, in the Romanian Public Sector – Causes and Effects .....	37
CARMEN MARIA GUȚ, MAGDALENA VORZSAK, VALENTIN TOADER, Demographic Evolutions in Romania –Impact on Labor Supply.....	53
CONSTANTIN DRĂGHICI, The Role of the Customer Relationship Management in the Era of Globalization.....	63
RUXANDRA-MĂLINA PETRESCU-MAG, DACINIA-CRINA PETRESCU, IOAN GHEORGHE OROIAN, EU Priorities for the Future: Environmental Challenges in the Context of Common Agriculture Policy Towards 2020 .....	83
MAGDALENA RĂDULESCU, IMF's and Governments' Support to Financial System, in the European Countries During the Crisis .....	91
JUANITA GOICOVICI, Retract of Consent, under the Regulation of the Romanian Consumption Law .....	105
MONICA IONAȘ-SĂLĂGEAN, Considerations Concerning the Legal Status of Shares Belonging to One of the Spouses in the Case of the Marital Community Termination.....	125



## THE POLES AND THEIR PERCEPTION ON EMPLOYMENT OPPORTUNITIES IN THE EUROPEAN UNION COUNTRIES

PIOTR SIEMIĄTKOWSKI<sup>1</sup>

**ABSTRACT.** The paper presents the results of two research studies carried out in 2003 and 2010 regarding the perception of Polish students on their employment opportunities in European Union. The results show some hope that the scale of young Polish people emigration for economic reasons will decrease; this is considered a positive phenomenon taking into consideration the development potential and the needs of the Polish economy.

**Keywords:** *perception, Poland, students, employment opportunities*

**JEL classification:** J61

### 1. Introduction

Before Poland's accession to the European Union numerous pessimistic scenarios on mass emigration for economic reasons from the accessing countries were presented in the media. According to them, the countries of the "old union" were supposed to be flooded with high waves of cheap labour force. Spread by the media anxiety made most of the countries introduce protective periods in order to protect their labour markets.

However, the economic reality turned out to be different. First, the scale of migration was less extensive than expected. Second, it was mostly young people, well educated specialists needed in the countries of fast growing economies, who emigrated.

Research carried out by the author of the paper and finalised before the accession showed preferences, directions and scale of the potential migration. As it turned out, almost 39% respondents did not consider emigration at all.

The paper aims presenting the results of a research carried out during the spring of the 2010 and comparing them to results of analogical research of the year 2003 (Siemiątkowski and., Szmyt 2004). It covered students' preferences relating to emigration for economic reasons. Such comparison might be a source of interesting information on possible changes that took place in reference to respondents' approach to identification of their employment opportunities in the

---

<sup>1</sup> Dr., Leader of part-time studies, Faculty of Political Science and International Studies, Nicolaus Copernicus University, Toruń, Poland

EU countries. Most probably, six years of membership and hundreds of thousands of people working abroad significantly influence the perception of the emigration problem of both the participants to the survey and the other members of the Polish society.

## **2. Scale and directions of Poles' migration for economic reasons after the year 2004**

There are many reasons for migration at the international level. In general, the three following groups are distinguished:

- economic;
- political;
- socio-cultural.

To the first group belongs usually: poverty caused by low payments or unemployment. The perspective of an improvement of financial situation due to higher payments, an improvement of living standards are considered; personal and professional development creates a strong incentive for the migration to other countries (Mansoor and Quillin 2006).

Among the political reasons there should be mentioned: armed conflicts, corruption and violence. The perspective of regaining freedom, respect and sense of security is another reason for migrating.

The socio-cultural factors include cases of discrimination for ethnical or religious reasons.

An accurate assessment of Poles' migration for economic reasons was not made and is not known now the dimension of the migration generated by these reasons. There are many Polish people employed with no official record. Contrary to their previous declarations, most of the European Economic Area (EEA) countries opened their labour markets for Polish citizens. At present, the free access to their labour markets has been applied in Bulgaria, the Czech Republic, Cyprus, Estonia, Finland, Greece, Ireland, Island, Lithuania, Latvia, Malta, Portugal, Romania, Slovakia, Slovenia, Sweden, Hungary, Great Britain, and Italy. A facilitated access to their markets has been introduced in Holland, Denmark, France, Lichtenstein and Norway. Actually, there remained only four countries (that is: Austria, Germany, Belgium and Luxemburg) in which the regulations being in force before 1 May 2004 have not been amended so far, but that is about to change soon (Duszczyk and Wiśniewski 2007 and Jendroszczyk 2011).

It is possible to evaluate a number of Polish people legally employed in EEU countries on the basis of officially available data. Estimations equal to approximately 800-900 thousands which is two times more then before the accession Duszczyk and Wiśniewski 2007 and Jendroszczyk 2011). However there exists other diverse estimations [see table 1].

**Table 1.****Estimations of the scale of Poles' migrations for economic reasons after the accession**

Source	MPiPS	Catholic Church	Media	Domestic experts	ECAS*
In thousands of people	660	1,000	2,000 – 3,000	1,200	1,120

\* European Citizen Action Service

Source: Kłos, 2006, Biuro Analiz Sejmowych, Warsaw 2008.

The lowest estimate was made by the MPiPS (Ministry of Employment and Social Policy) and amounted to 600 thousand people. The estimate made by the media is the highest – they claim that even as many as 4 million people might have gone abroad in search of employment. However such a figure is rather unlikely. Domestic experts claim that the ECAS estimate seems to be closest to the reality<sup>2</sup>.

According to the official data the most popular destination was Germany – 47.8%. Great Britain came second – 23.6%, Ireland was third – 8.9%. Also, an important number of Poles decided to leave for France and Italy<sup>3</sup>.

As the estimate figures show, the choices of emigration destinations are diverse. The question is why the potential employees choose a given country, which factors facilitate and which hinder taking up employment abroad.

### **3. Presentation and characterisations of the research sample**

The first research was conducted on a group of 410 people – students of Torun School of Banking (WSB) in January 2003. The research was based on a questionnaire form prepared previously during a pilot research. The form consisted of 16, mostly closed, questions. The participants were student of all years, all kinds of study (regular, extramural, evening), and all five specialisations. The majority of the respondents were women (67.8%), young people at the age of 18 to 21 (62.7%), and unmarried (85.6%).

In order to compare the results from the 2003, a research was conducted during the spring of the current year (2010). The recent research has been based on the same questionnaire form. The sample size amounted to 460 students of WSB and covered all the study specialisations. However, the research did not cover the evening classes. Over the time elapsed between the two researches, this form of study (evening classes) ceased to exist within the school programs.

The vast majority of the respondents again were represented by women – 67.4%, young people (18 to 21 years) – 51.1%, and unmarried persons – 86.7%. Most of the parameters did not change significantly, although the research sample has been selected randomly. The only significant change that took place is the decrease of the

<sup>2</sup> Wpływ emigracji zarobkowej na Polskę, Ministerstwo Gospodarki, Departament Analiz i Prognoz, Warsaw 2004, p. 14.

<sup>3</sup> *Ibidem*.

percentage of young people in the sample. It was smaller by 11.6 points compared with in the previous research. The change may generate an impact on the results. Older people's opinion on the issue in question may be different from the young ones.

In reply to a question "Did you consider taking up legal employment in the EU after the Poland accession?" 61.2% respondents answered affirmatively, and 38.8% gave a negative answer in the year 2003. The situation changed in 2010 when only 48% considered taking up employment abroad, and the others answered negatively.

It turned out that the proportion of respondents declaring interest in taking up employment in the EU countries decreased during the years that passed between the two researches. There may be a variety of reasons for the change. First, the unemployment in Poland significantly decreased. Second, salaries and wages increased. Third, the unemployed persons can chose any kind of work they wish to take up. The half of the respondents did not even have to consider going abroad in a search of employment.

More surprisingly, the percentage of respondents interested in taking up employment if given the real opportunity decreased as well. In the year 2003 almost 92% declared their readiness to go abroad for economic reasons, in 2010 the proportion decreased to 77.4%. Most probably, the reasons are very similar to the ones enumerated in the previous question. A clear upturn in the Polish economy and an improvement of the situation on the labour market caused a decrease in the interest of searching for the employment opportunities abroad. An additional factor which should be also mentioned is the fact that working abroad became less profitable. In comparison to the year 2003, value of the major currencies drastically decreased. For example, the exchange rate of British pound to new Polish zloty changed by several dozen percent which caused that for the same amount of foreign currency one can afford much less in Poland now. The situation makes both potential employees and those who have left before to verify cost-effectiveness of being employed abroad.

#### **4. Respondents' preferences with reference to country and type of employment**

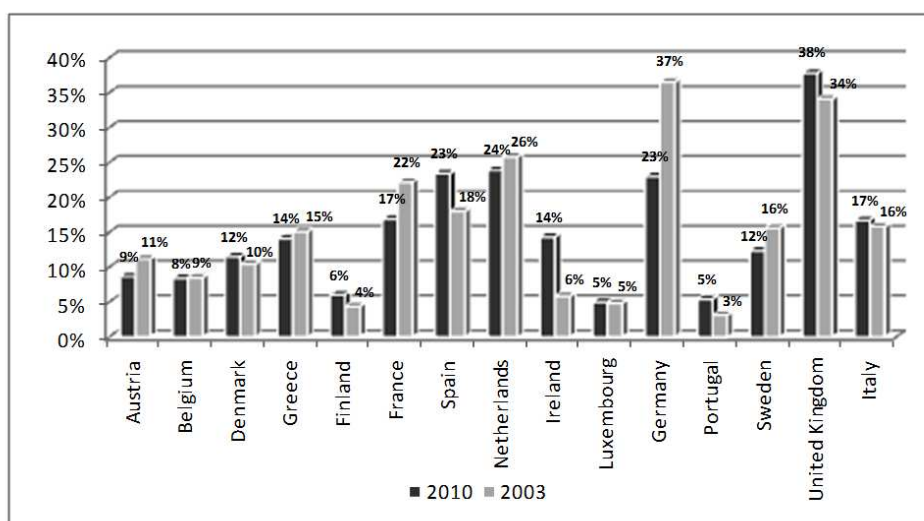
Another question asked in the questionnaire related to the choice of country the respondents would like to be employed in. In the year 2003 two of the most popular destinations were Germany (36.6%) and Great Britain (34.6%)<sup>4</sup>. Many respondents have also chosen Holland (25.9%) and France (22.2%) [see

---

<sup>4</sup> Similar research has been carried out by CBOS. In their research the order of country choice is similar. Germany, Great Britain and France make three most popular destinations. However, the differences between the disproportions between individual countries are slightly higher than in the author's research. In the CBOS research Germany was definitely most popular choice, whereas Great Britain and sequent countries were chosen by significantly fewer responders, see and compare: "Czy chcemy pracować w krajach Unii Europejskiej – opinie Polaków, Czechów, Węgrów i Litwinów", Komunikat z badań, CBOS, May 2001, quoted after: <http://www.cbos.pl/SPISKOM.POL/2001/KOM071/KOM071.htm> and graph 1.

graph 1.]. The respondents' choice was not surprising – the chosen countries have been migration destinations of Polish citizens since long ago.

Behind economic reasons, most probably Germany has the advantage of the geographical closeness to Poland. In case of other chosen countries historical considerations might be of significant importance. Many Polish citizens have their families in Great Britain or France, who moved there after the Second World War or in a search of an escape from communist political persecutions. Fewest respondents would leave for Portugal (3.17%), Finland (4.4%) and Luxemburg (4.9%). Many factors were indicated as reasons of their choice. As far as Portugal is concerned, its unfavourable economic situation seems to make the country least popular, Finland's' biggest disadvantages is most probably the unfavourable climate, while Luxemburg is likely to have distracted the respondents because of saturation on its labour market.



**Graph 1: Which country (countries) would you like to take up employment in?**

Source: Own calculations based on the research results.

The second research did not reveal meaningful changes as far as respondents' preferences are concerned. There exist slight differences; however they do not change the general trend.

In the 2010 research, Great Britain became the most popular destination of the Polish migration for economic reasons (37.8%). Attractiveness of the UK remained high first, as a result of free access to the labour market; second, it offers relatively good working conditions; third, many Polish citizens who emigrated there



during a few past years and settled in are now followed by their families, friends and acquaintances.

Holland became the second country in respect to attractiveness and Spain is situated on the third position. The German economy became less popular among Polish emigrants. In the 2003 research Germany represented the first choice. As 2010 research shows, Germany came only on the fourth position (chosen by 23% of respondents) and lost over 13.5 points. The fall of interest in taking up employment in Germany seems to be natural taking into consideration the current socio-economic situation of the country. The federal government has not approved opening the labour market yet and foreign citizens still encounter difficulties with legal employment there. Besides, the German economy goes through another stage of slowdown and the demand for labour is limited there.

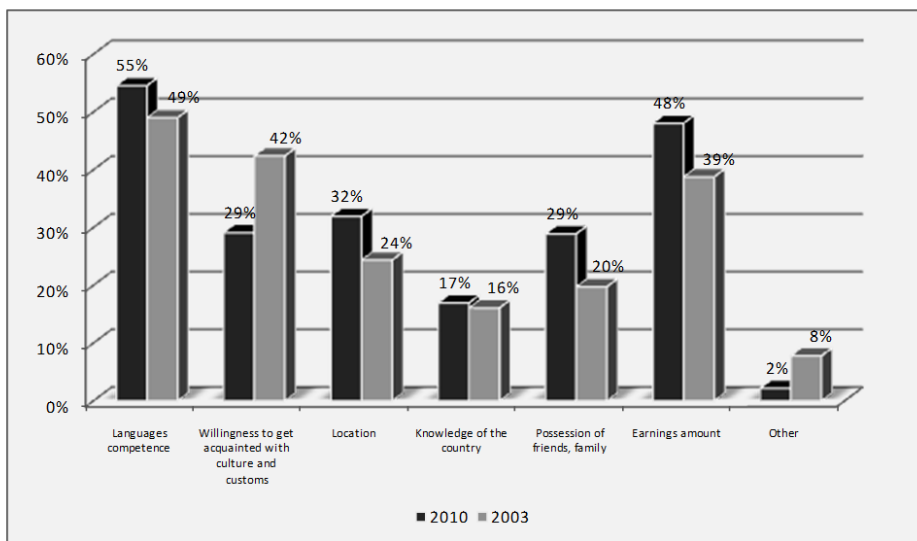
The country that registered the highest growth of interest among the potential emigrants is Ireland. The country's unquestioned (past) economic success, high rate of the economic growth, free access to the market make the country very attractive for prospective employees from the new EU countries.

One of the questions asked in the questionnaire concerned factors that influenced the country choice [see graph 2]. For most of the respondents it was foreign language proficiency which played the most important role in choosing an individual country. In the 2003 research, this factor was decisive for 49.0% of respondents, in 2010 – 54.6%.

Other two factors considered of great importance were the willingness to get acquainted with culture and customs of a given country (43.3%, in 2003), and the earnings amount (38.8%, in 2003). The language proficiency facilitates to establish contacts and is one of the most frequently mentioned factors in researches concerning the subject. The great importance that was given to the second factor underlined by the respondents may be explained by the fact that to the research sample was represented vastly by the relatively young, mostly unmarried people – willing to leave Poland for a longer period of time and get acquainted with foreign cultures. Earning amounts is a natural factor of migrations for economic reasons. Obviously emigrants decide to search for a job abroad either because they can not find a job in their own country, or they get unsatisfactory payment there.

In the 2010 research, there appeared some changes in relation to the importance of these factors. Besides to the languages proficiency, the respondents gave significance to earnings amount (48%) and location – geographical closeness of an individual country (32%).

The first factor in question might be related to improvement on the Polish labour market. There is no problem with finding any job; there is a challenge to find a better one.



**Graph 2: Which of the factors are decisive in choosing a country?**

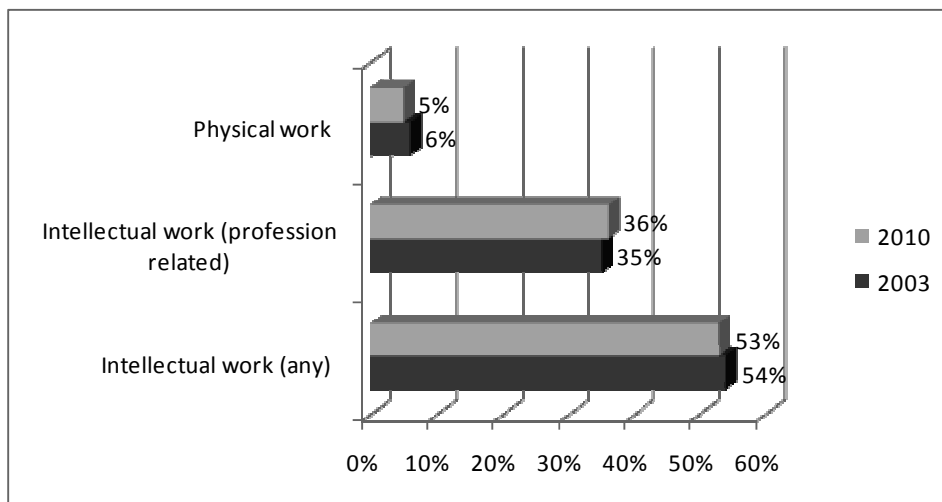
Source: Own calculations based on the research results.

The second factor mentioned above became more important due to experience gained by those who had to leave their families to take up employment abroad. They realised that leaving their families behind presented a relatively big obstacle. Good railway and air connections with Poland condition frequency of family contacts and determine the duration of staying abroad.

The most important change that occurred between the 2003 and 2010 researches regards the willingness to get acquainted with the foreign culture and customs of a given country. In the 2003 research, this factor was underlined by more than 42% of respondents, in 2010 only by 29%. The probable reason for the change is that the mobility of Polish citizens has grown over the past years. More and more often, Polish people spend their vacations in foreign countries and have a chance to explore other countries and get acquainted with their culture and customs. It might lead to perceiving the factor as less significant in the 2010 research.

The research examined also the type of employment the respondents would like to take up abroad [see: graph 3.]. In the year 2003 it turned out that as many as 54.4% of the respondents would like to take up any kind of intellectual work. Over 34.6% would rather have a kind of intellectual work related to their professions, and over 6% of students could work physically. Their preferences seem to be related to the year of study they were in. Most of the respondents ready to take up

physical work were students of the first year. Only 1.5% of the respondents being in the last year of study would like to work physically<sup>5</sup>.



**Graph 3: Percentage of respondents willing to take up a given type of employment**

Source: Own calculations based on the research results.

In the year 2010 there was no significant change of priorities relating to the question. Only little changes in answers given by the respondents occurred. Any kind of intellectual work was preferred by 53.3 % of the respondents, intellectual and profession related one – by 36.6%. The proportion of respondents willing to work physically decreased from 6% to 5.2%.

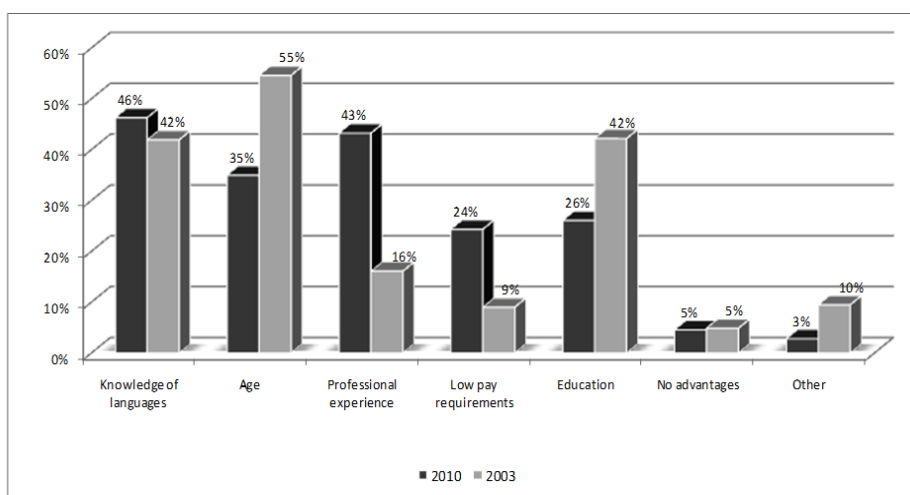
## 5. The Poles' advantages and disadvantages on labour markets in the EU countries

One of the questions asked in the research was how the respondents perceive their main assets (advantages) in the context of perspective employment in one of the EU countries [see graph 4.]. In the 2003 research most of the students perceived age as their advantage (54.6%), on the second place came the education (42.2%), followed by knowledge of foreign languages (almost 42%). A little less respondents chose professional experience (e.g.: part of the respondents were extramural students, who work during the week and study in the weekends), and low pay requirements (9%).

<sup>5</sup> Based on the research results.

However, in the year 2010 some important changes took place in relation to the question. The percentage of the respondents perceiving knowledge of foreign languages as their biggest advantage increased and amounted to 46%. Language competence is followed by the enhanced awareness of Polish citizens of their chances on the local and global labour market, and seems to be a natural result of the integration processes.

Age perceived as significant advantage on the European labour market was mentioned by significantly fewer respondents then in the previous research – and equalled 35% (which means a decrease of over 18 % in comparison with the year 2003). On the other hand, more respondents perceived professional experience as one of biggest advantages and its percentage increased to 43%.



**Graph 4: Percentage of respondents naming given factors as their advantages in searching for an employment in the EU**

Source: Own calculations based on the research results.

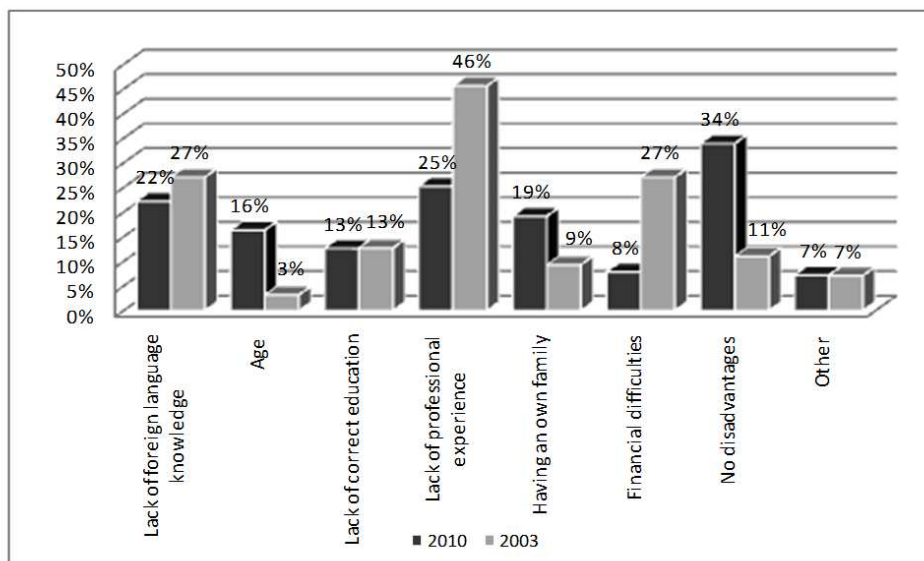
Polish employees managed to gain more experience during a few years after the accession and changed their attitude on the perception of their advantages on the EU labour market. They realised that taking up good employment without any professional experience is difficult, sometimes even impossible.

The proportion of other factors mentioned in the research changed as well. In the 2010 research low pay requirements were perceived as one of their biggest advantages by more respondents than in the 2003 research. The percentage increased from 9% to 24%. However, the education related factor is mentioned by significantly fewer respondents than before (26% in the year 2010 against 42% in 2003), which indicates that the current expectations of the potential employees are better adjusted to the economic reality. They seem to realise that good education is not sufficiently

competitive at present. The new labour market that has accepted workers from the East is more approving for those who do the jobs rejected by their own citizens.

It is worth mentioning that the same factors which were perceived as advantages by some respondents were often or even more often mentioned as disadvantages (barriers) to take up employment in the EU by others. Knowledge of foreign languages, education or professional experience could serve as good examples here [see graph 5.]. The last factor was perceived as the biggest disadvantage (barrier) in taking up employment in the EU (45.6% of the respondents in the year 2003). Two other barriers mentioned most frequently were lack of foreign language knowledge and financial aspects (such answers were given by more than 27% of the respondents).

The results of the new research carried out in the year 2010 indicate meaningful changes of the students' perception of their disadvantages. A meaningful change that took place is related to the age factor. In the 2003 research only 3% perceived their age as their disadvantage on the labour market, in the 2010 research, the percentage increased to 16%. That change corresponds to the adjust that took place in relation to decrease of respondents perceiving their age as an advantage. Professional experience is another factor perception of which changed significantly. Lack of professional experience was perceived as a barrier by 25% in the year 2010 which is almost 20 points less than in the year 2003. Interestingly, the respondents realised that having professional experience is a big advantage, but at the same time its absence is not perceived as a barrier in taking up employment abroad.



**Graph 5: Percentage of respondents naming given factors as their disadvantages in searching for an employment in the EU**

Source: Own calculations based on the research results.

The proportion of respondents who reckoned that having an own family might present a disadvantage in taking up employment abroad increased significantly. In the 2010 research the factor was mentioned by 19% of the respondents. At the same time financial difficulties became less problematic (8%). More respondents (34% in 2010 against 11% in 2003) did not perceive any disadvantages in searching for employment abroad.

Many of the respondents have problems with defining their real chance of taking up legal employment in the EU countries. In the year 2003 over 42% of them claimed they could not define their chances, 9.3% thought they had no chances at all, 39.8% were convinced that their chances are rather small, and in the opinion of 5.12% of the respondents their chances were good<sup>6</sup>. In the year 2010 the respondents' questions were proportioned in a different way. Over 50% could not define their real chances of taking up employment in one of the EU countries. Over 30% described their chances as small, and for 5% there are no chances at all.

Finally, as many as 10% of the respondents perceived their chance for legal employment in the EU as being a good one.

The 2010 research was supplemented with two further questions. The first one related to the source of information on previous employment abroad. Over 23% of the questioned students have worked abroad previously. The second question concerned their intention to go abroad for economic reasons. To the question "do you intend to go abroad to work there?" only 5.5% gave an affirmative answer.

## 6. Conclusions

The assumption that, during a few years that passed between the two researches, there took place a significant change relating students' attitude towards defining their chances on the EU labour market turned out to be true. In general, the respondents became more realistic about their assessments. There took place meaningful changes in relation to respondents' perception of the target countries, their advantages that could facilitate or barriers that could hinder taking up employment in the EU countries.

In the year 2003 nearly half of the respondents either defined their real chances of taking up employment on the European labour market as small or did not perceive any chances at all. In many cases the respondents' interest in the EU labour market is rather of a passive nature. Willingness of finding employment and declared readiness of taking up employment was not accompanied by sufficient knowledge to define real chances of their realisation. The situation concerned over 42% of the respondents. Only a little over 5% shown optimism and defined their chances as good.

---

<sup>6</sup> Based on the research results.

In the year 2010 the proportion of the respondents unable to define their real chances of taking up employment in the EU increased to 50%. Furthermore, over 30% of the respondents described their chance as little, and 5% did not see any chance at all. Slightly more respondents than in the previous research defined their chance to get employment in the EU countries as good.

The two additional questions asked in the 2010 research gave some further information on the issue. Namely, almost 23.5% of the respondents have already worked abroad. The nature of their stay abroad was above all short-lasting. As far as the further plans are concerned, only 5.5% of the respondents declared an intention to go abroad for economic reasons. The remaining respondents do not intend to go abroad or do not know yet.

There is hope that the scale of emigration of young Polish citizens for economic reasons will decrease, which would be undoubtedly a positive phenomenon taking into consideration the development needs of the Polish economy.

## REFERENCES

- “Czy chcemy pracować w krajach Unii Europejskiej – opinie Polaków, Czechów, Węgrów i Litwinów”, Komunikat z badań, CBOS, May 2001, at:  
<http://www.cbos.pl/SPISKOM.POL/2001/KOM071/KOM071.htm>,
- Duszczyk M., Wiśniewski J., Analiza społeczno-demograficzna migracji zarobkowej Polaków do państw Europejskiego Obszaru Gospodarczego po 1 maja 2004 roku, Ekspertyza przygotowana na zamówienie Ministerstwa Spraw Zagranicznych, Warsaw 2007
- Kłos, B., Migracja zarobkowa Polaków do krajów UE, Infos 2/2006, Biuro Analiz Sejmowych, Warsaw 2006
- Jendroszczyk P., Niemcy gotowi na otwarcie rynku pracy,  
<http://www.kariera.pl/czytaj/2423/niemcy-gotowi-na-otwarcie-ryнку-pracy/>  
(8.01.2011)
- Mansoor, A., Quillin, B., Migration and Remittances, Eastern Europe and the Former Soviet Union, The World Bank, Washington 2006
- Siemiątkowski, P., Szmyt, V., Polacy na rynku pracy Zjednoczonej Europy, in: Urbańczyk, E., (ed.), Nowe tendencje w zarządzaniu wartością przedsiębiorstwa, Aktualny stan i perspektywy rozwoju, Kreos, Szczecin 2003
- Siemiątkowski, P., Szmyt-Radošević, V., Europejski rynek pracy po rozszerzeniu, Nowe Życie Gospodarcze 11/2004
- Wpływ emigracji zarobkowej na gospodarkę Polski, Ministerstwo Gospodarki, Departament Analiz i Prognoz, Warsaw 2007, p. 14

## **THE PRESENT TOURISM SITUATION IN TWO EUROPEAN REGIONS: PARDUBICE AND BRASOV - ANALYSIS AND COMPARISON -**

**SARKA BRYCHTOVA<sup>1</sup>, DELIA FRATU<sup>2</sup>**

**ABSTRACT.** Czech Republic and Romania are countries that have common and different signs in the sphere of tourism. Romania has a more marked natural potential, Czech Republic proceeded to important development in (tourism) services. Thus some regions have certain reserves and barriers in tourism infrastructure or marketing. This paper is aimed at analysing the tendencies in tourism over the past ten years in Pardubice and Brasov Regions, observing the differences and similarities and suggesting some viable solutions for these two Regions to become successful tourism destinations in the future.

**Keywords:** *Tourism trends, tourism indicators, tourism industry, regional tourism, marketing of tourism*

**JEL classification:** L83

### **Introduction**

At the start of the 21<sup>st</sup> century, tourism and tourism industry is firmly settled as a very important industry in many countries; in some countries even like industry number one. It is the fastest-growing economic sector in term of foreign exchange earnings and job creation in the world. Statistics of the WTO (World Tourism organisation) write down the high growth of the number of international tourist arrivals. It grew from 25 million in 1950, 693 million in 2001 to 940 million in 2010. According to the forecast prepared by UNWTO at the beginning of the year, international tourist arrivals are projected to increase by some 4% to 5% in 2011.<sup>3</sup>

Tourism, as an important element of the tertiary sector with huge potential despite the glbal economic crisis, and has an increasingly important role in the economy

---

<sup>1</sup> RNDr., Ph.D, Economic Sciences Faculty, Pardubice University, Czech Republic, e-mail: sarka.brychtova@upce.cz

<sup>2</sup> PhD student, Faculty of Economic Sciences and Business Administration, Transilvania University of Brasov, e-mail: deliafratu@yahoo.com

<sup>3</sup> <http://unwto.org/en>



of a country, being a factor which the economic growth is based on. Constituted mainly of services supply, tourism is in close connection with the development of other economic sectors.

The tourism industry finds itself in times of uncertainty. During the past two years, the tourism industry registered a powerful regression, due to the world wide economic crisis. Travel demand is elastic- that is why it tends to exceed the growth of the overall economy in good times and to contract more severely when the economy falters. This is clearly reflected in the decline of tourism figures of the period 2008-2010.

This paper has the purpose to asses the tourism trends of the past ten years in two European Regions: Pardubice, Czech Republic and Brasov, Romania.

As Czech Republic and Romania have in common the fact that both are ex-communist countries which changed to a democratic regime in 1989, the authors consider very interesting to observe the disparities and similarities of the evolution of two tourism areas belonging to these countries over the last 10 years, and also to exchange win-win approaches.

### **The Current Situation of Tourism in Pardubice Region**

Czech Republic is a country located in the middle of Europe, with the following borders: Poland to the northeast, Germany to the west and northwest, Austria to the south and Slovakia to the east.

The Czech Republic became a NATO member since 1999 and accessed the European Union since 2004.

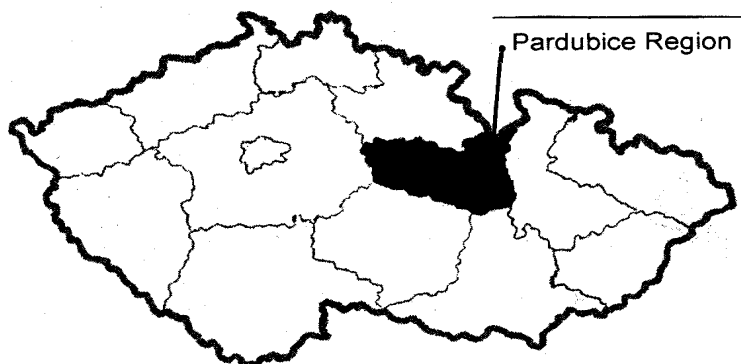
The country is divided in two parts offering a varied landscape:

- Bohemia, to the west, consists of a basin drained by Elbe and Vltava rivers, surrounded by mostly low mountains, such as the Krkonoše range of the Sudetes;

- Moravia, the eastern part of the country, is also quite hilly and is drained mainly by the Morava River.

The Czech economy gets a substantial income from tourism. In 2009, the total earnings from tourism reached 104,293 million CZK (about 3,945.3 million EUR), representing 2.9% of the country's GDP.

Czech Republic has a lot to offer to tourists, having a wide variety of attractions. Though, there are several centres of tourist activity. The historic city of Prague is the primary tourist attraction, as the city is also the most common point of entry for tourists visiting other parts of the country. Other cities in the country attract significant numbers of tourists, the most famous being the spa towns, such as Karlovy Vary, Mariánské Lázně and Františkovy Lázně. Other popular tourist sites are the many castles, such as those at Karlštejn Castle, Český Krumlov and the Lednice-Valtice area. Away from the towns, areas such as Český ráj, Šumava and the Krkonoše Mountains attract visitors seeking outdoor pursuits.



**Figure 1:** Czech Republic's map, pointed Pardubice Region

Source: according Atlas of Czech Republic

The Czech Tourist Authority, “Czech Tourism”, has created tourist marketing region “Eastern Bohemia“ comprising all districts of the Pardubice region, districts of Hradec Králové, Rychnov, Náchod and part of Jičín district.

Within the frame of this specified territory Pardubice region is characterized by being best suited for tourism development. Visitors are attracted primarily by castles, chateaux, town conservations, architecture, spa tourism, cultural and sport events, folklore dances and traditional handicraft. Remarkable historic landmarks are found in the region. Fourteen of the most important historical landmarks were visited by approx. 300 000 people in total during 2010 (Source: National Information and Consulting Centre for Culture).

A significant role among attractions for tourist is played by local museums, galleries, theatres, libraries, music choruses, amateur ensembles. These attractions are performed mostly by professional institutions, but also by ensembles of amateur artistic activities and other organizations, associations, and communities which have an impact on the cultural development of the region.

Pardubice region development programme notes, that landscape and cultural-historical values of Pardubice region were evaluated in the frame of regional development strategy having significant development potential.

Pardubice region is located in the East of Bohemia. With an area of 4,519 km, Pardubice is the fifth smallest region among the regions of Czech Republic. The Pardubice Region comprises four Districts: Chrudim, Pardubice, Svitavy, and Ústí nad Orlicí.

The Pardubice Region has potential for the development of tourism. The landscape is formed by lowland as well as mountains and the climate is very agreeable. There are many places fit for bathing, water sports, hiking, cycling and winter sports. The most attractive areas for tourists are especially the northern and eastern part of the Ústí nad Orlicí District – foothills of the Orlické hory mountains, ski resort in Buková hora and the area of Králický Sněžník. In the Chrudim District, mainly in its southern and south-western part, there are also many tourist centres – the most visited are: the area around the Seč dam, areas at Horní Bradlo, Bojanov and Křižanovice in the Železné hory mountains. Agrotourism is becoming more popular throughout the Region, especially the estates devoted to traditional horse breeding.

Cultural establishments and activities in the Region are concentrated mostly in towns. Among the most important, there can be mentioned:

- the Puppet Museum in the Chrudim District;
- state chateau in Slatiňany with its horse museum
- the open-air folk museum consisting of a set of folk constructions in Vysočina area at Veselý Kopec hill and adjacent localities of Hlinsko area.

In the Pardubice District, the main attractions are:

- the Castle of Pardubice, where can be seen the exhibits of the Museum and Gallery of East Bohemia;
- the late-Gothic castle at Kunětická hora mountain
- the Museum of Africa in the town of Holic.

The National Stud Farm in Kladruby nad Labem attracts more tourists every year because it organizes regular sightseeing tours and also various actions for horse lovers too.

In the Svitavy District, the main attraction is the Svojanov castle which was added to the UNESCO's World Cultural Heritage List in 1999.

In the Ústí nad Orlicí District are the ruins of the following castles: Lanšperk, Litice, Žampach and the historical centres of towns are also worth visiting.

Regarding sports activities, Pardubice Region has a lot to offer to interested tourists. One of the attractions is the Pardubice Horserace Court, where the Velká Pardubická Steeplechase is held. Beside the famous ice hockey matches and the team with players of international quality, here is also organized Czech Republic's Tennis Championship for young competitors, which opens professional careers for the talented youth.

Regarding cultural events, Pardubice Region is host of many festivals such as classical music or comedy.

In order to have a current overview on tourism in Pardubice Region, the authors decided to analyse the evolution of the following indicators for the period 2000-2009: the occupancy rate, the number of guests/ tourist arrivals and the number of overnight stays in collective accommodation establishments.

Also, the capacity of collective accommodation establishments will be analyzed by comparing it to the other regions of Czech Republic.

The occupation rate is an economic indicator that shows the balance between the offer and the demand in the tourism sector. It is calculated by dividing the number of overnight stays at the number of beds multiplied with the number of days in a year.

The average growth rhythm (R) is calculated with the following formula:

$$R = I - 1$$

Where:

I = the dynamics index calculated after the formula:  $I = \sqrt[n]{y_n/y_1}$

n = number of terms within the time series

$y_1$  = the first term of the time series

$y_n$  = the last term of the time series

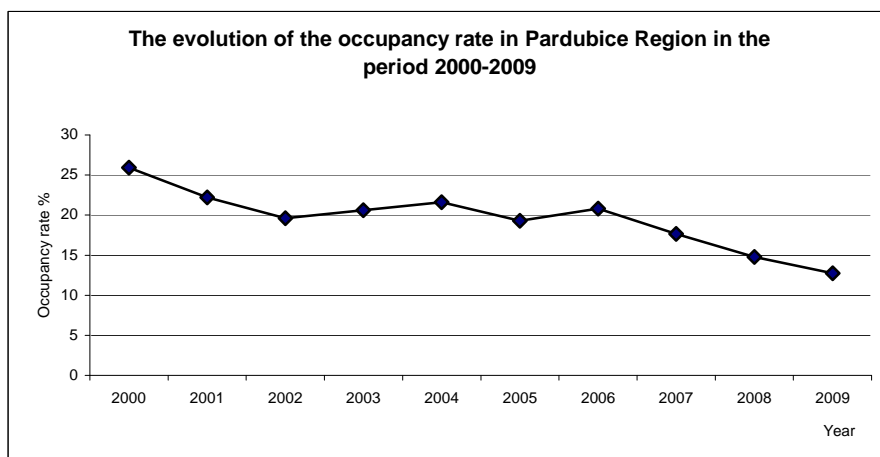
**Table 1.**

**The occupancy rate in collective accommodation establishments in Pardubice Region between 2000 and 2009**

<b>Year</b>	<b>Occupancy rate</b>
2000	25.9
2001	22.2
2002	19.6
2003	20.6
2004	21.6
2005	19.3
2006	20.8
2007	17.7
2008	14.8
2009	12.7

*Source: [authors' calculation based on data provided by <http://www.czso.cz>]*

The average growth rhythm is -0.076, calculated with the above formula, meaning that in the period 2000-2009, the occupancy rate in collective accommodation establishments in Pardubice Region has decreased, in average, with 0.07 percent.



**Figure 2: The evolution of the occupancy rate in collective accommodation establishments in Pardubice Region, between 2000 and 2009**

*Source: [authors' calculation based on data provided by <http://www.czso.cz>]*

Analysing the tendencies in tourism regarding the occupancy rate, it can be noticed an overall descending trend between 2000 and 2009 in Pardubice Region, although there were some small oscillations. The line's gradient is small proving that the decreasing rhythm is slow. Comparing the initial value- corresponding to year 2000, with the last value-corresponding to year 2009 of the analysed period, it can be observed that the occupancy rate in collective accommodation establishments has decreased.

**Table 2.**

**Number of guests arrivals in Pardubice Region between 2000 and 2009**

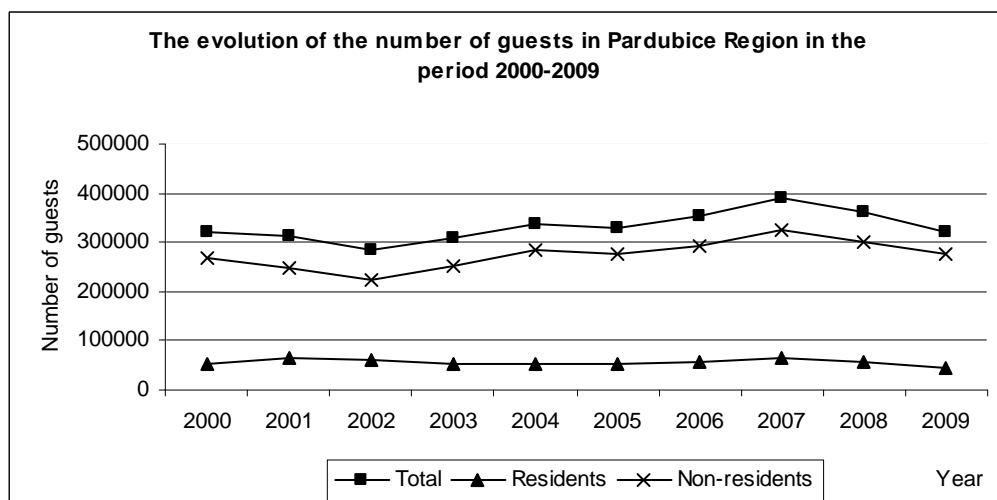
Year	Total	Residents	Non-residents
2000	322,987	53,060	269,927
2001	312,970	66,544	246,426
2002	284,249	61,308	222,941
2003	307,180	53,535	253,645
2004	338,289	53,012	285,277
2005	329,395	52,749	276,646
2006	353,089	58,586	294,503
2007	388,240	63,724	324,516
2008	360,903	58,742	302,161
2009	320,972	46,503	274,469

*Source: [authors' calculation based on data provided by <http://www.czso.cz>]*

The average growth rhythm calculated for the total number of guests is - 0.0007 percent, for resident guests is -0.0145 percent and for non-resident guests is 0.0019 percent.

The average growth calculated for the total number of guests is -2,015, for residents is -6,557, while for non-residents 4,542.

In the period 2000-2009, the total number of guests has decreased on average with 0.007 percent per year, representing 2,015 guests per year. The number of resident guests has decreased on average with 0.0145 percent per year representing 6557 guests per year, while the number of non-resident guests has increased with 0.0019 percent per year representing 4,542 guests per year.



**Figure. 3: The evolution of the number of guests in Pardubice Region, between 2000 and 2009**

*Source: [authors' calculation based on data provided by <http://www.czso.cz>]*

Analysing the tendencies in tourism regarding the number of guests, one can observe that the trends of the total number of guests and of non-resident guests are very similar. The trends are oscillating, being characterised by both decreases and increases: between 2000 and 2002 the trends are slightly descending, between 2002 and 2007 the trends are overall ascending, and between 2007 and 2009 the trends are descending.

All the lines' gradients are small representing, by case, a slow rhythm of decrease or increase.

Comparing the first value (year 2000) with the last value of the analysed period (year 2009) one can observe that the number of total guests is at almost the same values and the number of non-resident guests has slightly increased.

The trend of the resident guests is almost constant. Comparing the first value corresponding to year 2000 with the last value, corresponding to year 2009, of the analysed period, it can be noticed that the number of resident guests has slightly decreased.

**Table 3.**

**Number of overnight stays in Pardubice Region between 2000 and 2009**

<b>Year</b>	<b>Total</b>	<b>Residents</b>	<b>Non-residents</b>
2000	1,482,810	169,290	1,313,520
2001	1,254,794	222,919	1,031,875
2002	1,093,076	189,157	903,919
2003	1,141,537	211,343	930,194
2004	1,183,881	183,911	999,970
2005	1,097,031	173,258	923,773
2006	1,212,023	209,987	1,002,036
2007	1,159,879	202,476	957,403
2008	1,059,064	166,844	892,220
2009	954,211	122,057	832,154

*Source: [authors' calculation based on data provided by <http://www.czso.cz>]*

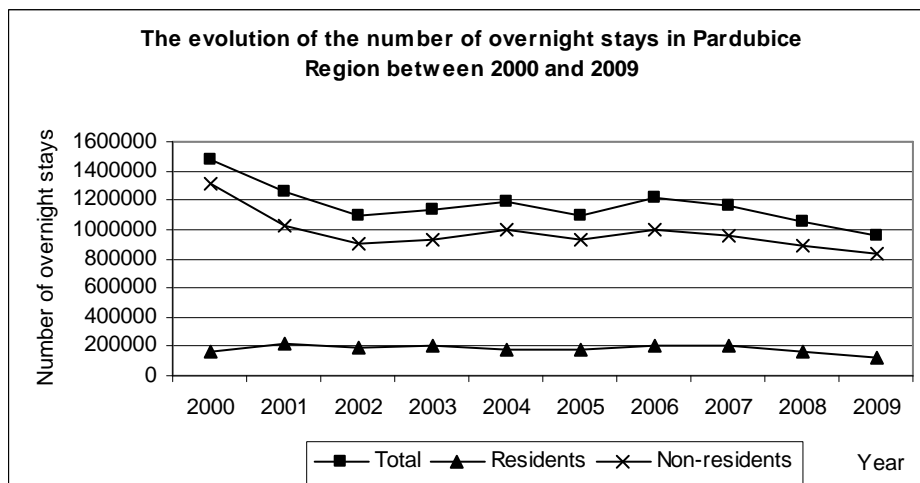
The average growth rhythm calculated for the total number of overnight stays is -0,0478 percent, for residents is -0.0357 percent and for non-residents - 0.0495 percent.

The average growth calculated for the total number of overnight stays is - 528,599, for residents is -47,233 and for non-residents is -481,366.

In the period 2000-2009, the total number of overnight stays has decreased on average with 0.047 percent per year, representing 528,599 fewer nights spent per year. The number of overnight stays spent by resident tourists has decreased on average with 0.0357, while the number of overnight stays spent by non-resident tourists has decreased with 0.0495 percent per year.

Analysing the tendencies in tourism regarding the evolution of overnight stays, one can observe that although they have different values, the total number of tourists and of non-resident tourists have very similar evolutions. The trends are oscillating:

- between 2000 and 2002 the trends are descending,
- between 2002 and 2006 the trends are slightly increasing,
- while the period 2006-2009 is characterised by a decrease.



**Figure 4: Evolution of overnight stays in Pardubice Region between 2000 and 2009**

*Source: [authors' calculation based on data provided by <http://www.czso.cz>]*

All the lines' gradients are small representing, by case, a slow rhythm of decrease or increase.

Comparing the value corresponding to year 2000 with the value corresponding to year 2009 one can observe that the total number of overnight stays and of the number of non-resident tourists' overnight stays has decreased.

The trend of the resident guests is almost constant. Comparing the first value corresponding to year 2000 with the last value, corresponding to year 2009, of the analysed period, one can notice that the number of resident guests has slightly decreased.

Observing the evolution of the three analysed tourism indicators in the period 2000-2009, can conclude the following:

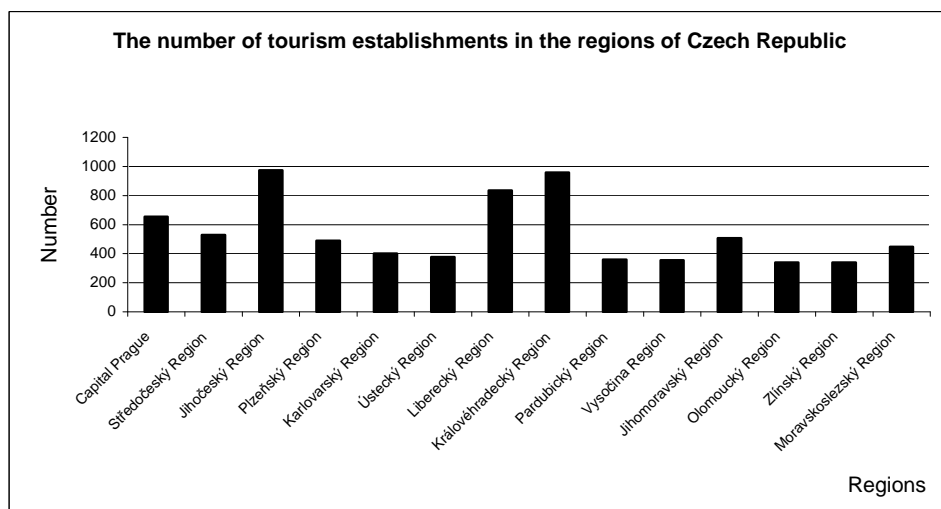
- the occupancy rate in collective accommodation establishments in Pardubice Region has decreased
- although having oscillating trends, the total number of guests has reached in 2009 almost the same value as in 2000 and the number of non-resident guests has slightly decreased. The number of non-resident guests had an almost constant trend and it has slightly decreased
- the number of total overnight stays and the number of non-resident's overnight stays had also oscillating trends, but overall they have decreased. The number of non-resident's overnight stays had an almost constant trend and overall it has slightly decreased.



From the figures presented in the tables above one can notice that the number of tourists that visited Pardubice Region is quite modest. Although Pardubice Region has potential for tourism, the fact that even these modest numbers have decreased is a preoccupying issue. In 2008, the signs of the worldwide economic crisis began which had devastating effects over the tourism industry, this explaining the decrease from 2008-2009 period. But what about the modest increases and even decreases of tourist numbers from previous years?

One of the facts that explain this region's low attendance is that it has a very low number of accommodation facilities.

The graph below shows the position of Pardubice Region among the other regions of Czech Republic, regarding the number of tourist establishments.



**Figure. 5: The number of tourism establishments in the regions of Czech Republic, in 2009**

*Source: [authors' calculation based on data provided by <http://www.czso.cz>]*

In Figure 4, it can be seen that number of tourist establishments in Pardubice Region is very low. Pardubice occupies place number 3 in the regions with the lowest number of establishments.

Other reasons for which Pardubice Region has a low number of tourists are that the development of the infrastructure is incomplete, the tourism services have a doubtful quality, promotional materials, although existing, do not have the expected impact and promotional initiatives are missing. The persons working in tourism are not as well prepared as they should be; tourism operators are not very involved

nor interested in cooperating to develop the area. Also the Officials are not interested to invest in this area's tourism.

Although belonging to another European country Romania, in a very similar situation of Pardubice Region find itself Brasov Region. For the following, the authors propose an assessment of tourism in Brasov Region in order to observe differences and similarities, to exchange experience and find some viable solutions.

### **The Current Situation of Tourism in Brasov Region**

Romania is located at the crossroads of Central and South-Eastern Europe, north of the Balkan Peninsula, on the Lower Danube, within and outside the Carpathian arch, bordering on the Black Sea. Romania shares a border with Hungary and Serbia to the west, Ukraine and the Moldova to the northeast, and Bulgaria to the south.

Romania became a NATO member since 2004 and accessed the European Union since 2007.

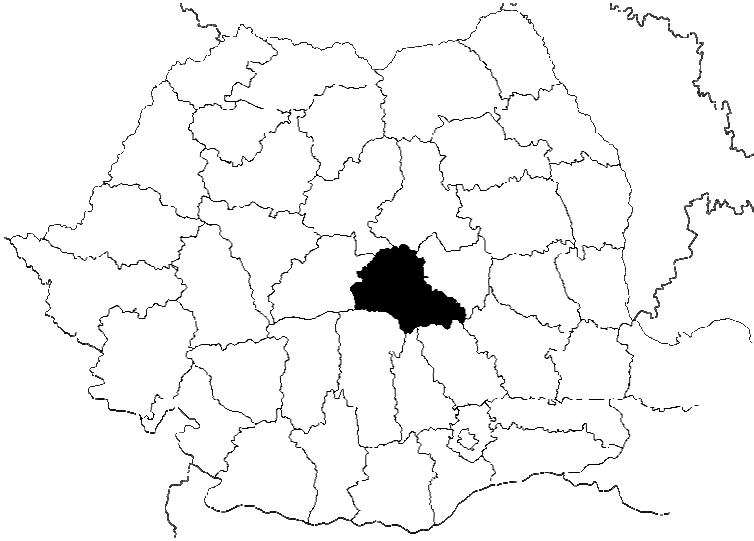
The country has a climate that is transitional between temperate and continental, with four distinct seasons.

Romania has a very diversified landscape: the Carpathian Mountains (also known as the Transylvanian Alps) traverse the center of the country bordered on both sides by foothills and plains; the waters of the Danube River, which flow into the Black Sea, form the largest and best preserved of Europe's Deltas- The Danube Delta; forests cover over one quarter of the country and the fauna is one of the richest in Europe; natural reservations cover about 5000 km<sup>2</sup> including a huge bio-diversity and numerous rivers and lakes; the numerous castles, fortresses and palaces feature unique architectural elements and styles that reflect local traditions and customs; many medieval cities offer unique sights to the visitors; time-capsule villages introduce the tourists to local life-style and traditions; the painted monasteries located in Bucovina are among the most picturesque treasures and are part of UNESCO heritage.

Tourism focuses on the country's natural landscapes and its rich history, is a significant contributor to the Romania's economy characterized by a huge potential for development.

Braşov Region is a county of Romania, in Transylvania, with the capital city at Braşov. The county has a total area of 5,363 km<sup>2</sup>.

In the South side of the Region there are the Carpathian Mountains (Southern Carpathians and Eastern Carpathians) with Fagaras Mountains, Bucegi Mountains, Piatra Mare Mountains, Piatra Craiului Mountains and Postavaru Mountains. In the east side there is the Braşov Depression, and in the west side there is the Olt River valley. Between them there are the Perşani Mountains. The North and West side of the county is crossed by the Olt River.



**Figure 6: Romania's map, pointing Brasov Region**

*Source: ro.wikipedia.org*

Being situated in the centre of the country, in the famous Transylvanian area, Brasov County is one of the most visited Regions of Romania. The multitude of influences that had an impact on the Region's development and culture make of it a very interesting tourist destination.

In Braşov Region, tourists can find some of the most attractive tourist destinations in Romania such as: the city of Braşov- a very beautiful medieval city, one the most beautiful city of Romania, with a lot of points of interest (for example The Black Church, Council's House and Square, Saint Nicholas Church, the First Romanian School and many others); Poiana Braşov and Predeal mountain resorts- are the most famous ski resorts in all Romania, providing services at European levels; Bran village with its castle often referred to as Dracula's castle; the Fagaras Mountains- the highest mountains from Romania; the medieval fortresses of Fagaras and Rasnov; the Fortified Churches from the Saxon villages and the National Park "Piatra Craiului" which is one of Romania's protected natural reservations.

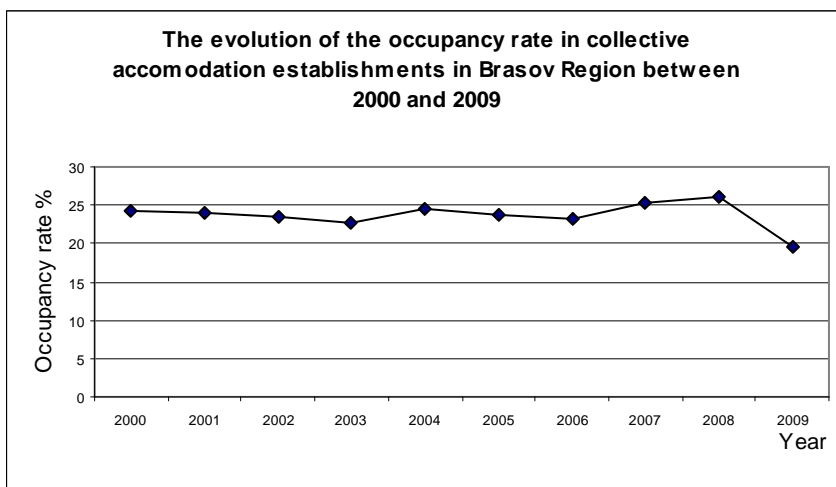
From hiking, walking, animal watching, cycling, playing tennis, swimming, to extreme sports like bungee-jumping, skydiving, paragliding during summer and skiing, snowboarding, ice-skating in winter, Brasov Region is the place for sports activities. Regarding cultural events, Brasov Region is host of many manifestations such as modern music (Golden Stag Music Festival), classical music, opera, theatre, art galleries, and concerts. In order to assess tourism in Brasov Region and to be able to make a comparison with Pardubice Region, the same indicators will be analysed: occupancy rate, number of guests and number of overnight stays.

**Table 4.****The occupancy rate in collective accommodation establishments in Brasov Region in the period 2000-2009**

<b>Year</b>	<b>Occupancy rate %</b>
2000	24.2
2001	24.1
2002	23.6
2003	22.6
2004	24.6
2005	23.7
2006	23.3
2007	25.3
2008	26.1
2009	19.6

*Source: [authors' calculation based on data provided by <http://www.brasov.insse.ro>]*

The average growth rhythm is -0.023 percent signifying that in the period 2000-2009, the occupancy rate in collective accommodation establishments in Brasov Region has decreased on average with 0.023 percent per year.

**Figure 7: The evolution of the occupancy rate in collective accommodation establishments in Brasov Region, between 2000 and 2009**

*Source: [authors' calculation based on data provided by <http://www.brasov.insse.ro>]*

Analysing the tendencies in tourism regarding the occupancy rate, it can be noticed that the trend is oscillating: between 2000 and 2008 the trend is almost constant overall, only with minor modifications, while in the period 2008-2009 the trend is descending.

The line's gradient corresponding to the period 2008-2009 is big representing an accelerating decreasing rhythm. Comparing the value corresponding to year 2000 with the value corresponding to year 2009, one can observe that the occupancy rate has decreased.

**Table. 5.**

**Number of guest arrivals in Brasov Region between 2000 and 2009**

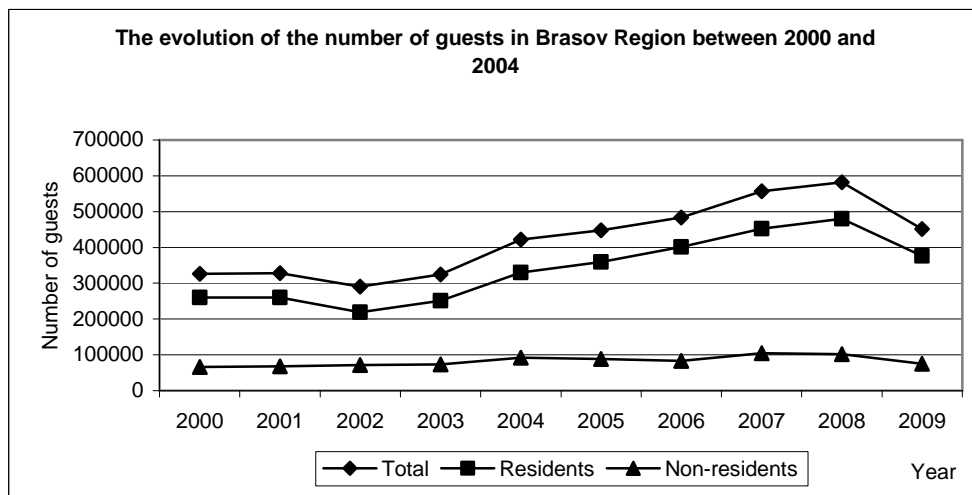
<b>Year</b>	<b>Total</b>	<b>Residents</b>	<b>Non-residents</b>
2000	326,400	260,038	66,328
2001	328,300	260,014	68,289
2002	290,300	219,145	71,175
2003	324,800	251,070	73,746
2004	421,800	329,511	92,254
2005	448,100	359,259	88,888
2006	484,000	401,307	82,737
2007	556,800	452,586	104,230
2008	582,000	480,422	101,561
2009	451,700	376,716	74,967

*Source: [authors' calculation based on data provided by <http://www.brasov.insse.ro>]*

The average rhythm of growth calculated for the total number of guests is 0.0368 percent, for residents is 0.0420 percent and for non-residents is 0.0137 percent.

The medium growth of the total number of guests is 125,300, for residents is 116,678 and for non-residents is 8,639.

The total number of guests has increased on average with 0.036 percent per year representing 125,300 guests per year. Both the number of resident and non-resident guests have increased, with 0.042 percent, respectively with 0.013 percent per year, representing 116,678 resident guests per year and 8,639 non-resident guests per year.



**Figure 8: The evolution of the number of guests in Brasov Region in the period 2000-2009**

*Source: [authors' calculation based on data provided by <http://www.brasov.insse.ro>]*

Analysing the graph above, it can be observed that although having different values, the total number of guests and the number of residents guests, had very similar evolutions. The trends are oscillating being characterised by both increases and decreases as it follows: between 2000 and 2002 the trends are descending, between 2002 and 2008 the trends are ascending and between 2008 and 2009 the trends are again descending.

The lines' gradients corresponding to the periods 2000-2002 and 2008-2009 are relatively small representing slow decreasing rhythms. The line's gradient corresponding to the period 2002-2008 is big representing an accelerate increasing rhythm.

Comparing the value corresponding to year 2000 with the value corresponding to year 2009, one can observe an increase in the number of total guests and also of resident ones.

The number of non-resident guests had an almost constant evolution during the analysed period. Comparing the value of year 2000 with the value of year 2009, one can observe a slight increase.

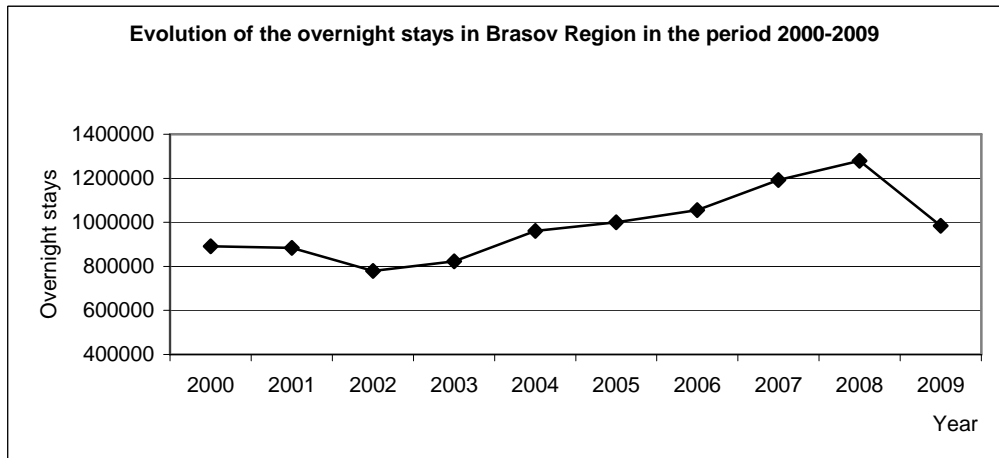
*Table 6.***Number of overnight stays in Brasov Region in the period 2000-2009**

<b>Year</b>	<b>Total</b>
2000	890700
2001	884600
2002	779300
2003	823300
2004	960800
2005	1000300
2006	1054900
2007	1191500
2008	1279600
2009	985000

Source: [authors' calculation based on data provided by <http://www.brasov.insse.ro>]

The average growth rhythm is 0.0112 percent while the average growth is 94300 units.

The number of overnight stays has increased in the analysed period, on average with 0.011 percent per year representing 94300 overnight stays per year.



**Figure 9: Evolution of the number of overnights stays in Brasov Region in the period 2000-2009**

Source: [authors' calculation based on data provided by <http://www.brasov.insse.ro>]

From the above graph, it can be observed that the number of overnight stays had an oscillating evolution: between 2000 and 2002 the trend is descending, between 2002 and 2008 the trend is ascending, between 2008 and 2009 the trend is descending.

The line's gradient corresponding to the period 2000-2002 it is small representing a low decrease rhythm, while the lines' gradients corresponding to the periods 2002-2008 and 2008-2009 they are big representing accelerated rhythms of increase, respectively decrease.

From the analysis of the three indicators for the period 2000-2009 for Brasov Region, can conclude the following:

- the occupancy rate in collective accommodation establishments has decreased
- although having oscillating trends, overall the total number of guests has increased and both the number of resident and non-resident guests have increased
- the number of overnight stays had also an oscillating trend but overall it has increased

From the above analysis it can be observed that the period 2008-2009 was a bad period for tourism, which is due to the worldwide economic crisis.

In the period 2000-2008 it can be observed a significant growth in the number of both guests and overnight stays. That is due to the fact that Brasov Region has considerably developed over the past years as a tourism destination. The reconstruction of old buildings, the improvement of the infrastructure within the city, the new indicators for tourism objectives, the parks with lots of flowers, all these contributed to the development of tourism. The presence of the worldwide known Dracula's castle in the Region attracted a lot of tourists. The last tendencies towards nature tourism, rural tourism and agro-tourism made Brasov Region a very popular one. Also the fact that

Romania entered the European Union in 2007 was a great opportunity to develop tourism. Many people had access to European funds with the opportunity to develop their own businesses in tourism industry.

Although Brasov Region has a remarkable potential, it is not valued properly. In the past years lots of things were improved but there still is a lot to do. The lacks at the country's infrastructure (the national road from the country's border to Brasov county is awful, the trains are extremely slow and very old, the busses are also very old and uncomfortable), the lack of qualified people working in tourism, the inexistence of a proper promotional campaign and of promotional materials, the very expensive services and their doubtful quality, all these still existing problems keep many tourists away.

### **Similarities and differences between Pardubice Region and Brasov Region**



Pardubice Region and Brasov Region are two European Regions with high perspectives for development in the tourism industry. If comparing the figures during the last ten years, one can observe that the occupancy rate, the number of guests and of overnight stays are quite close for the two Regions, maybe Brasov Region has, overall, a better position.

Brasov Region potential is higher, from the tourist perspective, because it has a more diversified landscape and it offers the possibility of practicing many forms of tourism. For example, agro tourism and rural tourism are yet unexploited forms of tourism which can have a high success and attract many tourists. Pardubice doesn't have such a potential for developing rural tourism, maybe just at the border of the Region.

Analysing the tendencies in tourism of both Regions over the past ten years it can be noticed that in Pardubice the figures are decreasing while in Brasov the figures have increased considerably (beside the economic crisis period when in both Regions the figures have decreased). The explanation would be that Brasov Region has developed as a tourism destination in the past years and that is reflected in the increasing figures. Both Regions have yet a lot to improve: the infrastructure, the quality of services, offering value for money, encouraging only trained personnel, motivating operators in tourism to cooperate and participate at the improvement of the Regions, investing in promotion. Brasov Regions has a lot of lacks at promotion. Beside the total lack of promotional materials, promotional initiatives are missing. There have been one or two promotional campaigns which no one heard about, although the ideas were quite good. Pardubice Region has a lot of promotional materials. The problem is that the impact of these promotional materials is not as expected maybe because there are distributed only locally and do not cover a bigger area. In Pardubice Region promotional initiatives are also missing.

Regarding the occupancy rate in collective accommodation establishments, one can notice that in Brasov Region, it has decreased on average with 0.023 percent per year, with approximately 0.05 percent less than the occupancy rate in Pardubice Region; comparing the trends can conclude that the trend corresponding to the occupancy rate for Brasov Region is relatively constant by the level of year 2007 and then it becomes descending, while in Pardubice Region the trend is overall descending.

While in Brasov Region the total number of guests, and both resident and non-resident guest numbers have increased, in medium per year, but with a very modest percent(0.036 %) , in Pardubice Region the number of total guests and resident guests has decreased, while the number of non-resident guests has very modestly increased.

Comparing the tendencies in tourism regarding the evolution of the total number of overnight stays, in Brasov Region the number of overnight stays has slightly increased on average, while in Pardubice Region it has slightly decreased.

Having this overview over the situation in tourism in these two Regions, the authors propose some solutions with the purpose of developing the Regions as tourism destinations.

### **Proposed solutions**

The existence of a valuable tourism patrimony doesn't automatically lead to a profitable tourism, unless it is accompanied by proper services, in order to make it accessible to tourists and highlight it. For example, countries with modest tourism potential reached to have an important tourism activity due to the investments in the services area.

In order to make Pardubice Region and Brasov Region more successful tourism destinations in the future, it should be developed a qualitative destination management. Managers from the main categories of stakeholders (suppliers, public sector, tour operators, investors, and travel agents) should work together towards a qualitative destination management.

In the authors' opinion, this can be achieved first of all with the help of local authorities which could do more in supporting tourism. Investments in infrastructure and helping the small operators (for example pension owners) in order to overcome phenomena such as seasonality is required. It can be considered the example of Austria where the authorities support seasonality in ski resorts by reducing the taxes during summer so the pension owners aren't obliged to practice very high prices during the peak season in order to cover their expenses over the year. Also, the authorities should invest and encourage other investments in promotional materials, in order to be offered for free.

Tourism suppliers, in these particular cases the small business owners, should concentrate in offering high quality services, in understanding each client's needs and in emphasizing on that, in having long term goals. A satisfied client is very valuable both on short and long term because he will surely come back whenever the occasion will arise and also he will "promote" the destination to his relatives and friends.

Tour operators and travel agents should emphasize more in promoting and selling local tourism packages. They also possess a lot of information about what tourists like and dislike at the area so they can work together in order to come out with some solutions for promotional materials and even campaigns.

Investors should be interested not only in their own benefit but also in helping the durable development of the area.

All operators in tourism should work together towards durable tourism, friendly-environment tourism in order to preserve the natural patrimony and the cultural and religious inheritance.

Regarding the marketing mix, tourism suppliers and tour operators should offer value for money, keeping the balance between quality and price. Also they

should make sure that the tourism product is as promised. The distribution of the local tourism products should be extended nationally and internationally for both Regions- a good opportunity is represented by tourism fairs. Proper promotion campaigns and materials should be developed. These materials should contain information about the area (access, what to visit, places to stay and eat, a map with the main attractions), about the leisure activities such as sports and about different kinds of events. Also, both Regions should have specialized web-sites where the tourists can find all the information that they need.

Both Pardubice and Brasov Regions have a rich history and culture. A good idea would be to highlight what they have special and unique such as traditions, habits, to find alternative forms of tourism. For example, in Brasov Region agro-tourism and rural tourism are unexploited forms of tourism with high perspectives to develop. Taking into account the last tendencies towards nature tourism, active tourism and discovering new places, Brasov Region has real chances to develop much more in the years to come. Pardubice Region has a tradition in horses and horse races, why not to exploit that? Or the hockey matches? Event tourism! And once tourists come to Pardubice they have the opportunity to discover much more other beauties!

### Acknowledgment

The authors want to express their gratitude to Pardubice University from Czech Republic and Transylvania University from Romania.

The authors are most grateful to Pardubice and Brasov Regional Councils for their opening to collaborative work, in this way, contributing to the future development of tourism in the two Regions.

This paper is supported by the Sectorial Operational Programme Human Resources Development (SOP HRD), ID59321 financed from the European Social Fund and by the Romanian Government.

### REFERENCES

- Gherasim T., Gherasim D. *Marketing turistic (Marketing in Tourism)*. Bucuresti: Editura Economica, 1999. ISBN 973-590-176-5
- Kotler Ph. et al. *Principiile marketingului (The Principles of Marketing)*. European Edition (Translation from English). Bucuresti: Editura Teora, 2001. ISBN 973-601-339-5
- Petcu N. *Statistica in turism 2005-teorie si aplicatii (Statistics in Tourism 2005-Theory and Applications)*. Cluj-Napoca: Editura Albastra, 2005. ISBN: 973-650-157-4
- Espon project 1.3.3 *The Role and Spatial Effects of Cultural Heritage an Identity* (2004-2006) (Authors: Capek J., Lacina, K., Fabian, P., Brychtova, S., Komarkova, J., Mandysova, I., Simonova, S.), ISBN 10 2-9599669-4-5

\*\*\* <http://unwto.org/en>

\*\*\* [www.brasov.insse.ro](http://www.brasov.insse.ro)

\*\*\* [www.czso.cz](http://www.czso.cz)

*Atlas of Czech Republic and Europe*, SHOCART, 2010. ISBN: 80-7224-247-4.

## **CUTTING THE PERSONNEL EXPENDITURE IN THE ROMANIAN PUBLIC SECTOR – CAUSES AND EFFECTS**

**MARIA-ANDRADA GEORGESCU<sup>1</sup>**

**ABSTRACT.** The global economic crisis, which had a strong impact on virtually all states of the world, brought additional challenges to the public sector. The governments had to choose between two alternatives: to decrease public expenditure by adopting austerity measures (option chosen by most EU Member States) or to increase public investments, in an attempt to stimulate economic growth (alternative preferred and supported by the USA and Great Britain).

The paper aims to analyze the public expenditure policy in Romania, as a result of the economic conditions imposed by the crisis, with a focus on the public expenditure with the personnel employed within public institutions. The paper will analyze and compare the figures regarding public expenditure for the wages of persons working in the public sector in the years prior to the crisis and following the adoption of the austerity measures.

The goal of the paper is to identify the possible connection between the reduction of personnel expenses and the decrease of the budgetary deficit, which was the intended purpose of the austerity measures in the field of public employees' salaries.

**Keywords:** *public expenditure, salaries, Romania*

**JEL Classification:** H72, H61

### **National economic context around the economic crisis**

The global economic crisis which began in 2008 originated as a crisis in, and of, the financial sector. The banks expanded lending to people beyond what was sustainable. The crisis in the financial sector led to a crisis in the rest of the economy, globally, as the banks stopped lending to people and companies, and so the level of spending and consumption by the private sector fell. The lack of credit and the fall in spending led to companies cutting production and going bankrupt, both of which brought about increased unemployment and further reduction on consumption.

---

<sup>1</sup> Lecturer, PhD, Faculty of Public Administration, National School of Political Studies and Public Administration, Bucharest, e-mail: andradageor@yahoo.com

The debut of the economic-financial crisis in Romania was recorded at the beginning of the second semester of year 2008.

Since in the fall of 2008 parliamentary elections had been scheduled, the members of the Executive and the Romanian dignitaries ensured the population that the country will not be affected by this crisis. Moreover, prior to the parliamentary elections, the Romanian President promulgated the law to increase the salaries of the teaching staff by 50%, starting 1<sup>st</sup> of January 2009, law that is still in effect but was never applied.

At the beginning of year 2009, Romania officially admitted being in economic crisis, which became the subject of public debates.

In the first trimester of the year, the social partners sent the Government anti-crisis proposals and subsequently, after consultations, the executive made public a program contested by the trade unions and employers' associations, which did not find inside their own measures.

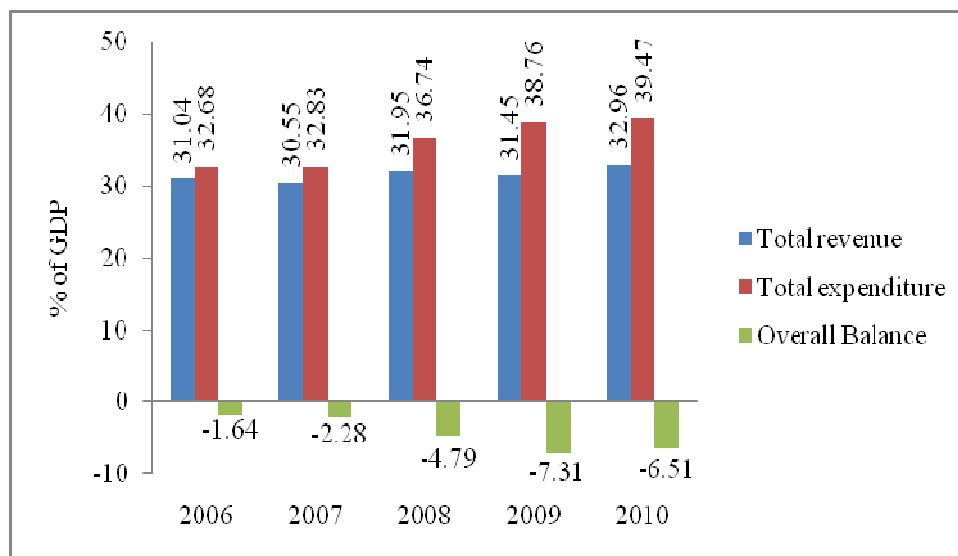
In April, the government approved the letter of intent negotiated with the International Monetary Fund (IMF) for a loan in the amount of EUR 19.95 billion, out of which EUR 12.95 billion from the IMF, EUR 5 billion from the European Commission (EC) and EUR 1 billion each from the World Bank (WB) and the European Bank for Reconstruction and Development (EBRD). The government claimed that the fundamental objective of the loan was represented by the desire to preserve jobs, to re-launch and credit the economy, such as, indirectly, to ensure the payment of salaries and pensions in Romania.

Year 2009 ended with a drop of the GDP, compared to the previous year, of 7.1%.

The recession had a general effect of reducing tax revenues, for all levels of government. As consumer spending falls, indirect taxes revenues fall; as unemployment increases, the volume of taxes on income decrease; as bankruptcies rise and profit fall, income from taxes on profits falls. The recession also increased the payment of unemployment and other benefits and services. Both the fall in taxes and the rise in benefits increased government deficits (see Chart 1).

### **Public expenditure policy in times of crisis**

The current financial policy, aiming to end the economic crisis in Romania, opted, apparently, as a saving solution, for the reduction of public expenditure. Moreover, the public expenditure of Romania's consolidated general budget was under the careful watch of the international institutions providing financial assistance to our country, in order to support it in surpassing the economic crisis and in ensuring a balanced economic development. Thus, the question is asked what public expenses represent in the entirety of the national economy, what

**Chart 1: Governmental Consolidated General Budget – Romania**

Source: Author's calculation based on Ministry of Public Finance data

effects the management errors in this field can have at the social-economic level. Public expenditure occurs as a result of the economic-social relations manifested between the state and the natural and legal persons, with the occasion of the redistribution and use of the state's financial resources, for the purpose of fulfilling its functions, on the basis of the Government's economic program (Georgescu, 2011).

In order to execute an analysis of the public expenditure comprised in the consolidated general budget of Romania, the data regarding budgetary execution will be used<sup>2</sup>.

**Table 1.**

**Public Expenditure in Romania 2006 – 2010**  
**Economic classification**  
 Million RON

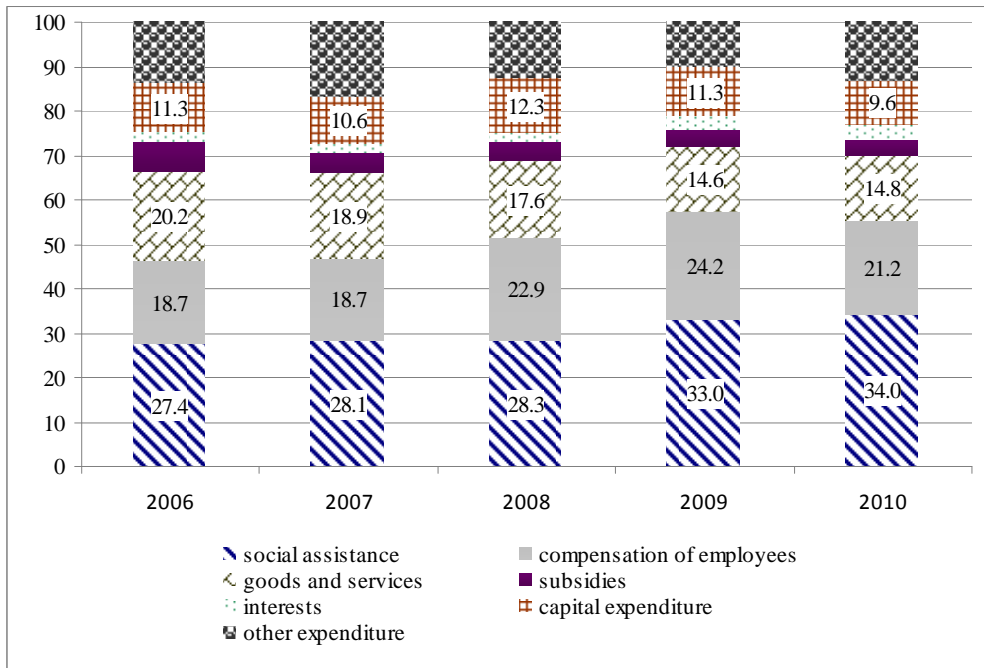
	2006	2007	2008	2009	2010
Total expenditure	112,626.3	136,556.5	189,121.7	193,679.3	201,903.6
Social assistance	30,901.7	38,326.7	53,592.4	63,957.6	68,601.9

<sup>2</sup> The data regarding the budgetary execution are those published in the MPF Monthly Bulletin, available at [www.mfinante.ro](http://www.mfinante.ro). They are computed according to national methodology.

Compensation of employees	21,057.0	25,588.9	43,344.5	46,837.6	42,806.5
Goods and services	22,744.8	25,835.1	33,225.5	28,325.9	29,801.2
Subsidies	7,429.4	6,873.1	7,835.6	7,215.4	6,734.6
Interests	2,489.7	2,739.7	3,893.3	6,060.6	7,247.0
Capital expenditures	12,717.0	14,410.4	23,203.4	21,940.3	19,368.9
Other expenses	1,224.4	2,110.0	5,473.8	2,182.7	4,280.1
Other current transfers	14,062.2	20,672.1	18,553.2	17,159.2	23,036.4

Source: Author's calculation based on data from Monthly Bulletin edited by the Ministry of Public Finance

**Chart 2: Structure of expenses in the Consolidated General Budget of Romania**  
% of total expenditure



Source: Author's calculation based on data from Monthly Bulletin edited by the Ministry of Public Finance



**Chart 3: Public Expenditure in Romania 2006 – 2010**  
**Economic classification, % of GDP**



Source: Author's calculation based on data from Monthly Bulletin edited by the Ministry of Public Finance

Examining the data in Table 1 and Chart 3, one can see that the amount of the total public expenditure comprised in the consolidated general budget registered a permanent increase, of course, at different rates, both as absolute value, and as percentage of the GDP.

The expenses of the general budget increased in nominal terms in year 2010 with 4.6% compared to year 2009. However, in structure, the expenses had different evolutions. Thus:

- Expenses with interest for financing the deficit and for re-financing the public debt increased by 20% in 2010. The volume of expenses with interest reached 7.3 billion lei, becoming an important risk factor for the control of the budgetary deficit;
- Expenses with social assistance increased with 7.3% in year 2010 compared to 2009, as a consequence of the increase of expenses with unemployment aid;
- Also, the expenses with goods and services continued to rise. Compared to 2009, an increase of 5.2% was recorded in 2010. At the level of the local administration, the increase of these expenses is due to the undertaking of the financing of the activity of Agricultural Chambers, as well as to the decentralization of

health units, by their taking over by the local public authorities. At the same time, the increase of these expenses was determined by the increase of the expenditure of the National Single Fund of health social security, for the payment of outstanding amounts;

- In the last years, the Government was able to fall within the budgetary deficit targets, by sacrificing investments. The expenses meant for them, which also include capital expenses, as well as development programs financed from internal and external sources, although were in 2010 in the amount of 33.7 billion lei, respectively 6.6% of the GDP, they registered a decrease, compared to 2009, with 11.7%;

- The personnel expenditure decreased in 2010, compared to the previous year, with 8.6%, being performed both lay-offs and reductions of salaries in the public sector.

With these data available, the following conclusion was reached: the entire adjustment of the budgetary deficit, which demonstrates the governmental „performance” in Romania, was achieved due to the 25% reduction of the public sector salaries.

In addition to this severe reduction, the Government also raised the VAT quota by 5 p.p., respectively from 19% to 24%.

The increase of taxation operated by the VAT increase and by other less important measures faces the implacable decline of the economy, such as, although the Government collected more money from VAT (+14.3% in year 2010 compared to 2009), the total fiscal collections stagnated. Practically, the decrease recorded in the collections afferent to profit tax (- 4.9%), income tax (- 3.2%) and social security contributions (- 4.5%) counterbalanced the higher VAT collection.

Moreover, the deficit of the general consolidated budget of 33.3 billion lei, respectively 6.5% of the GDP registered at the end of 2010 is below the limit of the deficit target, in the amount of 34.6 billion lei, set as objective of the budgetary policy for year 2010 and established in the additional letter to the Stand-by agreement concluded with the IMF.

### **The effects of cutting the personnel expenditure**

Was it really necessary to reduce the personnel expenditure in the public sector by 25%? This question was asked considering the effects of this reduction on consumption and on the main macro-economic indicators. Namely, the reduction of public sector wages also determined the reduction of the budgetary incomes, both from VAT (due to lower consumption), and from the direct taxes of public sector employees' wages.

Elasticity of consumption depending on the income for families with at least 1 employee and where at least 1 employee works for the state, according to the NUB (National Union Bloc) estimates, and which can save money monthly, is

of approximately 60%. This elasticity is used for the realistic scenario regarding the impact of the decrease of public sector wages on consumption and GDP (60% of the 25% reduction will reflect in the decrease of consumption). The realistic scenario is coherent with the situation of a family made up of one state employee and one private employee (hence, an average decrease of 15% in the family income). The optimistic scenario takes into consideration a lower elasticity (40%), assuming that there are other resources for saving, and the pessimistic scenario takes into account a higher elasticity (80%), assuming that other expenses are more rigid (utilities; bank installments). The pessimistic scenario is coherent with the situation of a family in which both spouse are state employees. The computation was performed at the level of a family, using the data from the Inquiry on Family Budgets executed by the NSI (National Statistics Institute). The weight in the consumption of families with at least 1 state employee is of approximately 30%, and the weight of consumption in the GDP of approximately 60%. Therefore, in the realistic scenario, a decrease of the familial consumption with 15% leads to a decrease of 4.5% in the total annual consumption, which reflects in a contraction of the annual GDP with 2.7%, respectively 1.58% for the period June-December 2010. Thus, the effect of the decrease in salaries on the aggregated demand will contribute to the reduction of GDP with 1.35% from July until the end of year 2010, in the realistic scenario.

The reduction of the public sector wages will also have repercussions on the budgetary income. Although it is difficult to model the indirect effect (impact of the decreased consumption on the turnover, profit, number of employees and, implicitly, the profit tax and the tax on the work force paid by the private companies), it cannot be considered negligible.

In exchange, with approximation, the direct effect of the salary drop by 25% on budgetary incomes can be computed, in view of the weight of 38% of the state employees' wages in the total wages in the economy.

Next, it was taken into account the following scenario: the Government decides to increase the VAT quota by 5 p.p., but does not reduce the public sector wages with 25%. The impact of this hypothesis on the consolidated general budget was computed. In the hypothesis of maintaining the public employees' wages in 2010Q3 (third trimester) and 2010Q4 (fourth trimester) at the level registered in 2009Q3 and 2009Q4, the personnel expenditure would have increased with 0.6% of the GDP. At the same time, the incomes collected from the tax on wages and the social security contributions increase with 0.3% of the GDP. *Ceteris paribus*, the budgetary deficit at the end of year 2010 would have reached 6.75% of the GDR, still below the level agreed with the IMF (6.8% of the GDP). Still, it should not be forgotten that it was not taken into account the increase of VAT incomes following this hypothesis, element which, of course, leads to a decrease in the deficit level.

Still, it is obvious that the reform of the total salary fund must not be eliminated, applying overall reductions with different percentages. As this measure

was applied, it was equivalent with a regressive tax, the reduction of wages in an undifferentiated manner having perverse effects and not promoting fiscal sustainability. These reductions affect the quality of public services, reduced the quantity and availability of public services, which, in the end, can have as result the continuous erosion of the population's trust in the government. Such (mass) reductions have only a limited and short-term effect. Usually, in such a situation, the first people leaving the public sector are those with superior training, which leads to a reduction of labor productivity in the budgetary sector. When the public sector will hire again, it will have to allot additional amounts of the professional training of the newcomers.

How was this decision reached? Is Romania a particular case?

### **European examples of fiscal crisis management**

A number of EU countries have taken policy decisions to cut the pay of government and/or public sector employees between 2008 and 2010. It is worth mentioning the fact that half of these countries have reached IMF deals.

Greece. In February 2010, the government of Greece adopted a package of cuts in public spending which included a 7% cut in earnings for all public sector jobs, as well as the cancellation of all agreed pay rises. The pay of public employees was further reduced following the agreement in March 2010 by the EC, the IMF, and the European Central Bank on a support package for Greece which included a 'Memorandum of understanding' on economic and fiscal policies. This led to a new law in May 2010, which included an 8% cut in earnings of all government employees and a 3% cut in earnings of all workers employed by state-owned companies. Public sector pay is frozen until 2014<sup>3</sup>.

Hungary received a support loan from the IMF in October 2008. Part of the agreement was originally that public sector workers would lose their bonus, worth 8% of their pay, and face a pay freeze; the cut in earnings was later restored. However, in June 2010 a newly elected government announced a new package of measures designed to reduce the deficit to the level of 3.8% required by the EU/IMF, which included a 15% cut in the salaries of all 700,000 public sector employees.<sup>4</sup>

Ireland. The government confirmed unilateral pay cuts in the budget of December 2009, which specified that from 1st January 2010 basic salaries of public employees would be reduced as follows: 5% on the first €30,000 of salary; 7.5% on the next €40,000 of salary; 10% on the next €50,000 of salary. This

---

<sup>3</sup> Extraordinary measures used to activate European economic support mechanism

<http://www.eurofound.europa.eu/eiro/2010/05/articles/gr1005019i.htm>;

Government adopts extraordinary measures to tackle economic crisis

<http://www.eurofound.europa.eu/eiro/2010/03/articles/gr1003029i.htm>;

<sup>4</sup> Back from the dead IMF pumps out loans and conditionality News|Bretton Woods Project|27 November 2008, <http://www.brettonwoodsproject.org/art-562981>;

produces overall reduction in salaries ranging from 5% to about 8% in the case of salaries up to €125,000 (Callan, 2010).

Latvia faced acute problems arising from the financial crisis in 2008, which led to it securing an IMF stand-by arrangement worth more than \$2.3 billion at the end of 2008. Public sector pay was cut by a succession of measures in 2008 and 2009: in mid-2008 additional payments and bonuses were cut; the conditions required for the IMF deal included a 15 per cent reduction in local government employees' wages, and a 30% cut in the wage bill in 2009; in July 2009 salaries of state sector workers were cut by between 15% and 20%; from September 2009 teachers pay was cut by 28%<sup>5</sup>. Lithuania. In June 2009 the Lithuanian government announced unilaterally that it was planning to cut the basic salaries of public sector employees by 10%, with effect from August. The trade union confederation rejected the decision and organized action, including a hunger strike: the government then entered discussions with the unions, and agreed to suspend the unilateral decision. An agreement was signed in October 2009 between the government, private employers and a number of trade union organizations. It includes an obligation not to reduce basic salaries for civil servants, but also an overall austerity agreement involving general reductions in wages and social benefits. The prime minister claims that the austerity measures have been successful because they are based on 'social consensus': However, some independent trade unions and civil society groups refused to sign the 2009 agreement because of the plans to cut pensions, and criticize the process for lack of transparency and for agreeing that the burden of the crisis should fall on ordinary people<sup>6</sup>.

Portugal. In early 2010, as a way of reducing the budget deficit, the government proposed a general freeze on wages, cuts in public sector pensions, 5% pay cuts for senior civil servants and politicians only, and unilaterally decided to cut unemployment benefit and the minimum wage. This was strongly opposed by the unions and others, including a strike of 300,000 workers in March, and one of the largest demonstrations ever recorded in Portugal, in May 2010. The private employers also opposed an increase in the national minimum wage, as agreed in the 2006 tri-partite agreement: the government approved the increase, but provided a subsidy for employers<sup>7</sup>.

Spain. In response to international markets' forcing up the cost of borrowing by Spain, the government introduced a number of measures in 2010 to try to reduce

---

<sup>5</sup> Will IMF loans hurt the poor this time around? News|Bretton Woods Project|13 February 2009 <http://www.brettonwoodsproject.org/art-563607>; Eurofound: Wide-scale cuts in salaries and social benefits <http://www.eurofound.europa.eu/eiro/2009/07/articles/lv0907019i.htm>;

<sup>6</sup> Eurofound: Trade union hunger strike averts public sector pay cut <http://www.eurofound.europa.eu/eiro/2009/07/articles/lt0907029i.htm>;

<sup>7</sup> Public sector trade unions hold general strike against wage freezes and lower retirement pensions <http://www.eurofound.europa.eu/eiro/2011/02/articles/pt1102019i.htm>;  
Austerity escalates and unions organize major demonstration <http://www.eurofound.europa.eu/eiro/2010/05/articles/pt1005019i.htm>;

the budget deficit. In May 2010 the government announced a cut in public sector pay of 5% on average, a freeze on civil service pay in 2011, a freeze on pensions, and reductions in some benefits<sup>8</sup>.

From the data above, it can be seen that not in Romania was decided reductions of the public sector wages, but the percentage applied was, by far, the greatest.

Let's look at the evidence concerning comparative movements in public and private sector wages since the start of the crisis. Table 4 sets out data for the European countries on the changes in wages and salaries costs for the public and private sector. The data is presented using Eurostat classification. The information must be used carefully because they refer to the statistics of the business economy activities (aggregated according to the homogenous activity), according to NACE Rev. 2, and the public sector includes public administration, education, healthcare and social assistance (includes the private sector for education, health and social assistance, excludes the armed forces and assimilated personnel). These statistics do not take into account the financing form, their goal being to supply information on economic activities, according to NACE 2. The data is incomplete for a number of countries, with data covering the whole of the public/private sector, as defined above, for both 2008Q1 and 2010Q1. Given all this caution, it is still possible to identify some patterns in the relative movements in private and public sector earnings in 2-year period since the recession (between the first quarter of 2008 and the first quarter of 2010).

In 8 countries, public sector earnings increased more rapidly – or decreased less – than the earnings in the private sector. The case of Lithuania was included here, where public sector earnings fell by 3.6%, less than the 9.5% fall in private sector earnings, and Estonia, where public sector earnings fell by 0.5%, less than the 3.7% fall in private sector earnings. Only in Bulgaria public sector earnings rose more slowly than private sector earnings, but closer to the rate of private sector. In 5 countries (Greece, Spain, Hungary, Portugal, and Romania) public sector earnings have fallen relative to private sector.

Within the private sector, earnings in financial services performed relatively badly – on average there was a fall even in nominal terms, and in all countries, earnings in financial services did much worse than in the general movements in the private sector. In half of the countries, public sector pay performed significantly better than the financial services sector alone; earnings in the electricity and gas sectors also did consistently better than earnings in financial services.

However, if the data reflecting the modifications occurred in year 2010 are analyzed, it can be noticed that in all countries, except Lithuania, public sector earnings have fallen relative to private sector. The highest discrepancy is registered

---

<sup>8</sup> Government endorses plan to cut public deficit <http://www.eurofound.europa.eu/eiro/2010/06/articles/es1006011i.htm>;

in Romania, where public sector earnings dropped by 21.5%, while the private sector earnings increased by 2.7% (see Table 3).

Most of the countries involved in process of reducing public sector wages have been the subject of external economic pressures, including pressure from the European Commission to keep deficits below the level of 3% specified in the Maastricht Treaty and policies required by the IMF as condition for loans supporting national currencies.

### **Is there an economic justification for the cutting of the public sector wages?**

A document published in June 2010 by the ECB (Holm-Hadulla, 2010), the evidence seems to suggest that there is no scientifically solid argumentation that would link the public sector pay with the economic recession. Nor is there evidence to support the idea that public sector wages reflect on the business cycle.

**Table 2.**

#### **Change in wages and salaries, Europe, 2008Q1 – 2010Q1 (%)**

	Public sector	<i>Of which</i>			Private sector (Business economy)	<i>Of which</i>			
		<i>Public administration</i>	<i>Education</i>	<i>Health-care</i>		<i>Manufacturing</i>	<i>Electricity, gas, heating</i>	<i>Water, sewerage, waste</i>	<i>Financial services</i>
Bulgaria	30.6	26.3	30.5	35.1	31.8	27.8	30.5	23.5	24.9
Czech Republic	11.3	7.5	10.3	19.1	4.2	3.4	14.6	8.8	2.8
Germany	4.9	6.4	5.4	3.3	3.4	3.7	3.2	3.5	1.8
Estonia	-0.5	-2.7	3.5	-2.2	-3.7	0.6	16.6	4.5	-7.5
Greece	1.5	-2.8	11.5	-6.7	11.3	8.4	16.0	2.3	5.7
Spain	5.4	4.8	6.9	5.5	6.9	7.4	6.4	3.0	3.1
Latvia	-18.8	-26.5	-18.1	-13.0	-0.4	2.0	-2.7	-2.1	-5.6
Lithuania	-3.6	-13.2	6.3	-3.3	-9.5	-3.5	1.7	-2.6	-3.8
Hungary	-4.8	-7.3	-0.3	-6.6	8.8	10.5	18.3	12.3	2.6
Poland	14.7	15.0	15.5	15.0	8.5	8.9	14.4	12.6	6.2
Portugal	-3.1	-1.0	-8.0	-0.2	3.7	3.5	16.5	4.6	1.2
Romania	14.9	0.3	14.7	30.5	26.2	27.5	31.5	28.2	22.2
Slovenia	13.8	7.6	9.7	27.8	12.0	16.4	16.6	14.7	8.1
Slovakia	10.1	10.7	9.9	10.0	7.0	8.2	6.0	8.1	7.5

Source: Author's calculation based on Eurostat - lc\_lci\_r2\_q-Labour cost index, nominal value - Quarterly data (Nace R2), Seasonally adjusted and adjusted data by working days, Index, 2008=100, Extracted on 07-04-2011 08:30:13

**Table 3.****Change in wages and salaries, Europe, 2010Q1 – 2010Q4 (%)**

	Public sector	<i>Of which</i>			Private sector (Business economy)	<i>Of which</i>			
		<i>Public administration</i>	<i>Education</i>	<i>Health-care</i>		<i>Manufacturing</i>	<i>Electricity, gas, heating</i>	<i>Water, sewerage, waste</i>	<i>Financial services</i>
Bulgaria	1.4	-9.2	6.4	7.2	6.3	5.5	19.1	8.2	10.0
Czech Republic	1.7	2.4	0.4	1.7	9.4	12.8	5.0	3.8	11.5
Germany	-0.7	-2.2	-1.6	0.4	1.0	1.0	2.8	1.6	1.5
Estonia	-3.5	-4.8	-7.7	2.7	3.0	2.0	0.7	-2.8	7.3
Greece	-10.3	5.7	-28.0	-16.2	-7.3	-3.5	-28.2	-14.8	-4.6
Spain	-2.8	-3.5	-3.0	-2.9	0.8	1.0	-0.4	2.5	1.7
Latvia	0.0	1.5	-1.8	1.5	1.7	3.2	-1.2	6.1	1.0
Lithuania	1.1	-0.4	-3.5	-14.6	-2.0	1.7	0.1	-0.6	-0.6
Hungary	-4.5	-0.4	-3.5	-14.6	-2.0	1.9	2.4	-2.9	-8.5
Poland	1.8	-2.8	4.9	2.4	2.9	4.1	11.5	2.1	2.5
Portugal	3.4	4.7	5.2	-1.5	4.6	5.0	9.9	1.8	8.3
Romania	-21.5	-13.2	-20.5	-31.2	2.7	5.3	-0.2	6.5	-2.8
Slovenia	-1.2	-2.4	-2.2	0.9	-0.5	-2.0	-0.8	-7.1	2.1
Slovakia	2.4	-0.8	4.9	5.1	3.0	2.1	5.3	4.1	5.6

Source: Author's calculation based on Eurostat - lc\_lci\_r2\_q-Labour cost index, nominal value - Quarterly data (Nace R2), Seasonally adjusted and adjusted data by working days, Index, 2008=100, Extracted on 07-04-2011 08:30:13

Moreover, at the level of the EU countries, there is no clear relation between the public and private wages. While in countries such as France or Finland, where the number of public employees is high, the salaries of the private and public sectors are almost identical. Still, there are countries where the average wage of a state employee exceeds by nearly 50% the average salary in the private sector.

However, it must be remembered that public sector pay level is much less likely to affect private sector wage settlements where trade unions have negotiation powers, which coincides with a weaker influence of the public wages.

In the previous parts of the paper we attempted to demonstrate that it was not the public sector wages that determined the crisis, but governments proceeded to their reduction in order to achieve economic growth.

In addition to the reduction of salary expenses in the public sector, Romania proceeded to a dramatic, sudden, violent reduction of the number of state employees, without distinguishing criteria and, especially, without a preparation for the absorption of the work force that was laid off.



**Table 4.****Number of employees in the Romanian public sector**

Thousands of persons, end of the year

		2005	2006	2007	2008	2009	May 2010
1	Institutions fully financed from the state budget	287	314	336	339	348	345
2=3+4	Institutions fully financed from the local budgets, out of which	557	595	617	644	633	620
3	- apparatus of local councils and other local institutions	221	259	280	311	307	299
4	- personnel instate pre-university education	336	336	338	333	325	321
5	Other institutions (CNPAS, CNASS, ANOFM)	13	11	12	11	11	11
6=1+2+5	Total positions in public institutions and authorities, excluding institutions subsidized from the state budget and local budgets and the institutions financed from own incomes	856	921	965	994	991	975
7	Self-financed institutions and institutions subsidized from the state budget and local budgets	377	361	395	405	389	382
8=6+7	Total positions in public institutions and authorities	1,233	1,281	1,360	1,399	1,380	1,358

Source: Romanian Fiscal Council

In the almost total absence of measures for stimulating the real economy, compensatory for the massive personnel lay-offs, the perspective of increasing budgetary incomes and, respectively, salary incomes of the state employees appears as little probable in the immediately following period.

## 6. Conclusions

The public administration, or more exactly, the professional quality and its moral responsibility represent the key institutional factors of the political efficiency of governance in this difficult period, under the economic, financial and social aspect. The reduction of wages of public sector employees is a strictly accounting issue, which has only a minor result on the improvement of the condition of the

consolidated general budget. As demonstrated in the paper, the impact of the wages' reduction, combined with the loss of income from labor taxation, was of 0.3% of the GDP. Moreover, a simulation of the hypothesis of canceling the decision to reduce public sector wages was performed, with the conditions of maintaining the increase of the VAT level with 5 percentage points and it was demonstrated that, in this case, the deficit of the general consolidated budget would have fallen within the limit agreed with the IMF. Still, cutting the public sector wages may have adverse effects of salary constraints, which may refer especially to the reduction of the moral responsibility or the decrease of professional competence, which can be considered crucial for increasing the efficiency of public administration, including for the increase of the budgetary collections which would support the wages, which, in their turn support moral responsibility and professional competence.

Corrected depending on the total index of consumption prices, public expenditure recorded a real negative growth of 30.67%. At first glance, this appears a positive fact, but this reduction is not corroborated with an increase of investments generating economic added value and, therefore, it (namely, the cutting of public expenditure) cannot be considered a measure stimulating economic growth. Moreover, at the EU level, Romania has the lowest percentage of expenditure in the GDP (41.0% compared to the EU average of 50.8%, figures according to the ESA95 methodology), but public incomes also have the lowest percentage of the GDP (32.4% compared to the EU average of 44.0%, figures according to the ESA95 methodology). Hence, the effect of the measure to diminish public expenditure in the matter of increasing incomes is null. That is why one can agree with those opinions that support the reorientation of the public budget management in view of certain measures for increasing the degree of collection of budgetary incomes (e.g. combating tax fraud and evasion, diminishing of the black economy), for reducing the social contributions shares paid by employers, rather than a financial policy focused on the drastic reduction of personnel expenditure, as was in the case in the latest period.

In countries that experience market pressures or where are in place IMF or EU programs, or a combination of the two, the impact on the public sector pay comes more from the political responses to the government stimulus measures. These responses are inherently political because they explain the economic mechanisms that make it necessary for the burden of the economic recession to be shared between all societal actors.

## REFEREMCES

- Callan, Tim, Brian Nolan and John Walsh, 2010, *The Economic Crisis, Public Sector Pay, and the Income Distribution*. Discussion paper series. Bonn, Germany. The Institute for the Study of Labor
- Clements, Benedict, Victoria Perry, and Juan Toro coordinators, 2010, *From stimulus to consolidation: revenue and expenditure policies in advanced and emerging economies*. Washington, D.C.: International Monetary Fund
- Georgescu, Maria-Andrada, 2011, *Administrarea finantelor publice si a bugetului*. 3<sup>rd</sup> Edition. Bucharest: Pro Universitaria Publishing House
- Goretti, Manuela, 2008, *Wage-Price Setting in New EU Member States* in IMF Working Paper
- Holm-Hadulla, Federic, 2010, *Public wages in the Euro area: towards securing stability and competitiveness*. In European Central Bank (ECB) Occasional Paper no. 112/June 2010
- Back from the dead IMF pumps out loans and conditionality News|Bretton Woods Project|27 November 2008, available at <http://www.brettonwoodsproject.org/art-562981>
- Will IMF loans hurt the poor this time around? News|Bretton Woods Project|13 February 2009 <http://www.brettonwoodsproject.org/art-563607>;
- Eurofound: Wide-scale cuts in salaries and social benefits <http://www.eurofound.europa.eu/eiro/2009/07/articles/lv0907019i.htm>

### Internet sources:

\*\*\* [www.mfinante.ro](http://www.mfinante.ro)

\*\*\* <http://www.eurofound.europa.eu/eiro/2010>

## DEMOGRAPHIC EVOLUTIONS IN ROMANIA – IMPACT ON LABOR SUPPLY

CARMEN MARIA GUȚ<sup>1</sup>, MAGDALENA VORZSAK<sup>2</sup>,  
VALENTIN TOADER<sup>3</sup>

**ABSTRACT.** The size of the population represents a determining factor for the dimension of the labor force, of the potential population and of the actual labor force. Starting with 1990, Romania has undergone a process of major demographic changes. The direct demographic causes of the decline registered after 1990 are due, on one hand, to massive *emigration* since the beginning of the transition period (1990-1991), and, on the other hand, to the *unfavorable evolution of natural growth*, turning negative beginning with 1992. On the medium and long term, these changes will affect the ratio between the active and inactive population and will lead to an increase of the demographic ageing. The present paper presents the Romanian current demographic situation and examines the implications that this phenomenon will have upon the labor market in the future.

**Keywords:** *demographic ageing, population, fertility, emigration, labor force.*

**JEL Classification:** J11, J13, J21.

### Introduction

The key factor of a country's economic and social development is represented by the human potential (human resources), resources which represent the total population of a country. The human resources are the most valuable segment of all production factors, due to intrinsic characteristics and because of the labor force's creative potential [Petrescu, 2006, p.35].

The human resources represent all persons from a space, viewed simultaneously from a quantitative and qualitative aspect, not only as number and structure, but also as level of skills, education and training, as a support for an activity which is useful from an economic and social point of view, both individually and collectively.

---

<sup>1</sup> Teaching Assistant, Dr., "Babeș-Bolyai" University Cluj-Napoca, Faculty of Business,  
email: carmen.gut@tbs.ubbcluj.ro

<sup>2</sup> Professor, Dr., "Babeș-Bolyai" University Cluj-Napoca, Faculty of Business,  
email: magda.vorzsak@tbs.ubbcluj.ro

<sup>3</sup> Lecturer, Dr., "Babeș-Bolyai" University Cluj-Napoca, Faculty of Business,  
email: valentin.toader@tbs.ubbcluj.ro

The population represents the greatest potential to stimulate the economic and social development of a country and it has to be one of the most important points in the country's development strategy.

The population of a country influences the production system by the means of the active population and determines the structure and the volume of consumption to some extent. But, at the same time, the level and the quality of productive activities and services influence the population's trends of development, through the standard of living and the quality of life.

Taking into account the importance of demography for the economic and social development of a country, the present paper aims to analyze the Romanian demographic situation during the time span 1990-2009, in order to establish the dimensions and the evolutions of the major problems that it faces.

## **Materials and Methods**

As the present paper aims to cover issues related to demography, we have mainly used data and facts offered by the Romanian National Statistics Institute (INS) in its *Statistical Yearbooks of Romania*, issued between 2002 and 2010. We have also made use of pieces of information gathered from alternative sources, basically the specialized economic publications which present the results of different researches and studies carried out by other institutions, such as the Institute of National Economy – “Vladimir Trebici” Center for Demographic Research. Our research methodology is based on document analyses, as well as on our own calculations and facts' interpretations and correlations.

## **Results and Discussions**

The size of the population represents a determining factor of the size of labor force, of the potential population and of the actual labor force. Until the middle of the year 1990, due to natural positive growth and low emigration, the population of Romania grew significantly in size. According to official sources, between 1960 and 1990, the population of the country grew by 4.8 million people; leading to a total increase of 26.1%. After 1990 a declining trend is to be noticed, in as much as 7.5% between 1990 and 2009.

The direct demographic causes of the decline registered after 1990 are due, on one hand, to massive *emigration* from the beginning of the transition period (1990-1991), and, on the other hand, to *unfavorable evolution of natural growth*, turning negative from 1992.

In Romania, emigration became a permanent situation, a process with oscillating proportions, rates and structures. The highest level of emigration was registered in 1990, its rate being of 4.2 per 1000 inhabitants, and in 2008 this rate was of 0.4 per 1000 inhabitants. [NIS, 2010]

The external migration takes place in Romania under different forms: emigration, temporary migration for work, brain-drain and direct recruitment practiced by foreign big companies for their work places, chain migration, sustained by formal migration (especially at the level of the families). The active persons wish for or are forced to leave the country because the remuneration/salary is lower in Romania as compared to that of the developed countries.

While this migration is good for the host countries, it leads to the population decrease and the increase of demographic ageing of our country, the most worrying aspect being represented by the loss of human capital trained in Romania. During the time span 2001-2009, over 50% of the emigrants are between 18-40 years, so they are educated persons, with a high work and creation potential and they are “flexible” in finding a work place. People tending to migrate are usually the young able to work (aged 20-39), who are looking for better jobs in a foreign country and more attractive life style.

The cause of emigration is, on one hand, the failure of the Romanian economy to offer employment opportunities and, on the other hand, the low remuneration as compared to the developed countries, but also with the population’s needs, especially for young persons. However, this also means that there is an uncovered demand in some sectors, within the receiving countries.

Without proposing our own analysis of migration, we can say that migration has some positive aspects for our country. Firstly, it is a “safety valve” for the excess labor force in some sectors, which reduces the bugetary costs for unemployment benefits. Moreover, the emigrants transfer annually in our country significant sums of money, which helps to mitigate the current account deficit. It is estimated that the volume of capital inflows from the emigrants amounts to 2 billion \$/year, which equals or exceeds the annual volume of FDI inflows in our country. Another aspect is the import of technology and the opportunity of setting up a business in our country. However, today, the general trend is to spend money for daily needs (consumption and purchase of durable goods), and this reality could affect inflation and the increase of foreign trade deficit due to import of durable goods. [Lăzăroiu, 2003, p. 39]

However, as the theory presents, migration provides a gain to the receiving country, especially when emigrants are not asylums on political reasons, but emigrants seeking work. The net income is even greater when the work force has a higher level of education and qualification. In the case of Romania, there are no estimates of the current impact of migration, but, as we have shown, there are both positive and negative effects. We incline to believe that the money transfers from emigrants coming to Romania or the unemployment export can not compensate the loss of human capital, which is already missing in some sectors, but most worrying aspect is the impact on future economic development. [Guț, 2006, pp. 223-224]

In order to reduce the number of emigrants, the Romanian state should establish some measures to counteract and to provide a perspective for the future. If we are not interested today how much of the young active population will loose

Romania in the coming years and how this will affect the Romanian economy; things are completely different for the countries that attract the Romanian youth. As it is well known, since 1980, all European Union countries began to face the problem of an ageing population and budgetary problems due to a narrowing segment of tax payers and social security contributors. On the long term, the destination countries can solve their problems by migration of these young people, while the origin countries will be populated with the elderly, social insurance schemes will be in clinical death and their economy in a rapid decline.

Another cause of population decline is due to *the unfavorable evolution of natural growth*, turning negative from 1992.

Throughout the last 20 years, the evolution of Romania's population birth offers the image of a general trend of continuous decline, from 13.6 live births per 1000 inhabitants in 1990, to 10.3‰ in 2009. [NIS, 2007] The decrease of life-birth was determined by the removal of legislative constraints on abortions, the worsening economic situation, the profound changes in society and the new attitude of the young couple regarding the marriage and child birth. Professor Vasile Ghețau states on this: "It is a change of the child's position in the economy of the young couple, as a hierarchy in terms of priorities. Currently, the child comes into competition with well-paid careers, with other goods that the young couple may acquire: a house, a car, or holidays abroad. On the other hand, the child cost is increasing" [Ghețau, 2005].

The family size is the result of successive decisions of its members being influenced, on one hand, by their preferences, and, on the other hand, by the changes in their environment.

During the last two decades, the discrepancy between the number of children born by a mother and the normal level of fertility has deepened. For example, in Spain, according to the study realized by Adsera (2006), between 1985 and 1999, it was observed that women facing high rates of youth employment tend to diminish their fertility below the ideal level. Job stability decreases family difficulties concerning its enlargement, or to achieve the desired level of fertility. At the same time, the part-time contracts have an opposite effect to the one previously mentioned. [Adsera, 2006, p. 75]

The fertility rate recorded a fall in Romania during the time span 1990-2009, at this decline contributing, in a large measure, the repeal on the law on abortion in December 1989. Thus, if the number of children born by a woman during her fertile life was of 1.8 children in 1990, it dropped to 1.3 children by 2009 [NIS, 2007]. Constantin Grigorescu states: "the placement of fertility below the replacement level of generations (2.1 children/woman of 15-49 years) was established during the transition to market economy and it is linked, on the one hand, to the abandonment of the forced natalist policy promoted by the old regime and, on the other hand, to the precarious social status of the population, to the acquisition by the youth of some values and behaviors that prevail in the Western world." [Grigorescu, 2005, p. 44]

The demographic ageing phenomenon can be analyzed based on the population's structure by age groups. The distribution of the population by age groups has a fundamental importance from a demographic and socio-economic point of view, because it determines the place and the role of each person in the breeding process of the population, the economic activity and, in general, in the social organization. It can be said that there is no field of activity that is not interested in knowing the total population and the structure of the population by age groups and by gender [Sora, Hristache, Mihăescu, 1996].

During the time span 1990-2009, the young population (0-14 years) registered a loss of 8.4 percentage points (Table no.1) due to the decrease of the life-birth and the fertility, but also of their determinants: the increase of the share of educated women and their role in the business and socio-economic life at the expense of the mother role, the urbanization and the industrialization and to the behavioral change of married couples. The increase of the economic burden of the active population is expected to be steady after 2015; "the engine" being the continuous increase of the elderly population and this trend will be joined, after 2025, by the rising dependency ratio of the adult population, when the generations born before 1966 will leave the labor market. By 2050, 100 active persons will have to sustain 145 inactive persons, with 29 persons more than in 2005." [Ghețău, 2007]

The adult population (15-64 years) has changed to a lesser extent; its share increased by 4% and represented 70% of the total population by 2009. But, we can observe a decrease of the population aging 15–24 years, the middle segments (25-34 and 35-49) registered an increase of 4.9 percentage points in 2009 as compared to 1990, the 50-64 age groups has maintained a relative constant proportion – about one-fifth of the adult population. The age segment 65 years and over has increased by 4.4%, representing 14.8% of the total population in 2009 (Table no. 1). It may be noted that Romania registered during the last 20 years an increase of the elderly population (65 years and over) and started to deal with the problem of an ageing population. This process will continue in the coming years too. According to NIS projections, the share of the elderly in the total population will reach 20% by the end of 2030 [Mihăescu, Marinescu, Niculescu, 2006, p. 241]. Also, in 1985, the EU ratio of those over 65 years to those between 15 and 64 was of 20%, i.e. there were five potential workers for every one retired person. By 2050 that ratio is expected to deteriorate dramatically to only about two economically active workers for every person over 65. [Morrow, Roeger, 2011, p. 4]

The decrease in the number and proportion of the young people may cause some problems. It is known that the younger age groups are more appropriate for new technologies in terms of vocational training, as compared to elderly population. Also, the young people are more flexible, both professionally and territorially, which allows them to allot their willingness to work quickly and effectively, as compared to elderly population. [Coman, 2004, p. 128]



Table 1.

**The structure of the total population by age groups, on the 1<sup>st</sup> of July  
during the time span 1990-2006 (%)**

Years	Total	0-14	15-24	25-49	50-64	65 years and over
1990	100,0	23,6	16,6	32,1	17,3	10,4
1991	100,0	23,0	17,1	32,1	17,1	10,7
1992	100,0	22,4	17,5	31,9	17,2	11,1
1993	100,0	21,7	16,9	33,1	16,9	11,4
1994	100,0	21,1	16,7	33,8	16,7	11,7
1995	100,0	20,5	16,7	34,5	16,4	12,0
1996	100,0	19,9	16,8	34,9	16,1	12,2
1997	100,0	19,4	16,8	35,3	16,0	12,6
1998	100,0	19,1	16,7	35,6	15,8	12,8
1999	100,0	18,8	16,4	35,8	15,9	13,0
2000	100,0	18,3	16,1	36,1	16,1	13,3
2001	100,0	17,8	15,8	36,6	16,2	13,6
2002	100,0	17,3	15,6	36,4	16,6	14,0
2003	100,0	16,7	15,6	36,7	16,8	14,3
2004	100,0	16,1	15,5	36,9	16,9	14,5
2005	100,0	15,6	15,5	36,9	17,2	14,8
2006	100,0	15,4	15,1	37,1	17,7	14,8
2007	100,0	15,4	14,9	37,0	17,8	14,9
2008	100,0	15,2	14,6	37,0	18,2	15,0
2009	100,0	15,2	14,4	37,0	18,6	14,8

Source: NIS, *Romanian Statistical Yearbook 2002, 2010*, Bucharest;  
<http://epp.eurostat.ec.europa.eu/portal/page/portal/eurostat/home/>.

Life expectancy has increased during the past 40 years, by more than 5 years, reaching to 73.03 years in 2008. It registered a faster growth among female population, from 67.7 years in 1961 to 76.7 years in 2008. [NIS, 2009]

The increase of life expectancy simultaneously with the decrease of life-birth will lead to the acceleration process of the population's ageing. What consequences can have this phenomenon? Firstly, it is change the ration of the

population economically inactive (persons aged 65 and over) and the number of active persons (persons aged between 15 and 64). Secondly, it will have an impact on the country's financial budget, respectively the amount of expenditure of the social security system and, as Henripin said, on some important financial issues, such as: the increase of the health services cost and the difficulty of ensuring a decent standard of living to the pensioners. [Henripin, 1995]

Constantin Grigorescu states that the ageing population, illustrated by the increasing proportion of the elderly in the total population, is a positive thing, being determined by the increase of life expectancy at birth, by the unprecedented increase in the number of the years lived by the contemporary persons. The ageing population results also from the decrease of fertility and life-birth, respectively from the decrease of fertility below the replacement level of generations, which leads to a decrease in the absolute number of the population and to a substantial reduction in the share of the young population and, consequently, to the deterioration of the ratio between the active and inactive population, with major consequences for social protection of elderly population. [Grigorescu, 2005, p. 38]

All demographic changes will affect the labor offer in the economy on the medium and long term, because they are determined mainly by the size and dynamics of natural population growth. As professor Vasile Ghețău mentioned: "the adoption of a national population policy is more necessary than ever. The lack of courage in the proper evaluation of the accumulation that we have seen so far, of Romania's demographic status and of the prospects of perpetuating the current characteristics of this state, or postponing some decisions of great responsibility, will have no other result than the deepening the demographic crises and the increase in the costs of future interventions" [Ghețău, 2003, p. 25]. With a lag of 15-20 years, the natural increase affects the working population, and also the active population. Consequently, the demographic component represents, in time and space, the main determinant of labor supply. [Mihăescu, 2002, p. 12]

## Conclusions

The changes in the demographic structure together with the migration of a large number of young people are phenomena that will affect the labor market in the near future. In order to reduce the negative effects of this phenomenon, it is necessary to take effective measures which will lead to the increase of employment and to the encouragement of the older workers, who have experience, skills and competencies, to remain a longer time on the labor market.

In this respect, the European Commission underlines that many of the demographic changes from the twenty-first Century impose to the EU the need and opportunity to change the obsolete practices regarding the elderly. Both on the labor market and after retirement, there is potential to facilitate the obtaining of greater contributions for the middle-aged persons in the next half of their life. The

capacity of the adults represents a great resource, which has been insufficiently recognized and monetized until now. Health and social assistance policies can prevent the postponement and the minimization of the dependence of the elderly. [Commission of the European Communities, 1999, p. 21]

In the Report of the Employment Taskforce, chaired by Wim Kok in November 2003, it is stipulated that the Member States and the social partners should adopt an employment policy based on financial incentives, on providing opportunities for lifelong learning and on improving the working conditions and the quality of work, in order to attract and keep the elderly on the labor market. [Kok, 2003, p. 15]

## REFERENCES

- Adsera, A., (2006), "An Economic Analysis of the Gap between Desired and Actual Fertility: The Case of Spain", *Review of Economics of the Household*, Dordrecht, Vol. 4, Issue 1.
- Coman, A., (2004), *Piața forței de muncă în România în condițiile tranziției*, Editura Risoprint, Cluj Napoca.
- Ghețău, V. (2007), *Declinul demografic și viitorul populației României. O perspectivă din anul 2007 asupra populației României în secolul 21*, Editura Alpha MDN, <http://grupareaaproape.files.wordpress.com/2010/02/declinul-demografic-romania-2007.pdf>.
- Ghețău, V., (2003), „Anul 2050: va ajunge populația României la mai puțin de 16 milioane de locuitori?”, *Institutul Național de Cercetări Economice*, Centrul de Cercetări Demografice „Vladimir Trebici”, <http://141.85.5.82/ince/demografie.doc>.
- Ghețău, V. (2005), „Analiza – Românii sunt mai puțini și mai bătrâni”, *Jurnalul Național*, 21.03.2005.
- Grigorescu, C., (2005), „Modificări demografice teritoriale”, *Raporturi de muncă*, Nr. 2(98), Anul IX, Februarie 2005.
- Guț, C., (2006), "Piața muncii în România", in *Integrare Economică Europeană. Mediul European al Afacerilor*, Vol. III., Maria Bîrsan Editor, Editura EFES, Cluj Napoca, pp. 207-229.
- Henripin, J. (1995), "Vieillessement de la population: inconvénients et adaptation", *Population*, 6, INED, Paris.
- Lazaroiu, S., Alexandru, M., Raduca, M., Boiciuc, N., Larionescu, A., (2003), European Commission Project: "Sharing Experience: Migration Trends in Selected Applicant Countries and Lessons Learned from the New Countries of Immigration in the EU and Austria", Vol. – IV Romania, More "Out" than "In" at the Crossroads between Europe and the Balkans, International Organization for Migration, [http://www.pedz.uni-mannheim.de/daten/edz-k/gde/04/IOM\\_IV\\_RO.pdf](http://www.pedz.uni-mannheim.de/daten/edz-k/gde/04/IOM_IV_RO.pdf).

- Mihăescu, C. (2002), „Impactul îmbătrânirii demografice asupra ofertei potențiale de forță de muncă”, *Seria Probleme Economice*, Centrul de Informare și Documentare Economică.
- Mihăescu, C., Marinescu, M.M., Aron Niculescu, G., (2006), „Issues regarding the assessment of the financial behavior of the Romanian population under demographic ageing”, *4<sup>th</sup> International Conference for Young Researches of Economics*, Gödöllo, Hungary, Volume I.
- Morrow, K.Mc., Roeger, W., *The Economic Consequences of Ageing Populations (A comparison of the EU, US and Japan)*,  
[http://ec.europa.eu/economy\\_finance/publications/publication11151\\_en.pdf](http://ec.europa.eu/economy_finance/publications/publication11151_en.pdf).
- Petrescu, B.Gh. (2006), „Utilizarea eficientă a resurselor umane”, *Raporturi de muncă*, Nr. 4 (112), Anul X.
- Sora, V., Hristache, I., Mihăescu, C., (1996), *Demografie și statistică socială*, Ed. Economică, București.
- \*\*\* Commission of the European Communities, (1999), „Towards a Europe for all ages – Promoting Prosperity and Intergenerational Solidarity ”, COM 1999 221 final, Brussels, p. 21, [http://europa.eu.int/comm/employment\\_social/soc-prot/ageing/com99-221/com221\\_en.pdf](http://europa.eu.int/comm/employment_social/soc-prot/ageing/com99-221/com221_en.pdf).
- \*\*\* NIS, *Romanian Statistical Yearbook 2002, 2009, 2010*, Bucharest.
- \*\*\* Report of the Employment Taskforce chaired by Wim Kok, *Jobs, jobs, jobs – creating more employment in Europe*, November 2003, p. 15,  
[http://ec.europa.eu/employment\\_social/employment\\_strategy/pdf/etf\\_en.pdf](http://ec.europa.eu/employment_social/employment_strategy/pdf/etf_en.pdf).

# THE ROLE OF THE CUSTOMER RELATIONSHIP MANAGEMENT IN THE ERA OF GLOBALIZATION

CONSTANTIN DRĂGHICI<sup>1</sup>

**ABSTRACT.** The organization management and the coordination of the processes that characterize the problem of enterprise relationships with its clients, especially under the pressure of a highly competitive market economy, require from the involved factors a good knowledge of the realities. Achieving such goals is conditioned by the in-depth knowledge of all the elements that characterize the organization and the processing of the of customer relationship issues. The present paper tries to analyze these aspects.

Customer relationship Management or CRM acronym has recently entered into the language of professionals. The '90s marked the transition from transactional marketing to relationship marketing. The orientation focused on achieving a large number of short-term transactions began to be gradually replaced by the philosophy of promoting medium and long term relationships with all categories of persons, companies and institutions that have a direct or indirect interest in the organization (stakeholders). Naturally, the affirmation of relational marketing in both conceptual and operational relationships with customers led to reconsideration. Currently the position of CRM as a business strategy is strongly expressed point of view, not limited to one of organization's functions, namely the area of marketing.

CRM helps businesses use technology and human resources to gain insight into customer behavior and to recognize the value of those customers.

Customer Relationship Management (CMR) goes beyond sales, marketing and customer-service applications and spreads into business intelligence, analytics, hosted applications, mobile capabilities and much more! By thinking more insightfully about what customers are worth, an organization can focus its resources on attracting and keeping the right type of customers. This focus, in turn, will make CRM efforts more productive and position the respective organization better for innovation and growth.

**Keywords:** *management, customer, strategy, SME, big corporate*

**JEL Classification:** M19, M30

## I. INTRODUCTION

Customer Relationship Management (CRM), also known as relationship marketing or customer management, is an information technology industry term for

---

<sup>1</sup> Ph.D. Profesor, University of Pitesti, Faculty of Economic Sciences, Department of Economy and Business Administration, Romania

the methodologies, strategies, software, and other web-based capabilities used to help an enterprise organize and manage customer relationships. The goal of CRM is to aid organizations in better understanding each customer's value to the company, while improving the efficiency and effectiveness of communication. CRM captures, analyzes, and distributes all relevant data from customer and prospect interactions to everyone in the organization. (Rollins, 2005).

This kind of distribution of information has the role to help an organization to better meet customer, product, and service needs. In time, CRM has taken the place of traditional marketing techniques that were focusing on key marketing mix elements, such as product, price, promotion and place. The traditional marketing techniques were neglecting the customer and failed to meet its desires in the after-sale process, by the fact that was too functionally-based.

CRM emphasizes customer retention over customer acquisition and is recognized as one of the most viable tools used to further a company's success in the highly competitive business world.

There are three major areas that focus on customer satisfaction: sales, marketing, and service, as figure 1 shows.



**Figure 1: Customer Relationship Management Analysis**

*Source: Buttle, 2004*

The functionality of these three fields and the relationship that exists between them are very important for connecting a company's front and back offices to facilitate effective, enterprise-wide coordination. The professional sales force predicts and proposes the real-time analysis of information and distributes this information to the company and business partners. Marketing concentrates on

personalizing customer preferences and offering them satisfying experiences. Service is associated with the companies' call centers and coordinates interaction between Web, e-mail, and other communication means. These fields are developed further with the help of CRM automation. (Prasad, 2005).

CRM is a term that is often referred to in marketing. However, there is no complete agreement upon a single definition. This is because CRM can be considered from a number of perspectives. In brief, the three perspectives are:

- Information Technology (IT) perspective
- The Customer Life Cycle (CLC) perspective
- Business Strategy perspective

## **II. LITERATURE REVIEW**

There are numerous viewpoints referring to the conceptual clarification of the customer relationship management (CRM). So far, specialists have opted for a single definition of CRM, which proves that this area is still in a phase of exploration and is continuously developing its essence. However, an undeniable aspect is the especially important role that effective customer relationship management (CRM) plays in the sustainable development of the organization (Bălan, 2007). One of the most relevant arguments to support managers and business men's interests for CRM is that the reduction with 5% of the number of lost customers by the organization may result in an increase of 25% to 85% in organization profit (Reichheld and Sasser, 1990). This reflects the importance of increasing customer loyalty for the existence and development of the organization, highlighting, the need to design and implement appropriate strategies for customer relationship management.

There is a point of view on CRM which is strictly focused on information technology. For example, in 2000, Meta Group defined CRM as business process automation, horizontally integrated, involving points of contact to interface with the customer (marketing, sales, service etc.), through multiple communication channels and interconnected. This approach focuses on technology was driven mainly by positive developments in the design and implementation of new solutions for CRM in the second half of the '90s (Bălan, 2007).

CRM is an essential business strategy that integrates internal processes and functions with external networks, to create and deliver value to the target customers, in the context of obtaining profit. It is based on data about customers who have high quality, and on information technology (Buttle, 2006).

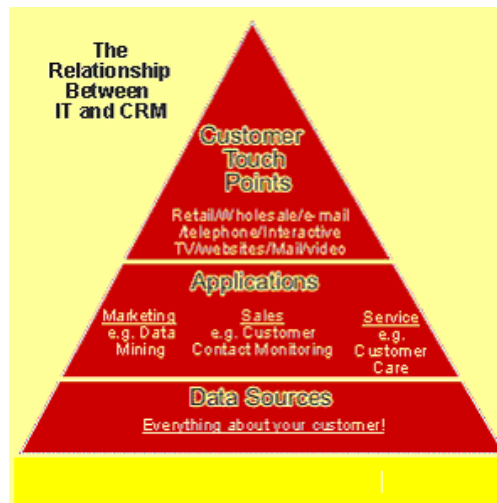
According to another definition, customer relationship management is a strategic approach, which consists in creating a superior value for the shareholder by developing appropriate relationships with key customers and customer segments. CRM unites the potential of information technology and relationship marketing strategies to create profitable relationships on long term. (Payne, 2006).

This view of CRM emphasizes, among other major issues, the intrinsic link between the value creation for customer, in the frame of long-term relationships, and the use of information technology. Thus, CRM is not identified with specialized IT solutions for managing information about customers, but rely on IT solutions to better understand customer expectations and needs, their buying behavior, in order to design strategies capable of generating value for the customer. (Hoekstra, 2001).

### III. MATHERIAL AND METHODS

#### A. CRM and Information Technology

CRM is more than just software. For the purposes of this paper - Information Technology (IT) and CRM have three key elements, namely Customer Touch Points, Applications, and Data Stores (Chowhan, 2011).



**Figure 2: The relationship between IT and CRM**

*Source: Buttle, 2004*

**Customer Touch Points** are vital since a business has a marketing orientation and focuses upon the customer and his/ her current and future needs. This is the interface between the organization and its customers. For example one buys a new car from a dealership, and enters a showroom. The dealership is a contact point. The customer meets with a salesperson that demonstrates the car. The salesperson is a contact point. The customer goes home and looks at the car manufacturer's website, and then sends the company an e-mail. Both are contact points. Other contact points include 3G telephone, video conferencing, Interactive TV, telephone, and letters. (Chowhan, 2011)

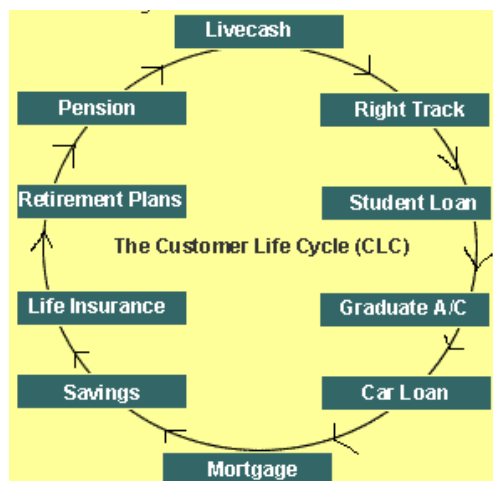


**Applications** are essentially the software and programs that support the process. Incidentally, this is what some would call CRM. Applications serve Marketing (e.g. data mining software and permission marketing), Sales (e.g. monitoring Customer Touch Points), and Service (e.g. customer care).

**Data Stores** contain data on every aspect of the customer, and the Customer Life Cycle (CLC). For example, an organization keeps data on the bought products, when those products were acquired, and where they were sent to the customers. Data is also kept on the web pages that customers visit and the products that customers consider, but then do not buy. Leads are stored here. Data on the life time value of individual customers is stored here, as well as details of how and when the customer was recruited, how - and for how long - individuals have been retained, and details of any products that have been extended to individuals are also stored. The data is analyzed using Applications. (Rollins, 2005).

### B. The Customer Life Cycle (CLC) and CRM

The Customer Life Cycle (CLC) has obvious similarities with the Product Life Cycle (PLC). However, CLC focuses upon the creation of and delivery of lifetime value to the customer i.e. looks at the products or services that customers NEED throughout their lives. It is marketing orientated rather than product orientated, and embodies the marketing concept. Essentially, CLC is a summary of the key stages in a customer's relationship with an organization. The problem here is that every organization's product offering is different, which makes it impossible to draw out a single Life Cycle that is the same for every organization.



**Figure 3: The Customer Life Cycle**

*Source: Kracklaue and Seifert, 2004*

Further, an example from the banking sector was considered. Millenium Bank has a number of products that it aims at its customers throughout their lifetime relationship with the company. Here a CLC is applied. A customer can start young when he/ she want to save money. 11-15 year olds are targeted with the Live cash Account, and 16-17 year olds with the Right Track Account. Then when (or if) the customer begins studying at a College or University there are Student Loans, and when customer qualifies, there are Recent Graduate Accounts. When the bank customer begins to work there are many types of current and savings account, and he/ she may wish to buy a property, and so apply for a mortgage loan. The customer could also take out a car loan. It would also be advisable to establish a pension account. As a customer progress through his/ her career, a family might be formed, and with it the need to save for the children's education. A customer embarks upon a number of savings plans and schemes, and ultimately Millenium Bank offer pension planning.

This is how an organization such as Millenium Bank, which is marketing orientated, can recruit and retain customers, and then extend additional products and services to them - throughout the individual's life.

Another important point is that a lifetime CLC is formed by many shorter CLCs. So, for example, Volkswagen Cars retains a customer for many years and one can predict the products that meet a customers needs throughout his or her family lifetime. However the purchase of each car, will in itself be a CLC with many Customer Touch Points. The consumer may need a bigger vehicle as his or her family expands - so they visit VW's website and register. (Prasad, 2005).

The customer reviews models and books a test drive with her or his local dealer. He or she decides to buy the car and arranges finance. The car is then delivered from the factory, and returns every year for its annual service. Then after three years, the customer decides to trade in his or her car, and the cycle begins again. The longer-term life cycle is simply the shorter-term life cycles viewed consecutively.

### **C. Business Strategy and CRM**

Further the Business Strategy Perspective on CRM is considered. Here, a model is presented; it is a hybrid, and typical of many of the models and diagrams of CRM that can be found on Internet and in popular books on the topic of eMarketing/eCommerce.



**Figure 4: Business Strategy and CRM**

*Blythe, 2006*

The model has three key phases and three contextual factors. Those are:

**Three key phases:**

- Customer Acquisition.
- Customer Retention.
- Customer Extension.

**Three contextual factors:**

- Marketing Orientation.
- Value Creation.
- Innovative IT.

**1. Customer Acquisition** - This is the process of attracting the customer for his/ her first purchase. The organization has acquired the customer.

**Growth** - Through market orientation, innovative IT and value creation the organization aims to increase the number of customers that purchase its products/ services for the first time.

**2. Customer Retention** - The customer returns to the organization and buys for a second time. It can be considered that the organization managed to keep them as a customer. This is most likely to be through the purchase of a similar product or service, or the next level of product or service.

**Growth** - Through market orientation, innovative IT and value creation the organization aims to increase the number of customers that purchase its products/ services regularly.

**3. Customer Extension** - The customers are regularly returning to purchase from the organization. It starts introducing products and services to the loyal customers that may not wholly relate to their original purchase. These are additional, supplementary purchases. Of course once the loyal customers have purchased them, the organization goal is to retain them as customers for the extended products or services.

**Growth** - Through market orientation, innovative IT and value creation the organization aims to increase the number of customers that purchase additional or supplementary products and services.

**4. Marketing Orientation** - means that the whole organization is focused upon the needs of customers. Customer needs are addressed by the Three Levels of a Product whereby the organizations not only supplies the actual, tangible product, but also the core product and its benefit, and also the augmented product such as a warranty and customer service. Marketing orientation will focus upon the needs of consumers for all three levels of a product. (N.B. 'market' orientation and 'marketing' orientation are not the same).

**5. Value Creation** - centers on the generation of shareholder value based upon the satisfaction of customer needs (as with marketing orientation) and the delivery of a sustainable competitive advantage.

**6. Innovative IT** - is exactly that: Information Technology must be up-to-date. It should be efficient, speedy and focus upon the needs of customers. Whilst IT and/ or software are not the entire story for CRM, it is vital to its success. CRM software collects data on consumers and their transactions. Huge databases store data on individuals and groups of individuals. In some ways, CRM means that an organization is dealing with a segment of one person, since every consumer displays different purchasing habits and preferences. Organizations will track individuals, and try to market products and services to them based upon similar buyer behavior seen in other individuals.

#### **D. CRM's Challenges**

CRM, despite all the talk about it being one of the most „profitable” customer strategies of the decade, still allows room for failure. The most important aspect of CRM problems is its excellent ability to achieve customer retention but its failure to do so. This is indirectly responsible for CRM collapse.

Generally one of the reasons CRM fails is because most organizations that actually employ CRM, experience a lot of confusion about its attributes and what it really is. Some would define it as a business strategy while others view it as something to do with technology.

The statistics show that only one in every six companies that have installed CRM has been successful. CRM has lost its appeal as it has failed to meet expectations. Almost 75% of projects have not succeeded in delivering the expected ROI and have faced numerous problems with CRM. However the absolute failure

rate is just 5%. It's mostly the larger corporate that fail. This happens generally because smaller projects fair better. Mid size organizations also have a higher success rate. (Kincaid, 2003).

### **E. CRM negative aspects**

#### ***Exorbitant Costs***

One of the problems connected with CRM is the important amount of investment needed to maintain a customer database. The additional expense comes because of the money needed for computer hardware, software, personnel etc. The costs involved are enormous and most often than not the resultant ROI from the CRM implementation fail to cover the costs involved. This leads to a negative feeling within the company about CRM and its so called successes and ultimately results in CRM collapse.

#### ***Inadequate Focus on Objectives***

Secondly when starting off on a CRM strategy the objectives are clearly established and followed. Management and employees know fully well what is needed to work towards organizational goals. The goals themselves are clearly laid out after meticulous planning. However midway during the CRM implementation, when hard times hit, the organization loses sight of its goals and ultimately steers away from it. At times goals get interchanged and lose their importance. Companies find themselves work at home directory towards goals that are less important and forgetting the ones that really are.

#### ***Insufficient Resources***

Sometimes in phased implementation of CRM, if conditions worsen within the company or without, organizations start lessening their budgets for the current phase. When funds are less, budgets strained, the necessary costs required for CRM success are not employed. As a result CRM starts failing midway. The most important aspect- that of maintaining consistency is lost. Organizations fail to utilize the necessary resources for success and thus result in failure.

#### ***Inappropriate Metrics***

Organizations have basically failed to use the right metrics. Failure to choose the right method of measurement and implement it is one of the chief reasons why CRM fails. Different metrics have to be employed for the calculation of different goals. Companies seldom pause to analyze which metric is needed for which element and ultimately use the wrong one. This results in faulty measurement and CRM disappointments.

#### ***Business Needs Most Important***

One of the chief mistakes companies make is letting the technology drive their CRM functionality. What's happening is that companies are endeavoring to go to the industry leaders, gain the technology needed and then apply it to the business problems only to find that it isn't solving any of them. Instead they need to analyze

their business problems first and then find the appropriate CRM solution for it. This backwards step is responsible for CRM failure.

#### ***No Customer Focus***

It needs to motivate employees to be absolutely customer centric. This involves tremendous effort on the part of the company but is highly essential. CRM problems arise because of employee reluctance to be more customers focused. The result is a highly expensive customer strategy being adopted by the company in an effort to retain customers, with reluctant, unfocussed employees implementing it.

#### ***Slow Returns***

Another failure of CRM is its inability to provide quick returns on investment. Organizations find themselves waiting for years before they are able to see actual returns on their investment. Most experts view the low ROI as a major problem with CRM but fail to see that the long wait is just as difficult. Waiting for years to see their investments show results, tests patience and leads to both employees and management slackening their efforts in the implementation. (Kincaid, 2003).

### **IV. RESULTS AND DISCUSSIONS**

#### **A. CRM as the best option for SME**

Although there are many definitions of SME's there is no globally accepted definition of a small or medium-sized enterprise (SME). In CRM, the terms referring to small enterprises often average around an organizations with 200 customers. Medium enterprises are ones that handle almost 500 customers. SME's could also mean a consultant working from home or the small enterprise catering to its 100 employees, right through to the 1000 enterprise workforce.

#### ***CRM for SMEs***

The common perception is that small to medium businesses have very little options in terms of CRM solutions. About 5 percent alone of Indian SMEs have adopted CRM. This is clearly not the case. SME's now have a lot of options and can exercise them. The fundamental problem of SME's is their inability to capture sufficient customer information. Individual customer information is seldom if never captured. Despite measuring the revenue per customer, SME's fail to measure the profit and satisfaction per customer. Customer satisfaction and customer requirements are seldom taken into consideration.

#### ***SME Market is soaring***

According to CRM research the staggering statistics show that the U.S alone has almost 30 million users. SME's are constantly striving to better their market share and yearn to enter their big sister playground. SME's now seek customer-oriented approaches rather than product oriented ones. Adjustments made to large enterprise solutions -basically stripping them down so that they facilitate easy use by SME's is no longer a wise option since SME's walk down a path alone.

These solutions seldom address the individual problems of SME's. (Chowhan and Saxena, 2011).

The requirements of an SME CRM software solution is easy installment, less technical resources, ease of integration, reliability and scalability. Due to their scalability and easy adaptability

***SME's Opt for Hosted Solutions***

Since most companies want quick returns on their investments they are opting to go in for the hosted solution option. The advantage here is the quick-return scenario. In this respect the application and data are hosted and managed by a third party. The customer has only to make use of the CRM service through a browser or front-end application.

The most lucrative market for hosted solutions is easily the SME market. The benefit for the SME of hosted solutions is that users can access their CRM package via Internet from anywhere. It can also be integrated into a company's website. It is designed basically with the purpose of providing customers with a customer-centric experience.

The biggest difficulties SME's face is the lack of sufficient technology, skilled employees and IT personnel. Due to this SME's are not able to implement costly products. SMEs need to opt for business strategies that basically cater to their needs and look to phased implementation for better benefits. If SME's are looking at minimal costs then establishing a full fledged CRM infrastructure is not the answer. They need to adopt CRM software that basically fulfill CRM objectives, is customer centric and supports existing business strategies in order to achieve profitability.

***SME's Boom Thanks to CRM***

The past few years have witnessed an upsurge in the SME area as more and more SME's are recognizing that the benefits of CRM are huge and that CRM has potential gains for them. SME's now have renewed faith in the system and are slowly opting for it. On the other hand CRM vendors themselves are realizing that this sector is hugely advantageous and needs to be focused on. They have understood the fact that SME's cannot opt for large enterprise solutions and customized CRM solutions for the SME has invaded market.

SME CRM options by the dozen have been cropping up and CRM vendors are closely scrutinizing what the SME needs. Statistics indicate that the revenue from SME CRM is \$800 million. This is estimated to reach a high of \$1.8 billion in the next 5 years. The revenue from SME's alone will account for almost 30% of the total CRM revenue. Customer relationship management software has found a firm foundation here. (Chowhan and Saxena, 2011).

***The Benefits that CRM has to Offer SME's are:***

**Positive ROI results**

CRM caters specifically to the requirements of SME's. Most SME's want to know what is in store for them in the future in terms of ROI. CRM contributes to

a positive ROI even though it may take some time. It is a means by which supply chain management communication can be increased thereby contributing to ROI increase. Enterprise knowledge management as well is far more easily achieved as businesses can build a single view of the customer and create a profile that contains information pertaining to all previous communication, purchases and interactions and use this in its customer interactions, to boost sales thus resulting in positive return on investment.

#### *SME Sales Soars*

CRM for the SME provides for sales functionality. It makes possible automated sales processes. It facilitates easy quotations. CRM for SME's caters to increased sales success. It shortens the sales cycle and improves leads opportunity management. The loss in sales leads due to improper sales lead management is obliterated completely. Careless employees, strewn valuable information become a thing of the past. Information pertaining to the SME's customer dealings is packed away securely waiting to be analyzed and studied and then implemented in customer dealings.

The benefits of CRM for SME's include easy forecasting of sales and the measurement of business performance. CRM helps SME's handle inbound calls with maximum efficiency thus ensuring that the sale is completed. It provides for better opportunities for cross-selling. It provides the organization with a chance to evaluate sales success, and enables it to identify new trends existing problems, and possible opportunities as well.

#### *Customer Knowledge*

It makes possible a shared knowledgebase that is easily assessable to all employees within the organization. It enables an SME to basically look into the stored data and provide accurate information to employees about customers. It helps the organization to make informed and correct decisions. It also helps the organization to stay close to the customer, so that it can anticipate upcoming needs and cater to those needs. Employees are able to view share and update information across the various departments with ease. With an accurate customer database and customer service history businesses are able to achieve a better understanding of their customers.

#### *Boosting Revenue*

CRM helps an SME know which channels will help to drive revenue and helps it understand how to connect all aspects of the business. It helps it understand how its business is connecting with the various facilities, markets, technologies and applications. Sales Force Automation is focused on as it is one of the key functional components of CRM boosting revenue indirectly. CRM boosts customer revenue through excellent computerized book keeping. It enables the business to increase the revenue through more purchases or extended purchasing. With better customer satisfaction on the plate, SME's can now be assured that their customers will start turning their way and not towards competitors. It helps SME's with their



eCommerce, advertised campaigns and direct mail. It manages to achieve customer profile analyses that enhance market campaigns. CRM in SME's coordinates the various activities like orders, customer care and sales, payment processing, warehousing, inventory management, packing, and returns processing. It assists in a reduction of capital outlay. It does this by providing lower-cost options to low-margin customers and vice versa. This results in a considerable saving of time and resources

#### Customization

CRM deliver customized solutions that are specifically built for the small and medium industry market and that are not complex. Ease of integration with other business processes is the key word of SME CRM. CRM for SME's provide for customization and the ability to change in accordance with business needs. Verticalization and customization are what draw the SME to CRM. Configuration with ease using interfaces and workflow processes becomes possible contributing to increased ease in customization.

#### Excellent Customer Service

SME CRM manages to drive customer interaction forward. CRM is an approach to customers that looks at basically strengthening the relationship. Customer loyalty is a natural by product as CRM for SME's provides for better allegiance with customers. It helps them to create and retain loyal customers. SME CRM gives the consumer incentive to remain loyal and increase his purchases over his lifetime. It helps customers ensure a rewarding relationship and provides for opportunities to deliver customer service with better efficiency. (Chowhan and Saxena, 2011).

#### ***Summing it up CRM gains for SME's include:***

- Better Customer Knowledge
- Better Marketing Efforts
- Customer Acquisition Programs
- Customer Retention
- Database Development
- Revenue Increase
- Database Analysis
- Market Segmentation
- Market Targeting
- Increased Loyalty
- Permission Marketing
- Loyalty Programs
- Customer Analysis

The staggering SME CRM statistics, increased vendor interest in the sector, expert reviews from customers all indicate clearly that CRM has a whole lot to offer the SME and will have much more to offer it in the coming years. SME's

needs to avail of the benefits of CRM systems in order to increase their profitability and market standing.

### ***Disadvantages of CRM for SME's***

#### ***Unhealthy Attitude***

SME's tend to often refrain from encouraging CRM implementation because they are unable to afford the high costs involved in the projects and the volume of effort and time that is required. This is probably the biggest inhibition SME's face - the apprehension about the success of the CRM implementation. This more often than not serves as a blockage to the adoption of CRM. Large enterprises on account of the additional resources at hand find the risk factor a lot easier. In order to overcome this additional and sufficient knowledge about the risks involved should be gained from experts. This again may be time consuming and expensive.

#### ***Exorbitant Costs***

Cost factors play a considerable role in SME choice of CRM implementation. More often than not vendors seldom cater to the cost requirements of small and medium sized industries. They fail to realize that the budgets that small companies adopt may not be adequate enough to cover the huge costs that are involved in the implementation of CRM.

#### ***Time Constraints***

Time restraints place yet another problem on SME's. Most of them do not have the liberty to implement CRM projects that require lengthy periods of time .CRM projects from its initiation to results extends over a period of years during which considerable time and effort is involved. Most SME's refrain from adopting CRM as they feel they will not be able to spend that amount of time and effort. SME's only need certain requirements and are reluctant to pay for additional costs. Another dilemma is that they seldom have the time or resources to customize the CRM solution to their needs.

#### ***Uncertain Needs***

Another problem is the fact that most SME's they are unaware of what they require. They are unsure of what they need and most often than not SMEs find themselves choosing solutions that do not fulfill their needs. They seldom conduct client/customer interviews and rarely know what their customers require. This lack of knowledge about their customer needs often has disastrous results.

#### ***Improper Planning***

Yet another shortcoming is the fact that SME's seldom plan their CRM implementation properly. Implementing and leaving it to fate is what is done mostly. However this is insufficient. Meticulous and minute planning of each step involved in the CRM implementation is required. They lack a proper planning strategy and this in turn has detrimental affects. They are not aware of their actual and intended goals and objectives. SME's fail to set out clear, concise and decisive goals and find themselves working towards unclear objectives with the result that their true objectives are most often lost.

*Inadequate Attention*

CRM just another software? SME's for sure treat it that way. The biggest mistake SME's make is treating CRM as they would any other of their software installations. Regarding it as something that does not require additional attention is foolhardy and should not be followed. They need to realize that they have to pay more attention to the dilemmas involved in the implementation.

*Insufficient Technology*

Let's look at the technology involved in the implementation of CRM. Do SME's possess the required technology? More often than not they do not. And when this happens it indirectly affects the CRM processes. In addition to this most SME's do not have the required expertise that is needed to manage the business processes efficiently. They lack the resources needed to purchase the required technology as well. Most SMEs do not have the expertise needed to manage CRM packages and wind up increasing their IT costs. Vendors instead of informing them that they need additional expertise more often than not refrain from doing so.

*No Customization*

As most CRM systems were developed for larger organizations and have subsequently been adapted for the small / medium sized users or are traditional contact management packages that have been re-branded CRM systems, these findings are not surprising. Another distinct disadvantage that most small and medium sized businesses face is that very few CRM products have been specifically developed for them alone. Microsoft CRM packages for instance tend to assume that SME's do possess the required technology. The answer is a definite no. Less than 15% of them actually possess the required technology needed to support CRM packages.

Despite the fact that CRM can prove to be detrimental at times, there are several advantages that it offers that are absolutely mandatory for SME success, making the problems that SME's face with CRM minute in comparison to its advantages. (Chowhan and Saxena, 2011).

**B. CRM in large corporations**

The universal application of CRM is something that is accountable for its acceptance in every sector. A wide range of industries are now recognizing its importance and opting for its benefits. Large corporations worldwide have been one of the biggest beneficiaries and have poured billions of dollars into this strategy. (Dyché, 2004).

The perception that CRM is but technology hype is far from true. CRM Customer Relationship Management is about people first and then technology. CRM is evolving into something it wasn't a few years ago. It is now a full fledged customer centric strategy that is catering to the needs of billion dollar corporations worldwide and will continue to do so. Large corporate find that they are able to provide their customers with the adequate customer experience needed after

employing the necessary CRM training and are realizing that it is the customer experience that lies at the base of a customer strategy and are thus turning to customer relationship management.

***Why do large corporations need CRM?***

It basically helps them to know their customers intimately and to use that knowledge in delivering better products and services. Customer relationship management helps the organization to improve customer service. From the sales perspective it enables corporate giants to increase sales opportunities and hikes the chances for sales leads. It assists in lead management as well as relationship marketing.

CRM is also beneficial to the entire organization. Inter-departmental conflict is resolved and goals are worked towards efficiently and speedily. Customer relationship management succeeds at focusing its attention on forging tighter connections with its customers in an effort to stay competitive in a growing economy.

Companies that invest heavily in CRM systems are attempting to learn more about their existing and potential customers and ultimately offer them more personalized products and services. The evidence of the growth in customer experience already exists in a number of ways. CRM is able to generate increased profitability and efficiency. This is the result of the additional focus being placed on the customer, and the ability to draw him back again and again. Since most customers desire to not just have a personalized relationship with the company but to jointly create a lifetime valuable relationship with the company corporate giants realize the importance of catering to this need and ultimately supplying it. There have been both failed and successful attempts at doing so but all large organizations realize that employing CRM is an essential in an order to achieve this. Rather than opting out of the strategy or not even considering it, they are now endeavoring to find ways in which they can get the best out of their implementation. (Dyché, 2004).

CRM Customer Relationship Management enables staff to give off their best to customers. It helps them deal with customers and handle problems that they normally would have difficulty doing. It serves as a guiding link between the customer and the employee by providing the employee with the necessary information about the customer- his purchase history and preferences. This information can be utilized while making decisions. CRM is a business strategy that tries to understand, manage and personalize the needs of large corporate current and potential customers. Customers no longer do seek the traditional marketing methods. With the advent of the new decade corporate giants are seeking new innovations in their marketing efforts and are longing to cater to what the customer expects. CRM has provided them with alternative marketing methods.

It helps organizations to basically make quick informed decisions increase the cross selling and up selling opportunities, increases and measures marketing effectiveness and succeeds in delivering personalized customer care. It also assists

sales force automation software (SFA) that basically focuses various aspects like customer contact management.

Large corporate continue to maintain a good relationship with their existing and potential customers and succeed well at their efforts to increase efficiency at business activities. It manages to provide a complete and holistic view of each and every one of its customers to Customer Service, Sales and Marketing personnel. (Greenberg, 2004).

Successful CRM starts with a business strategy that succeeds in driving change in the organization and its work processes. It manages to create a truly customer-centric philosophy that touches every department and every employee within the business. Statistics show that the global market for CRM solutions is worth almost \$150 billion. A large part of this comes from the major corporate themselves. The real value of CRM Customer Relationship Management lies in its ability to harness the potential of people and use it to create a much better customer experience. It enables large corporate to find out and store information on customer preferences and interests. The strategy basically endeavors to place the customer right at the very heart of its business.

## **V. CONCLUSIONS**

Customer Relationship Management continues to be the most vibrant, critical and evolving technology category in today's market. CRM today is no longer just about enterprise software. Rather, today's CRM is a flexible solution where you can mix software, hosted services and other components to meet your specific business needs.

Who are our best customers? What can WE do to retain them? How can WE attract others like them? How can we increase our customers' profits? The truth is that most companies have difficulty understanding and managing customer life cycles and profitability. This is due to problems designing and executing effective marketing campaigns, and problems measuring their effectiveness.

For CRM to be truly effective an organization must decide what kind of customer information it's looking for and what it intends to do with it. Look at how customer information comes into a business, where and how it's stored, and how it's used. Then have company analysts' comb through the data to get a complete view of each customer and pinpoint areas where better services are needed. One way to assess the need for a CRM project is to count the ways a customer can access the company. The more there are, the greater the need for the single centralized customer view a CRM system can provide.

Customer Relationship Management enables real-time availability checks, contract management, billing management, fulfillment visibility, and order tracking, giving you the features and functions necessary for marketing planning, campaign management, telemarketing, lead generation, and customer segmentation. In

addition, CRM allows us to offer ongoing customer care across all channels – with a customer-interaction center, Web-based customer self-service capabilities, service and claims management, field service and dispatch, and installed-base management.

CRM helps our business:

- *Provide better customer service*
- *Make call centers more efficient*
- *Cross-sell products more effectively*
- *Have sales staff close deals faster*
- *Simplify marketing and sales processes*
- *Discover new customers*
- *Increase customer revenues*

## REFERENCES:

- Ayakar K., Schejter A., Taylor R., 2010, *Small businesses and broadband: Key drivers for economic recovery*”, Pennsylvania state university, March 2010;
- Bălan C., 2007, *Customer relationship management*, Journal of Online Marketing, Academy of Economic Studies, School of Marketing, No. 3/2007;
- Blythe J., 2006, *Sales and Key Customer Management*, Codecs Publishing House, 2006;
- Buttle F., 2004, *Customer relationship management: concepts and tools*, Vol. 13, Butterworth-Heinemann Publishing House, 2004;
- Buttle F., 2006, *Customer Relationship Management. Concepts and Tools*, Butterworth-Heinemann Publishing House, 2006;
- Chowhan S., Saxena R., 2011, *Customer Relationship Management from the Business Strategy Perspective with the Application of Cloud Computing*, The Proceedings of DYNAA 2011, Vol.2, No.1, 2011;
- Dyché J., 2004, *The CRM handbook: a business guide to customer relationship management*, Pearson Tech Book Publishing House, USA, 2004;
- Gopal V., 2005, *CRM in Banking: Concepts And Cases*, ICFAI University Press, 2005;
- Greenberg P., 2004, *CRM at the speed of light: essential customer strategies for the 21st century*, McGraw Hill Companies Publishing House, Osborne, USA, 2004;
- Hoekstra J.C., 2001, *Direct Marketing*, Ed. a IIa, WoltersNoordhoff Publishing House, Groningen, 2001;
- Kincaid J., 2003, *Customer relationship management: getting it right!*, Prentice Hall PTR Publishing House, 2003;
- Kotler P., Armstrong G., 2008, *Marketing principles*, IV edition, Teora Publishing House, 2008;
- Kracklauer A., Seifert D., 2004, *Collaborative customer relationship management: taking CRM to the next level*, Springer, 2004
- Payne A., 2006, *Handbook of CRM. Achieving Excellence in Customer Management*, Butterworth - Heinemann Publishing House, 2006;

- Prasad, R. S., 2005, *Understanding CRM*, ICFAI University Press, 2005;
- Reichheld F., Sasser W.E. Jr., 1990, *Zero defections: quality comes to services*, Harvard Business Review, September/October, pp. 105-111, 1990;
- Rollins M., Halinen A., 2005, *Customer Knowledge Management Competence: Towards a Theoretical Framework*, Proceedings of the 38th Hawaii International Conference on System Sciences, 2005;
- [www.enterprise-concept.com/index.php/ro/solutii-inovatoare/managementul-clientilor](http://www.enterprise-concept.com/index.php/ro/solutii-inovatoare/managementul-clientilor)
- [www.relationshipmanagement.org](http://www.relationshipmanagement.org)
- [www.intellinova.com](http://www.intellinova.com)
- [www.crmassociation.org](http://www.crmassociation.org)
- [www.six-sigma-crm.com/customer\\_relationship\\_management.html](http://www.six-sigma-crm.com/customer_relationship_management.html)
- [www.management-crm.com/index.php](http://www.management-crm.com/index.php)
- [www.crminfoline.com](http://www.crminfoline.com)
- [www.misbridge.mcombs.utexas.edu/knowledge/topics/crm/](http://www.misbridge.mcombs.utexas.edu/knowledge/topics/crm/)
- [www.promero.com](http://www.promero.com)

## EU PRIORITIES FOR THE FUTURE: ENVIRONMENTAL CHALLENGES IN THE CONTEXT OF COMMON AGRICULTURE POLICY TOWARDS 2020

RUXANDRA-MĂLINA PETRESCU-MAG<sup>1</sup>,  
DACINIA-CRINA PETRESCU<sup>2</sup>, IOAN GHEORGHE OROIAN<sup>3</sup>

**ABSTRACT.** The paper deals with the relation between environment and agriculture within the European Union policies. The importance of an environmental EU policy as a crossing policy is explained. It follows then, interdependence between environmental measures and other policies, most of all within CAP. The trends in the evolution of the CAP and consequently in terms of environmental measures are also presented. In this sense, the focus is on the CAP reform which opens its horizons after the years 2013-2014. The directions that must be followed within CAP are identified, in accordance with several principles proposed by the European Parliament and presented in the European Commission Communication “The CAP towards 2020... ”.

**Keywords:** *environment, reform, CAP, policies, sustainability, development, requirements.*

**JEL Classification:** N5, Q01, Q18, Q56.

### Introduction

Environmental matters are increasingly in the mainstream of national and international politics and policies (Petrescu-Mag, 2011). During the last decade we have experienced if not a green revolution – from the ecological perspective – at least a green evolution in the agricultural policy (Leguen de Lacroix, 2004). The new agricultural policy has taken the responsibility of consumers’ new expectations, setting up a solid basis for our rural patrimony preservation, in order to produce the required agricultural merchandise, but at the same time ensuring the position on the world market (Petrescu-Mag, 2007). Nowadays agricultural policy no longer resembles to the one initially designed. The CAP (Common Agriculture Policy) transformed into a more efficient mechanism, which achieves several objectives at a lower cost.

---

<sup>1</sup> Lecturer, PhD., Babeş-Bolyai University, Cluj-Napoca, Romania, Faculty of Environmental Science and Engineering, email: pmalina2000@yahoo.com

<sup>2</sup> Associate Professor PhD, Babeş-Bolyai University, Cluj-Napoca, Romania, Faculty of Business, email: crina.petrescu@tbs.ubbcluj.ro

<sup>3</sup> Professor PhD, University of Agricultural Sciences and Veterinary Medicine Cluj-Napoca, Romania, Faculty of Agriculture, email: neluoroian@gmail.com



CAP introduced a comprehensive rural development policy, which supports the diversity, reorganization and evolution of the areas and sectors of rural economy in the entire European Union (EU) (Petrescu-Mag et al., 2010). On the other hand, there is a pressure to develop other policies at the European level, at the expense of the CAP, but many Member States have financial problems and would like to reduce their contribution to the EU budget. Consequently, it seems that the CAP will have to do more with less financial means (Burny, 2010).

### **European Union Environmental Policy as a cross-cutting policy**

Damage to the environment diminishes the quality of life-most immediately for those directly affected, and in the long term, for everyone. Already marginalized sectors of society tend to suffer first and they tend to suffer most, but ultimately, no one can escape the human consequences of environmental degradation. Human society cannot function independent of the natural environment (Popovic, 1996; Petrescu-Mag and Petrescu-Mag, 2011). Global environmental trends continue to move in ominous directions.

Environmental policy, underlying the formation and development of environmental law at the same time, is based on a solid legal basis for determining and regulating the development objectives and directions of environmental protection activity (Lupan, 2009). Article 11 of the Consolidated version of the Treaty of the Functioning of the European Union, TFEU, (ex-art. 6 of the Treaty of European Community) promotes environmental policy as a cross-cutting policy of the European Union and thus emphasizes the need to integrate environmental protection requirements into the definition and implementation of European sectorial policies: “Environmental protection requirements must be integrated into the definition and implementation of the Union’s policies and activities, in particular with a view to promoting sustainable development”. In the energy sector, art. 194 (Treaty of the Functioning of the European Union-TFEU) establishes, in the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, that Union policy on energy shall aim, in a spirit of solidarity between Member States (MS), to: ensure the functioning of the energy market; ensure security of energy supply in the Union; promote energy efficiency and energy saving and the development of new and renewable forms of energy; and promote the interconnection of energy networks. In the field of civil protection, EU shall encourage cooperation between MS in order to improve the effectiveness of systems for preventing and protecting against natural or man-made disasters (art. 196 TFEU). In agriculture, the 1992 reform of the CAP has discouraged intensive production, reducing the surplus, including organic farming and afforestation programs. This direction was continued in 1999, in the context of CAP reform under Agenda 2000 (Commission Communication COM (99) 22 - “Towards a Sustainable Agriculture”). The Vienna European Council (1998) convened specialized

councils from three main areas in order to define their own strategies: internal market, industry and development. The Strategy on Single Market and Environment (COM (99) 263) aims to increase the synergies between the single market and environmental policies and it was adopted in 2001 by the Council regarding internal market along with the Strategy of integration the environmental issues in the field of industry. Regulation no. 2493/2000/CE was adopted to contribute to the effective integration of environmental concerns into development cooperation activities undertaken by the Union with developing countries and the strategy in this regard was adopted by Council in 2001 (COM (2000) 264). The strategy of integrating environmental policy in the Common Fisheries Policy was presented to the Council and Parliament by the Commission in its Communication COM (99) 363 on fisheries management and nature conservation in the marine environment. The integration of environmental policy into economic policies was presented at the Nice European Council (December 2000) in the Communication COM (2000) 576. In 2001, at the Gothenburg European Council was adopted the Sustainable Development Strategy (COM (2001) 264), where the environmental dimension was included as the third pillar of the Lisbon Strategy, which covered, by that date, only the economic and social dimension. To assess the implementation of sustainable development strategy, at the Laeken European Council were adopted the most important environmental indicators (COM (2002) 524) and at the Barcelona European Council (2002), the Commission presented an action plan for promoting environmental technologies (COM (2002) 122). The European Commission undertakes to carry out impact assessment studies, in the case of proposals that can have serious repercussions on the environment. To those studies area added over 400 directives, regulations and decisions, which represent the horizontal and sectorial legislation on environmental protection.

### **The CAP towards 2020: challenges for environmental issues**

Common Agriculture Policy has always been a difficult area of EU policy to reform. This is a problem that began in 1960s and one that continues to the present day. Agri-environmental measures began in a few Member States in the 1980s on their own initiative and were taken up by the European Community in 1985, article 19 of the Agricultural Structures Regulation (Council Regulation, 1985), but remained optional for MS. In 1992 (within McSharry reform) agri-environmental measures were introduced for all MS as *accompanying measures* to the CAP reform. The measures encouraged the farmers to perform services for the environment that went beyond the observation of good agricultural manners and of the legal provisions (Petrescu-Mag et al., 2009). After McSharry reform, the CAP was reformed again several times: Agenda 2000, Mid-Term Review in 2003, Health Check in 2008, milk, sugar, fruits and vegetables common market organizations.

To define and implement a common policy for so many Member States with different economic, social and environmental characteristics is really a challenge.

The future programming period of the European Union's policies is 2014-2020 and so those policies, including the CAP, and their related budget, are already discussed (Burny, 2010). Many farming practices have the potential to put pressure on the environment, leading to soil depletion, water shortages and pollution, and loss of wildlife habitats and biodiversity. In this context, the concept of "cross-compliance" has been developed and discussed in the 70s, but was finally introduced in the EU in 2003, following mid-term review of the Common Agricultural Policy conducted in 2003 with the publication of the Settlement Council (EC) Nr. 1782/2003. In order to get the single payment<sup>4</sup>, farmers have to prove that they respect various legislations about environment, human, animal and vegetal health and also animal welfare.

The implementation of *cross-compliance* is uneasy and is a real administrative burden for the farmers and also for the institutions which are involved in the controls (Burny, 2010). Cross-compliance is the set of conditions which claimants of direct payments under the CAP have to meet (<http://www.defra.gov.uk/crosscompliance/>). Thus, cross-compliance links direct payments to farmers to their respect of environmental and other requirements set at EU and national levels. Member States play the leading role in applying the cross-compliance. Their responsibilities include establishing the definition of good agricultural and environmental condition for their agricultural circumstances (at national or regional level), taking into account the specific characteristics of the areas concerned, including soil and climatic condition, existing farming systems, land use, crop rotation, farming practices, and farm structures. Member States must inform farmers of the definition, provide them with the list of statutory ([http://europa.eu.int/comm/agriculture/index\\_en.htm](http://europa.eu.int/comm/agriculture/index_en.htm)). The farmers must respect cross-compliance standards in two ways: a) *Good agricultural and environmental conditions*: all farmers claiming direct payments, whether or not they actually produce from their land, must abide by standards to be established by the MS; b) *Statutory management requirements*: farmers must respect other cross-compliance standards called statutory management requirements set-up in accordance with EU directives and regulations relating to the protection of environment, public, animal and plant health, animal welfare (art. 4 Council Regulation no. 1782/2003). Failure by farmers to respect these conditions can result in deduction from or complete cancellation of direct payments (Petrescu-Mag et al., 2009; [http://ec.europa.eu/agriculture/capreform/infosheets/crocom\\_en.pdf](http://ec.europa.eu/agriculture/capreform/infosheets/crocom_en.pdf)).

<sup>4</sup> Price-related support dominated agricultural policies in the EU in the 1970–80s. Two reform packages in the 1990s replaced a large share of price support in the EU by direct payments per hectare of land and per head of livestock. These direct payments were only paid to certain types of crops and livestock. In 2005, introduction of the (SPS) was one of the most radical reforms of the CAP. The central element of the reform is decoupling of direct payments from production via a Single Payment Scheme (SPS). The SPS is paid per hectare of agricultural land, but is independent of the individual farmer's production decisions. This payment has replaced almost all previous forms of subsidies to farmers. It is decoupled, meaning it is paid regardless of whether the farmer produces commodities or not, as long as the land is kept in Good Agricultural and Environmental Condition (GAEC).

According to European Commission's Communication "The CAP towards 2020..." – three main objectives for the future CAP would be:

- Objective 1: Viable food production;
- Objective 2: Sustainable management of natural resources and climate action;
- Objective 3: Balanced territorial development.

Thus, the future CAP has to be based of some principles proposed by the European Parliament (European Commission COM (2010) 672):

- Promotion of the sustainable development of agriculture in areas with specific natural constraints by providing an additional income support to farmers in such areas in the form of an area-based payment as a complement to the support given under the 2nd pillar;
- Enhancement of environmental performance of the CAP through a mandatory "greening" component of direct payments by supporting environmental measures applicable across the whole of the EU territory. Priority should be given to actions addressing both climate and environment policy goals.
- Simplification of cross-compliance rules by providing farmers and administrations with a simpler and more comprehensive set of rules without watering down the concept of cross-compliance itself. The inclusion of the Water Framework Directive within the scope of cross compliance will be considered once the directive has been implemented and the operational obligations for farmers have been identified.

## **Conclusions**

The need for reform of the CAP, by establishing courses of action beyond the years 2013-2014, was driven by the fact the Common Agricultural Policy is confronted with a set of challenges, some unique in nature, some unforeseen, that invite the EU to make a strategic choice for the long-term future of its agriculture and rural areas (European Commission COM (2010) 672). By the Commission Communication "The CAP towards 2020: Meeting the food, natural resources and territorial challenges of the future", which was presented on 18 November 2010, the institutional debate was launched and the ground for the legal proposals to be adopted by the Commission during 2011 was prepared. The debates revealed new challenges that are now – and will also be in the future – dealt with rural development aspects of the CAP. They are:

- The protection of biodiversity;
- Water management, especially in the Mediterranean area;
- The development of renewable energy;
- The adaptation to climatic changes and the fight against them;
- Strengthening territorial and social cohesion in the rural areas of the European Union, notably through the promotion of employment and diversification;

- The concerns regarding both EU and global food security;
- Enhancing competitiveness in a world characterized by increasing globalization, price volatility, while maintaining agricultural production across the whole EU (European Commission COM (2010) 672).

The objective of CAP reform is to provide a policy which is more sustainable, more balanced, better targeted, simpler and more effective policy, more accountable to the needs and expectations of the EU society (<http://capreform.eu/the-commission-communication-leak-in-full/>). Therefore, we expect a reformed CAP capable to promote greater competitiveness, efficient use of taxpayer resources, to offer European citizens' food security, environment protection, and reduced climate change, social and territorial balance.

## REFERENCES

- Burny P. (2010), "Reforming the Common Agricultural Policy perspective of 2013 and beyond", *AAB Bioflux*, Vol.2 No 2, pp.175-186.
- Council Regulation no. 797/85 of 12 March 1985 on improving the efficiency of agricultural structures, Off. J. L 093, 30.3.1985.
- Council Regulation no. 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001.
- European Commission, Communication from the Commission to The European Parliament, The Council, The European Economic and Social Committee and The Committee of the Regions: The CAP towards 2020: Meeting the food, natural resources and territorial challenges of the future, COM(2010) 672 final, Brussels, 2010.
- Leguen de Lacroix E. (coord.), 2004, *Common Agricultural Policy explained for all*, published by European Commission, Directorate General for Agriculture, Bruxelles.
- Lupan E. (2009), *Tratat de dreptul protecției mediului*, Editura C.H.Beck, București.
- Petrescu-Mag R.M. (2007), *Common Agricultural Policy: past, present and future*, EFES, Cluj-Napoca.
- Petrescu-Mag R. M., Petrescu D.C., Sevillano Blas R.H., 2009, Trends of community expenditure on Common Agriculture Policy, including the agri-environmental measures, **Studia UBB Negotia**, 54 (1), pp. 59-72.
- Petrescu-Mag R. M. and Petrescu D. C. (2010), "Organic agriculture as component of sustainable development. Romania's case", *AAB Bioflux*, Vol. 2 No.2, pp.121-132.

- Petrescu-Mag R. M. (2011), "The importance of the soft law instruments in the development of the international environmental law", in Petrescu-Mag R .M., Petrescu D.C., Burny Ph. (ED.), *Environmental Issues in the Context of Sustainable Development*, Les Presses agronomiques de Gembloux, Gembloux & Bioflux Cluj-Napoca.
- Petrescu-Mag R. M. and Petrescu-Mag I.V.(2011), "The Human Rights and The Environment", *Ecological performance in a competitive economy*, supplement of *Quality-access to success*, No.118, pp.135-138.
- Popovic N. L. (1996), "In pursuit of environmental human rights: commentary on the Draft Declaration of Principles on Human Rights and the Environment", *Colum. Human Rights L. Rev.*, No. 27, p.487.
- \*\*\*, Consolidated version of the Treaty of the Functioning of the European Union, Off. J. of the European Union C 83/47, 30.3.2010
- <http://capreform.eu/the-commission-communication-leak-in-full/> (accessed on May 2011)
- [http://ec.europa.eu/agriculture/capreform/infosheets/crocom\\_en.pdf](http://ec.europa.eu/agriculture/capreform/infosheets/crocom_en.pdf) (accessed on May 2011)
- [http://europa.eu.int/comm/agriculture/index\\_en.htm](http://europa.eu.int/comm/agriculture/index_en.htm) (accessed on May 2011)
- <http://www.defra.gov.uk/crosscompliance/> (accessed on May 2011)

## IMF'S AND GOVERNMENTS' SUPPORT TO FINANCIAL SYSTEM IN THE EUROPEAN COUNTRIES DURING THE CRISIS

MAGDALENA RĂDULESCU<sup>1</sup>

**ABSTRACT.** The health of the financial sector is essential. The financial crisis of 2007-2009 stressed once more the importance of this situation. In response to the widespread nature of the crisis, the International Monetary Fund (IMF) overhauled its lending framework in order to support emerging countries in need of financial resources. Government interventions also aimed to reduce panic attacks on national financial systems. Crisis lessons were hard and the recovery still proves to be difficult despite the support offered to the financial system. The present paper tries to present a brief review of IMF's and Governments' support to financial system in the European countries during the crisis.

**Keywords:** *financial crisis, European economies, fiscal policy, governmental financial support, banking sector*

**JEL Classification:** G01, G18, F33

### 1. Introduction

Restoring the health of the financial sector is an essential component of any policy package. Experiences with previous financial crises—especially those involving deleveraging, such as in Japan in the 1990s—strongly signal that coherent and comprehensive action to restore financial institutions' balance sheets, and to remove uncertainty about funding, is required before a recovery will be feasible. Even then, recovery is likely to be slow and relatively weak.

A number of major banks in the United States and Europe were provided with public support in the form of new capital and guarantees against losses from holdings of problem assets. More broadly, authorities have followed multifaceted strategies involving continued provision of liquidity and extended guarantees of bank liabilities to alleviate funding pressures, making available public funds for bank recapitalization, and announcing programs to deal with distressed assets. However,

---

<sup>1</sup> Ph.D. Associate Professor, University of Pitesti, magdalenaradulescu@yahoo.com

policy announcements have often been short on detail and have not convinced markets; cross-border coordination of initiatives has been lacking, resulting in undesirable spillovers; and progress in alleviating uncertainty related to distressed assets has been limited (Jickling, 2009, pp.34-36).

A coordinated action, although officially denied, is represented by the cut of policy interest rates, when FED, ECB, UK Central Bank and National Bank of Canada decided to cut each 0,5 basis points and this action was followed also by the central banks of Sweden and Switzerland. Even China followed such trend and cut its policy interest rate by 0,27 basis points. However, the impact of rate cuts has been limited by credit market disruptions, and the zero bound has constrained central bankers' ability to add further stimulus.

As concerns about the extent of the downturn and the limits to monetary policy have mounted, governments have also turned to fiscal policy to support demand. Beyond letting automatic stabilizers work, large discretionary stimulus packages have been introduced in most advanced economies, notably Germany, Japan, Korea, the United Kingdom, and the United States.

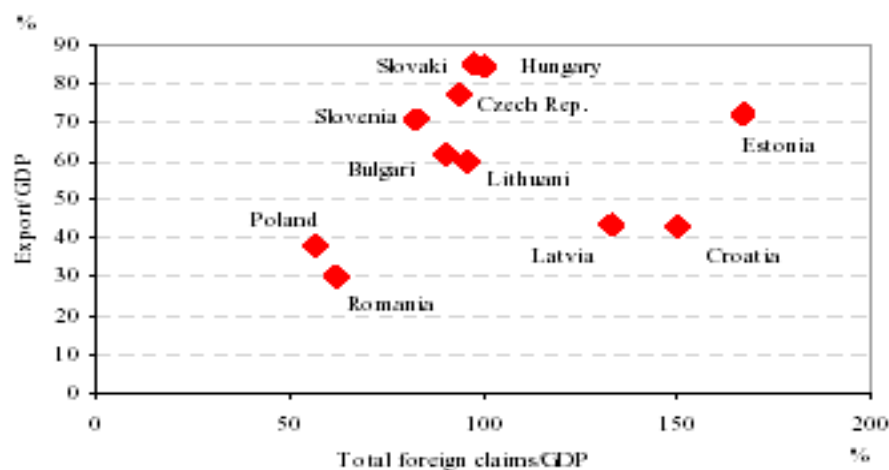
Section 2 shows the risk of external financing of the banking sector in the European emerging countries; Section 3 underline the fiscal burden of the financial support for the banking sector, Section 4 shows some unconventional approaches for the monetary and fiscal policies in Europe, Section 5 presents the IMF response to crisis and Romanian's program during the crisis and Section 6 concludes the paper.

## **2. The risk of external financing of the banking sector in the European emerging countries**

Since the beginning of this decade, external factors (a prolonged period of low nominal and real interest rates driven by a global savings glut) and domestic factors (capital account liberalization, financial sector reforms and EU accession) combined to spur large capital inflows into the EU10 countries. This high integration of EU10 financial markets with the global economy has been matched, in general, by equivalent integration of production and great success at exporting (Figure 1).

This has brought major benefits to the countries in the region, including convergence in incomes, improvements in living standards and a sharp decline in poverty rates. At the same time, however, it has resulted in a build-up of external liabilities across the region. Especially the Baltic countries, Croatia, Hungary, and the Czech Republic display high ratios of foreign liabilities to GDP. Moreover, the composition of capital inflows has changed over time. While foreign direct investment initially made up the bulk of the inflows, debt liabilities have gained importance in recent years. For a large part, this reflected intra-bank lending between (Cihák and Fonteyne, 2009).





**Figure 1: Level of Foreign Trade and Financial Integration in the Countries of the Region, 2008**

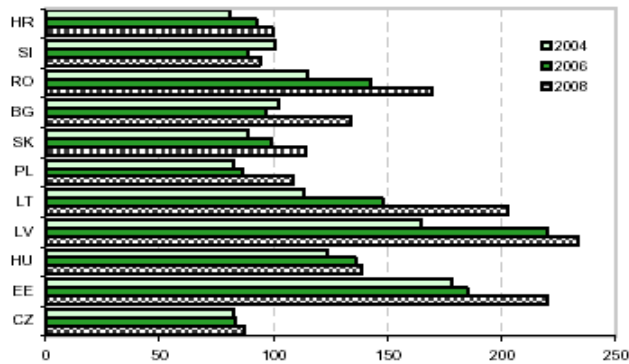
*Sources: BIS, EUROSTAT, World Bank<sup>2</sup>.*

The banking sector's access to foreign capital has facilitated lending in foreign currency. In some countries, like Romania, this has been encouraged by restrictive monetary policies trying to compensate for pro-cyclical fiscal stances. Financial instruments denominated in or indexed to foreign currencies, in particular the euro, are widely used in the region, in particular in the Baltic States, Hungary, Romania and Croatia. Foreign financing has enabled banks to expand lending more rapidly than the expansion of the domestic deposit base would have allowed (Figure 2). Also, the cost of funding in domestic markets for branches and subsidiaries is usually higher than the cost from their foreign parent banks.

Moreover, the maturity of external funds may be more easily tailored to comply with the matching requirements of host country supervisors. When banks refinance themselves abroad to on-lend in foreign currency, the currency risk is passed to the client. But this, seemingly, did not matter for the client: exchange rate pegs in most EU10 countries have been perceived as credible and, hence, the associated currency risk has been considered low<sup>3</sup>.

<sup>2</sup> BIS, EUROSTAT, World Bank cited in *Economic Outlook – Crisis and recovery*, IMF, April 2009.

<sup>3</sup> IMF, *Regional Economic Outlook – Europe addressing the crisis*, May, 2009, pp. 15-49.



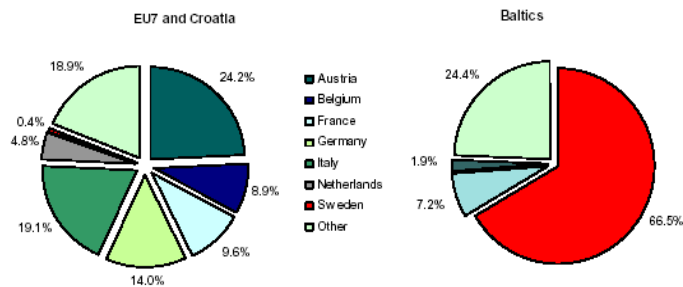
**Figure 2: Loan to Deposit Ratio (in %)**

*Sources: ECB, Central Banks.*

Currencies with flexible rates, on the other hand, seemed bound to appreciate. But also in countries with more volatile exchange rates, such as Hungary, foreign currency borrowing by the private sector has been popular, perhaps because of the considerable savings expected on interest payments as well as expectations of appreciating local currencies.

Difficult liquidity and financing conditions have characterized the financial sector both globally and in EU10 countries since the second half of 2008. A lack of confidence in the banking sector led to soaring financing costs. In this environment, banks in the EU10 with large deposit deficits are particularly exposed. These deficits are especially high in the Baltic countries but also in Romania and Hungary.

In the EU10, many countries are exposed to the same external lenders via cross-border loans to banks from their international parent banks (Figure 3).



**Figure 3. Geographic Breakdown of Foreign Claims in the Banking Sector**

*Notes: EU7 refers to EU10 without the Baltic States<sup>4</sup>.*

*Sources: BIS, World Bank.*

<sup>4</sup> BIS, World Bank cited in *Regional Economic Outlook, Europe addressing to crisis*, IMF, May 2009.

From a creditor perspective, bank claims are concentrated in few countries—Austria, Belgium, France, Germany, Italy, the Netherlands, Greece and Sweden—which account for three-quarters of total claims on the region. In principle, foreign ownership can be a source of stability for emerging market banking systems, but the reliance on cross-border funding also exposes these banks to the potential balance sheet pressures of their parent banks in mature markets. Lenders may also view the EU10 as a ‘cluster’ and may withdraw their funds if the outlook about the ‘cluster’ turns negative.

Home country regulators may create further tensions by forcing parent banks to build liquidity and, via asymmetries in the scope of regulation and supervision which are conducted largely nationally, the business practice of integrated cross-border financial institutions. Thus, it may create a mismatch in regulatory attention. Recently, local liquidity requirements may have become more stringent, disrupting the free flow of funds between parent and subsidiary or branch necessary for well-functioning centralized liquidity management. Local subsidiaries probably also do not benefit from government recapitalization schemes in the parent country, forcing greater reliance on domestic funding.

Finally, as most EU10 countries are highly open economies, the deteriorating global economic outlook has also prompted many banks to reassess their business outlook. This concerns especially highly trade-dependent economies such as Hungary, the Slovak Republic, the Czech Republic and Estonia. Such reassessment is also being associated with tightening lending conditions, with likely negative effects on the real economy.

### **3. Fiscal costs of the crisis - financial sector support**

Government support to the financial sector has taken various forms, with different implications for debt and fiscal balances. Almost all advanced European economies have provided capital injections and guarantees for financial sector liabilities. Some have purchased illiquid assets from financial institutions or extended direct loans (Table 1). Altogether, the immediate impact of these measures to support government financing has reached 6.3 percent of 2008 GDP on average, ranging widely from 1.1 percent of GDP in Switzerland to 20.2 percent of GDP in the United Kingdom.

Explicit guarantees provided so far are quite large, especially in Ireland. Nevertheless, the ultimate costs are likely to be lower. Indicative estimates based on financial derivative pricing models suggest that outlays from contingent liabilities could be on average around 1–3 percent of GDP, cumulative for 2009–13 for the advanced European economies<sup>5</sup>. However, governments may need to extend additional support to the financial sector if the crisis persists. De facto, governments

---

<sup>5</sup> IMF, “World Economic Outlook – Crisis and recovery”, April, 2009, pp. 21-53.

are also providing implicit guarantees to financial institutions that could potentially entail significant additional fiscal costs.

With limited scope for further stimulus through monetary policy, fiscal policy remains the main option available for policymakers to preempt such a downward spiral. It is crucial, though, for governments to try to maximize the effectiveness of fiscal support, while limiting the impact of such support on sustainability<sup>6</sup>.

**Table 1.**

**Headline Support for the Financial Sector and Upfront Financing Need (As of April 2009; percent of 2008 GDP)**

	Capital Injection	Purchase of Assets and Lending by Treasury	Central Bank Support Provided with Treasury Backing	Guarantees 1/	Up-front Government Financing 2/
	(A)	(B)	(C)	(D)	(E)
Austria	5.3	0.0	0.0	30.0	5.3
Belgium	4.7	0.0	0.0	26.2	4.7
France	1.2	1.3	0.0	16.4	1.5 3/
Germany	3.8	0.4	0.0	18.0	3.7
Greece	2.1	3.3	0.0	6.2	5.4
Ireland	5.3	0.0	0.0	257.0	5.3
Italy	1.3	0.0	0.0	0.0	1.3
Netherlands	3.4	2.8	0.0	33.7	6.2
Norway	2.0	15.8	0.0	0.0	15.8
Portugal	2.4	0.0	0.0	12.0	2.4
Spain	0.0	4.6	0.0	18.3	4.6
Sweden	2.1	5.3	0.0	47.3	5.8 4/
Switzerland	1.1	0.0	0.0	0.0	1.1
United Kingdom	3.9	13.8	12.9	51.2	20.2 5/
Average 6/	2.5	3.7	2.1	25.0	6.3

Source: IMF, Update on Fiscal Stimulus and Financial Sector Measures (published April 26, 2009), available via the Internet: [www.imf.org/external/np/fad/2009/042609.htm](http://www.imf.org/external/np/fad/2009/042609.htm).

1/ Excludes deposit insurance provided by deposit insurance agencies.

2/ Includes components of (A), (B), and (C) that require up-front government outlays.

3/ Support to the country's strategic companies is recorded under (B), of which 14bn euro will be financed by a state-owned bank, not requiring upfront Treasury financing.

4/ Part of the capital injection will be undertaken by the Stabilization Fund.

5/ Cost to nationalize Northern Rock and Bradford & Bingley recorded under (B), entailing no up-front financing.

6/ PPP GDP weights.

*Source: IMF Regional Economic outlook, May 2009.*

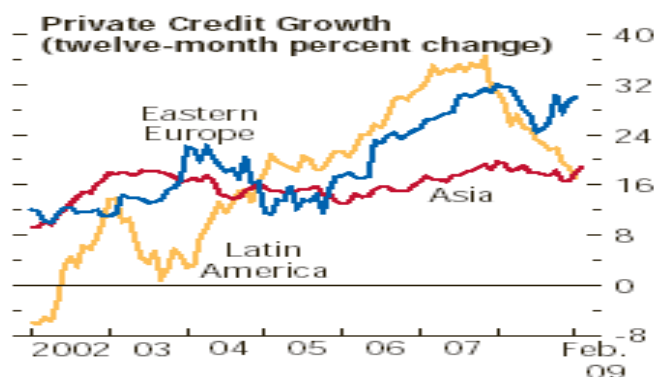
With regard to the policy instruments mix, spending on infrastructure is likely to exhibit a larger growth impact than tax cuts and transfers increases, despite having the longest implementation lags.

That said, under the present tight credit conditions and low collateral values, tax cuts and transfer increases can be more effective than in the pre-crisis period in fueling aggregate demand, as the share of credit-constrained agents—whose consumption pattern is highly sensitive to current disposable income—is rising.

<sup>6</sup> IMF, “Initial Lessons of the Crisis”, Prepared by the Research, Monetary and Capital Markets, and Strategy, Policy, and Review Departments, February, 2009, pp. 61-85.

If fiscal sustainability is perceived to be in jeopardy, market interest rate increases could partly offset the expansionary effects of stimulus packages. Therefore, support measures should be accompanied by a clear and credible strategy to ensure fiscal sustainability, including a plan to withdraw the stimulus as the crisis abates.

Policy responses in the emerging and developing economies to weakening activity and rising external pressures have varied considerably, depending on circumstances. Many countries, especially in Asia and Latin America, have been able to use policy buffers to alleviate pressures, letting exchange rates adjust downward but also applying reserves to counter disorderly market conditions and to augment private credit, including in particular sustaining trade finance. Dollar swap facilities offered by the Federal Reserve to a number of systemically important countries as well as the introduction of a more flexible credit instrument by the IMF provided some assurance to markets that countries with sound management would have access to needed external funding and not be faced with a capital account crisis. Moreover, many central banks changed course to lower policy interest rates to ease domestic conditions (Figure 4), as earlier inflation concerns moderated. Governments have also provided fiscal support through automatic stabilizers and discretionary measures.

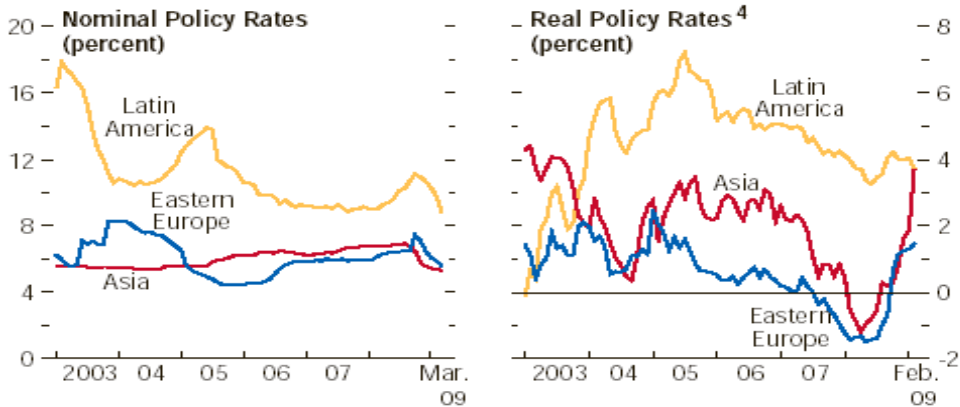


**Figure 4: Private credit Growth**

*Source: IMF Regional Economic Outlook, May 2009.*

Elsewhere, however, especially in emerging Europe and the CIS, greater internal vulnerabilities, and in some cases less flexible exchange rate regimes, have complicated the policy response. A number of countries that face severe external financing shortages, fragile banking systems, currency mismatches on borrower balance sheets, and rising questions about public finances have acted to tighten macroeconomic policies and received external financial support from the IMF and other official sources. However, stabilization has been elusive as the external environment has continued to deteriorate (Figure 5).

Emerging economies are especially exposed because factors that are generally pushing banks to retrench from cross-border positions, such as swap market dislocations and the high cost of foreign currency liquidity, are exacerbated.



**Figure 5: Nominal and real policy rates in emerging countries**

*Source: IMF Regional Economic Outlook, May 2009.*

Banks that have been a dominant source of funding in emerging Europe could start to cut exposures, and rollover rates for maturing short-term credits could fall sharply, as occurred, for example, during the Asian crisis. To date, subsidiaries of foreign banks operating in emerging Europe have largely maintained their exposures, given long-term business interests in the region, but the situation could shift quickly as conditions deteriorate.

Sudden stops in external financing could trigger dangerous repercussions, because liquidity problems could rapidly become threats to solvency, as has happened too often in the past. Corporations that previously relied on foreign funding may try to shift to domestic funding markets, adding to pressures on smaller local enterprises. Rapid exchange rate depreciation would add to pressure on balance sheets, particularly for borrowers with large foreign currency exposures.

#### **4. Monetary and fiscal policy in Europe during the crisis —unconventional approaches**

In advanced economies, the task is magnified by the rising threat of deflation and the constraint of the zero interest rate floors. In such circumstances, it is crucial to act aggressively to counter deflation risks. Although policy rates are already near the zero floors in many countries, policy room still remains in some

regimes (such as the euro area) and should be used quickly. There seems little risk of overdoing monetary easing in the current circumstances. At the same time, clear communication is important—central bankers should underline their determination to avoid deflation by sustaining easy monetary conditions for as long as it takes, while making clear their long-term commitment to avoiding a resurgence of inflation.

Emerging economies also have tended to borrow more heavily in foreign currency, so large exchange rate depreciations can do severe damage to their balance sheets. Thus, although most central banks in these economies have lowered interest rates in the face of the global downturn, they have been appropriately cautious in doing so in order to maintain incentives for capital inflows and to avoid disorderly exchange rate moves or a full-blown capital account crisis. Countries facing particularly difficult external conditions—including large current account deficits to be financed, large rollover requirements, a reliance on fragile inter-bank flows, and dwindling reserves—may have to tighten monetary policy to preserve external stability, despite adverse consequences for domestic activity. Access to official financing—including both regional and bilateral credit lines and contingent financing from the IMF—can play an important part in reducing such painful trade-offs.

Turning to the post-crisis world, a key challenge will be to calibrate the pace at which to withdraw the extraordinary monetary stimulus now being provided. Acting too quickly would risk undercutting what is likely to be a fragile recovery, but acting too slowly could risk a return to overheating and new asset price bubbles.

These choices will arise in the context of the broader issue of whether the approach to monetary policy should be extended to more explicitly encompass macro-financial stability as well as price stability, and if so, how this should be done. It is now painfully clear that asset price booms fed by leveraged financing and involving financial intermediaries need to be dealt with forcefully, since they threaten to undermine the credit supply and the economy. Although regulatory policy must play a central part in controlling such risks, monetary policy cannot neglect booms in asset prices and credit and should respond to unusually rapid asset price movements or signs of asset market overshooting, particularly in the context of credit booms<sup>7</sup>.

## 5. IMF's response to crisis

In response to the widespread nature of the crisis, the International Monetary Fund (IMF) overhauled its lending framework and the Group of Twenty industrial and emerging market countries supported a large expansion of the Fund's resources—from \$250 billion to \$750 billion. The changes in the IMF's lending

---

<sup>7</sup> World Bank, *"The Unfolding Crisis Implications for Financial Systems and Their Oversight"*, Financial Systems, Development Economics departments and the Poverty Reduction and Economic Management department, October, 2008, pp. 28-41.

framework include more emphasis on crisis prevention, facilitating larger and more frontloaded financing, and further streamlining conditions attached to IMF loans.

Overall, further decisive and effective policy actions will be needed to stabilize the international financial system. The global response to date has been rapid, but often piecemeal and insufficient to bolster public confidence. In particular, the global banking system needs to be cleansed of its impaired assets. Supervisors must determine whether a bank is viable. Banks that are viable but have insufficient capital will need to receive capital infusions. If such infusions are unavailable from private sources, then public money will have to be used.

In some cases, partial, or even total, government ownership will be required to assure adequate capitalization and an effective restructuring plan. A government should aim to ensure that banks can return to private ownership as expeditiously as possible. Banks that are not viable should be resolved promptly.

Financial policies must work constructively with other macroeconomic policies—both are needed to short-circuit the adverse feedback loop between the financial system and the economy through which deteriorating financial conditions lower economic activity, which in turn makes it harder for companies and individuals to repay borrowings, with an adverse impact on financial conditions. It is essential to stabilize the financial system—without which a robust and sustained economic recovery will be difficult to attain.

Emerging market and developing countries are facing increasing difficulties around the world because of the spreading global economic crisis. Large-scale financing from the IMF can cushion the economic and social costs of these global shocks and even help avert full-blown crises if assistance is requested early on.

The IMF is fighting at the front lines of the financial crisis. In recent months, it has provided loans to emerging market countries hit by faltering demand for their exports, the drying up of capital in financial markets, overextended banks, and wary consumers.

In Romania, banks commitment for maintaining and increasing their exposure and for rising capital according to their needs represents a key element for improving the financial stability and the monetary conditions. If monetary conditions develop favorably, NBR will be ready to gradually relax its conditions regarding the minimum reserves and this will promote the banking stability. A preferential temporary regime will be set during the IMF program for the banks that commit to maintain their exposure to Romania for the whole program period and to increase the equity of their Romanian branches according to their potential needs evaluated during stress tests. For these banks, any new subordinated debt subscribed even by owners or by international financial institution will be exonerated by the obligation of making minimum reserves at NBR. This subordinated debt and some similar instruments will be classified as prime equity and the rules regarding the capital adequacy ratio will be maintained. According to the EU principles, it will be available for all the resident banks, no matter the owners' nationality.



For increasing the trust in the authorities' ability of facing any potential difficulties in the banking sector, the program includes plans for improving the banking law and the clearing law for responding rapidly and efficiently when a bank faces some difficulties. A main objective of such law changes will be to increase the power of the special bank administrator for facing a fragile financial position \*as a structural reference point). The NBR's (National Bank of Romania) power will also rise by regulations that will grant it the right to request the major share-holders to increase the capital and to grant financial support to the banks and to forbid or limit the profit allocation (as a structural reference point). The authorities are also aware of the need to simplify and perfect the legal procedure for banks clearing and intend to make further efforts in this area<sup>8</sup>.

Some measures for ensuring trust in the deposits guarantee system should also be adopted. Romania, as many other countries in Europe acted for strengthening its deposits guarantee system by raising the insured level to 50.000 euro in 2008. For a further improvement of this system, the authorities will complete the actual system financing with system access, if needed, to the privatization incomes (currently they represent 11,6 billions RON) kept into the Treasury's account opened at NBR. In the same time, Romania will have to make some legal improvements to enlarge the activation basis of deposits guarantee and for payments acceleration, also a structural reference point (Isărescu, 2008, pp.23-25).

NBR will continue to improve the banking regulation and supervising frame. This will cover a more detailed reporting requirement regarding the liquidities and, when the time is right, the rise of the minimum level of the capital adequacy ratio from 8% to 10%. Authorities also commit to harmonize the Romanian financial accounting standards to the international practice as it is reflected in the International Financial Reporting Standards (IFRS). Adopting IFRS will reduce the regulation burden for the trans-national corporation and banks and will ensure a more transparent frame for FDI.

IMF thinks that by obtaining some commitments of maintaining the liquidity from the branches of the main foreign banks that operate in Romania, program contribute to the diminishing of the external financing deficit and in the same time strengthen the system. The step made for the stress tests and banks recapitalization before appearing some major deficiencies will determine the rise of trust and the diminishing of bankruptcy risks. Eventually, if difficulties still appear, the measures for consolidation of the deposit guarantee system and of the frame for banks clearing will reduce the risk that the problems of one bank to generate systemic difficulties (Pauwels, 2009, pp.11-14).

NBR's improvements made in the supervising and liquidity management area will also contribute to strengthening the stability of the banking system and will support its permanent access on the global financial markets. Particularly, the

---

<sup>8</sup> \* \* \* *"Romania - Stand-by Arrangement with IMF"*, April 2009, pp. 12-22.

authorities should adopt measures to improve banks access to liquidities, inclusive by extending the range of assets that can be used for guaranteeing the loans granted by NBR to banks and by removing the constraints of assuring temporary guarantees for inter-banking loans.

## 6. Conclusions

For the first time, after a long period, investments and “supply side” reforms become priorities and this means an increase of the purchasing power by diminishing the taxes and interest rates, especially for the mortgage credits. In the same time, the government’s consensus for granting fiscal incentives and for governmental spending reduction implies a comeback to the Keynes’s anti-crisis policies.

Although the traditional model of universal banks resisted much better to crisis, it is under the change pressure. European universal banks offer the whole range of financial services under the same “roof”. These “financial supermarkets” are, their own, seeking for some specific competences and real talents for facing well the competition, and this will lead to a better choose of personnel, to a reshape of subsidiaries and to implementation of new technologies. Consolidation still remains an actual matter, although German, Ostrich and Swiss banks have already took important parts of their Italian, French and Belgian “sisters” (Gaftoniuc, 2009).

Crisis lessons were hard and the recovery proves to be difficult. The first lesson that can be underlined from here is that, in a globalize economy, an economic crisis can’t be isolated to a single country or to a single region, and the recovery has to be concerted.

Secondly, the ride for high profits and the greed of the banks leaders contributed not only to some high risks and to an irresponsible financial or managerial behavior, but also to the set up of a global imbalance. The trends toward inequality must be reversed now, by solutions on a long-term and by avoiding the short-term ones. Now, there is a consensus regarding the increase of the governments’ role, but we can’t say for the moment how important this will be in the future. Anyhow, the banking crisis would have been more severe without a strong public backup.

Another matter is re-enhancing the trust, because this is hard to get and easy to loose. The lost of trust in the global financial system lead the international economy to recession. Banks are suffering the most now because of loosing their reciprocal trust and this determined also artificially the lack of liquidities.

Finally, among the solutions offered by specialist like Mundell or Stiglitz, Keynes’s dream is back and it regards the launch of a common international currency (Keynes named it ‘bancor’ and IMF called it SDR or special drawing right) to support better the aggregate global demand, plus a concerted regulation and supervision of the international markets.

## REFERENCES

- Cihák, M., Fonteyne W., (2009), Five Years After: European Union Membership and Macro-Financial Stability in the New Member States, *IMF Working Paper*, 68, pp.1-25.
- European Department, (2009), *Romania - Stand-by Arrangement with IMF*, Bucharest, April, pp.12-22.
- Gaftoniuc, S., (2009), Reinventarea bancilor. Expansiunea creditului si "economia în trei timpi", *The Romanian Economic Journal*, 31(1), pp.31-43.
- IMF, (2009a), *Regional Economic Outlook – Europe addressing the crisis*, May, pp.15-49.
- IMF, (2009b), *World Economic Outlook – Crisis and recovery*, April, pp.21-53.
- IMF, (2009c), *Initial Lessons of the Crisis*, Research, Monetary and Capital Markets, and Strategy, Policy, and Review Departments, February, pp.61-85.
- Isărescu, M., (2008), Romania in the Context of the Global Financial Crisis – An Overview, *National Bank of Romania Studies*, December, pp.23-25.
- Jickling, M., (2009), Causes of the Financial Crisis, *Congressional Research Service Papers*, January, pp.34-36.
- Pauwels, St., (2009), Romania: unwinding imbalances – need for fiscal consolidation, *Ecofin Country Focus*, 6(1), pp.11-14.
- World Bank, (2009), *The Unfolding Crisis Implications for Financial Systems and Their Oversight, Financial Systems*, Development Economics Departments and the Poverty Reduction and Economic Management Department, October, pp.28-41.

## RETRACT OF CONSENT, UNDER THE REGULATION OF THE ROMANIAN CONSUMPTION LAW

JUANITA GOICOVICI<sup>1</sup>

**ABSTRACT.** The article encompasses the four main zones of incidence, in the Romanian legislation, of the consumer's right to retract the prior consent, namely the contracts concluded outside commercial spaces, contracts agreed at distance, including electronic bargains, credits offered to consumers and time-sharing contracts. First, we briefly discuss the various possibilities of consent withdrawal, as described by national law and examine the discretionary character of withdrawal rights. Next, attention will be given to concrete aspects of retract exercise and to the question whether it is possible for retracts to be seen as cases of progressive formations of agreements. Finally, some attention will be given to the sanctions which can be found in Romanian Consumption Law, as attached to the violation by professionals of consumers' right to revoke the prior consent.

**Keywords:** *retract; consent; consumer; contract; withdrawal rights.*

**JEL classification:** D1, D18, K42

### Introduction and Review of Literature

The Romanian legislation on rights of retract allocated to consumers is incoherent and therefore rather complex. There is no framework legislation regulating the various withdrawal rights in relation to the different categories of contracts producing dangerous patrimonial effects. On the contrary, the various types of retract arising from punctual agreements concluded by professional and consumers have become the basis for distinct regulations. Consequently, contemporary Romanian Consumption Law encompasses four main zones of incidence for the legal consumer's right to unilaterally denounce a commercial contract, no duty to motivate the decision being attached. For instance, in the case of *contracts concluded at distance*, regulated by the Ordinance no. 130/2000 on consumers' protection in the field of the formation and the compliance to contracts concluded at distance, later modified, the consumer is entitled to revoke the prior consent during 10 laboring days, no penalties being due to the professional vendor, by virtue of article 7.

---

<sup>1</sup> Teaching Assistant, PhD., Babeş-Bolyai University, Faculty of Law, Cluj-Napoca, Romania, email: jgoicovici@yahoo.com

On the other side of the coin, the consumer benefits of a similar withdrawal rights in the perimeter of *contracts concluded outside commercial spaces*, as regulated by articles 3, 4 and 9 of Ordinance no. 106/1999 on contracts concluded by consumers outside commercial locations, recently modified, which allows the consumer to unilaterally denounce such conventions during a period of “7 laboring days since the product delivery date”.

Third, *time-sharing contracts*, regulated by article 6 of Law no. 282/2004, are subjected to the consumer’s legal prerogative to unilaterally denounce the contract on time-sharing property, no duty to motivate his / her decision being attached, during a period of “10 calendar days since the signing of the contractual provisions or, upon case, since the signing of a pre-contractual agreement”. Finally, the concept of retract in the field of *consumption credit* has been recently regulated in the Romanian law, by Ordinance 50/2010 on credit contracts concluded by consumers<sup>2</sup>, as a transposition of the European Directive 2008/48/CE of the European Parliament and of the European Council from April 23<sup>rd</sup> 2008 on the credit contracts concluded by consumers (repealing the European Directive 87/102/CEE of the European Council). The latter ordinance provides a set of imperative norms, destined to avoid excessive bargain formation in the field described. According to article 58 of Ordinance no. 50/2010 on the credit contracts concluded by consumers, the consumer benefits of a legal right of retract, which may be exercised during a period of 14 days since the credit bargain has been signed.

Retract of consent describes the consumer’s right, allocated by a legal text, to revalue his/her consent, during a legal period of 7, 10 or 14 days, upon the case, since the conclusion of a bargain, based on a sufficient evaluation of the risks and benefits involved by the formation of the contract and therefore deciding on the opportunity of remaining in the field of the contractual relations established or leaving the conventional sphere, no duty of motivating his/her decision being attached.

Generally, the mentioned right has a discretionary, non-onerous character and is utilized by the legislator in order to temporize the bargain formation, as the consumer needs time to reflect upon the various consequences of contractual relations proposed by the professional. Based on his/her right to retract the prior assent, the consumer is enabled to unilaterally denounce the contract, by returning the product to the vendor during the legal period fixed by the legislator, which is, for instance, 7 laboring days from the delivery date, according to article 9 and 10 of Law no. 106/1999 on contracts concluded outside commercial spaces, respectively 10 laboring days from the delivery date, in case of contracts concluded by distance, as article 7 of Ordinance no. 130/2000 on consumers protection regarding the formation and the execution of contracts concluded by distance describes it. Unfortunately, from the angle of the Romanian Consumer Law, the delivery date

---

<sup>2</sup> The Ordinance 50/2010 on credit contracts concluded by consumers was modified by Law 288/2010, published in the Official Monitor of Romania no. 888/30 December 2010.

may raise difficulties in terms of proves retained by consumer, since the text of Ordinance no. 130/2000 lacks details on the party (vendor or consumer) whose duty to make the proof is; most probably, in practice, the judge will apply the procedural principle of placing the burden of the proof on the shoulders of the party whose allegations constitute the litigious object.

The article also emphasizes the discretionary character of the legal right of retract, referring to the fact that the author of withdrawal is subjected to no duty to motivate his/her retract, the option being not censurable by courts of law; similarly, as underlined in the lines below, the exercise of the consumers' right to retract the prior assent does not depend upon any action or reaction of the professional party to the contract, as the right described is always unilaterally exercised<sup>3</sup>.

The moment of the contract formation has been playing the role of Paris' apple in the doctrine of Consumer Law, since the courts' orientation seems to be, in practice, that of applying the theory of the emission of acceptance (by the consumer), from that moment on the professional vendor being unable to retract or modify the offer (Raymond 2008; Piedelièvre 2008). The debate on the moment of the contract complete formation seems however to lose its importance in the presence of professionals legal duty to maintain the offer during the period indicated in its text, respectively during a reasonable period of time, necessary for the consumer in order to analyze the terms of the offer and to make a decision upon its acceptance.

In general, previous studies have revealed the importance of the three main causes of producer's exoneration (victim's fault, non commercial purpose of distribution, compliance to imperative legislation in force) in the economy of the type of liability in discussion (Apan 2007; Popa 2005)<sup>4</sup>. For instance, one stream of research has found that producer's liability is not to be retained in cases when victims have negligently ignored instructions in the use of product, while the informational default – including on the terms and conditions of the exercise of withdrawal rights – represents, on the contrary, one of the aggravating circumstances of professional's responsibility (Berenger 2007; I. F. Popa 2003)<sup>5</sup>. A third body of literature, which focused on general paradigms of responsibility related to contracts concluded by consumers in legal systems similar to the Romanian one, as the French system, found that the retract right may be described as a prerogative of unilateral control, since it implies for the consumer a judicial power of control over the formation of the contract, whose progressive character is to be underlined

<sup>3</sup> The acceptance of the offer also implies the use of a communication at distance technique.

<sup>4</sup> For the fully discussed topic of consumer's right to denounce a credit contract, see R. D. Apan (2007), *Protecția juridică a consumatorilor. Creditul destinat consumului și domeniile conexe*, Sfera juridică, Cluj-Napoca, pp. 195-217; the professionals' liability principles are commented by I. F. Popa (2005), "Notă critică, Tribunalul Cluj, decizia civilă nr. 584/R/2004", *Pandectele române*, no. 6, pp. 127-129.

<sup>5</sup> For further details, see D. Chirică (2008), *Tratat de drept civil. Contracte speciale*, C. H. Beck, București, pp. 437-467; I. F. Popa (2003), "Obligația de securitate – mijloc de protecție a consumatorului", *Dreptul*, no. 3, pp. 61.

(Mirabail 1997). Another important study investigated Romania's compliance to EU law from the angle of the non liability clauses and their effects on the essential duties generated by contracts concluded between professionals and consumers (Chirică 2008). Generally, these studies found that, in order to respect the European Directive provisions, an exonerating clause is not efficient in cases when attempting to extirpate from the contractual body one of the essential elements of the contractual object; consequently, a clause depriving the consumer from his / her legal right of retract is inefficient and may be repressed as abusive.

In the field of Romanian Consumption Law, analyzes of the consumers legal right of consent withdrawal were sporadic, the major characteristics of retract rights reserved by convention remaining unexplored and unexploited. While previous research has attempted to determine whether the legal modalities of exercise allocated to withdrawal rights, from the informative contractual forms angle, may be seen as cases of progressive formation of agreements, the extent to which criteria such as consumer's legitimate expectations, on one hand and foreseeable use of product, on the other hand should be used while establishing professionals' liability for violating withdrawal rights remains unknown. This is an important gap in the literature because a prominent aspect of civil liability states that the legal faculties of contract breakage have as an objective the retardation of the making of contracts process and therefore represent cases of progressive formation of consent. The proposed theory thus surpasses the traditional criteria of establishing the withdrawal rights main sphere of incidence, implying an analysis of the opposability between the restrictive thesis and the extensive thesis regarding the withdrawal rights main sphere of incidence

Further, recent legal theory does not place equal emphasis on the lack of homogenous sanctions existing in the Romanian Consumption Law, in respect to withdrawal rights violations. In fact, sanctions applicable to professionals' violation of informative formalities attached to the exercise of retract are far from being unitarily regulated, since they have been prescribed by the legislator for each type of contract, as follows: (a) in the case of contracts concluded at distance, the product is considered to be delivered without request, the consumer being exonerated of all commercial duties, such as payment of price or product return; (b) as far as contracts concluded outside commercial locations are concerned, if the professional did not communicate in written the legal period of retract, the mentioned period is automatically prolonged by 60 laboring days; (c) in the case of contracts on tourist services, the non respect of informative formalities attached to the exercise of retract is considered contravention, punished by an legally fixed penalty, by virtue of articles 31 and 32 of the Ordinance no. 107/1999, later modified; as a contravention is seen also the non respect of consumers' right of retract by professional bankers, as described by Ordinance no. 50/2010 on contracts of credit concluded by consumers. Provisions aiming at the sanctioning of concrete endangerment of legal values attached to consumer's consent protection can also be found in the Romanian Consumption Code and are therefore usually of more recent date than those found at the end of a substantial consumerist law (regulating various types as agreements,

such as Ordinance no. 130/2000 on contracts concluded by distance or Ordinance no. 106/1999 on contracts concluded outside commercial spaces, for instance).

## II. Material and Method. Traditional Approaches Disputed

The research engaged has its starting point in the absence – in the Romanian Private Law – of specialized literature and theoretical / practical paradigms in the field of the retract of consent. Therefore, the main goal of the research lied in the elaboration of a general theory of the unilateral rights of retracts, surpassing the traditional lack of insight into what the legal withdrawal of agreements requires. The study encompasses new concepts and analyses, such as the investigation of the judicial nature and regime of consent withdrawal, emphasizing the rationality of the legal rights of retract allocated to consumers in the sphere of distance-making sales and of time-sharing contracts, delimiting judicially censorable / non-censorable rights of retract, investigating the incidence of the progressive making of contracts theory in the field of contractually reserved rights of retract, and establishing the theoretical fundaments of the withdrawals of consent, as well as the morphology of retracts from the perspective of anticipatory consent. Having a pregnant inter-disciplinary character, the project proposes an investigation, doubled by a synthesis of the various species of retract in major spheres of Romanian Private law, such as Consumption Law (legal faculties of consent withdrawal) and Contracts Law (commercial pacts)<sup>6</sup>.

The elaboration of the unilateral rights of retracts theory helps surpassing the traditional lack of insight<sup>7</sup> into what the legal withdrawal of agreements requires. The research was oriented especially to practical problem-solving, such as those

<sup>6</sup> The general theory of the unilateral rights of retract, in the field of the Romanian Private Law, integrates all types of assent withdrawal, revoking and retract of consent exercisable in major areas of Private Law, such as Civil and Commercial Contracts Law (revoking the offer; the *ad nutum* revoking of assent; transactions withdrawal; retract of assent in the case of testing-based sales; resale pacts; clauses of withdrawal; the revoking of assent role played by earnest; retracting the assent in the case of indivisible groups of contracts) and substantial Consumer Law (legal faculties of retract allocated to consumers in the field of electronic sales, sales concluded in non-commercial locations and time-sharing contracts). The research implied the extraction of common characteristics for different species of retract and the investigation of retract from the angle of transmissibility (a), non-revocability (b), indivisibility (c), unilateral character (d) and ubiquity (e) of the judicial act of assent withdrawal and of its participation in the process of progressive making of agreements (f). See, for further details, S. Mirabail (1997), *La retraction en droit privé français*, L.G.D.J., Paris, pp. 211 and 245-261.

<sup>7</sup> A general theory of the consent retract in Consumption Law is unfortunately absent in the Romanian specialized literature, both the judicial doctrine and the juridical practice being not familiarized with the problematic of the mentioned judicial concept. The sole internal approach of the theme consisted in salutary analyses, unfortunately punctual and incomplete, based on the investigation of classical species of withdrawal rights (withdrawal of assent clauses, resale pacts attached to a sale convention, earnest playing a retract role etc.). For instance, the retract exercised on the base of a resale pact attached to a sale contract was episodically investigated in case studies and the unilateral nature of withdrawal of assent rights was mentioned in analyses allocated to the concept of unilateral control in the field of subjective rights. Similarly, the rare references made, for instance, to the subject of the patients' right to retract their assent on the bases of the insufficiency of information delivered kept unsolved legal problems as the progressive formation of consent to a medical act.



related to the judicial nature and regime of consent withdrawal, the discretionarily exercised retracts theory, delimiting rights to withdrawal from retractable pacts, establishing the transmissible prerogatives in the field of retractable agreements, the concept of the legal right of retract allocated to consumers in the sphere of distance-making sales and of time-sharing contracts, delimiting judicially censorable / non-censorable rights of retract, investigating the incidence of the progressive making of contracts theory in the field of contractually reserved rights of retract, establishing the theoretical fundaments of the withdrawals of consent excepted from the use of indirect actions, the analyze of the non-transmissibility of retracts based on the *intuitu personae* character of the implied right, theories on the withdrawal of consent, the morphology of retracts form the anticipatory consents perspective.

In addition, the lack of regulation, in the Romanian Consumer Law, of the free credit is to be underlined. To gain this understanding, the project discerns the common thread running through this legal area: namely, the excessive contractual duties of consumption credit are to be avoided by special protective norms applying to these contracts formation, such as those contained by the recent adopted Ordinance no. 50/2010 on the credit contracts concluded by consumers. The consumer's right to retract his/her consent and the legal time to reflect on the content of the professional's offer – though highly unknown, as legal procedures, in the traditional Civil contracts law – represent major research themes, in the European contemporary specialized literature. The project reveals – for the first time in the Romanian legal literature – the related nature of the two procedures, as that future specialist will be able to understand them in operation, throughout consumption contracts formation. A discussion of theories on the legal time allocated to consumers in order to reflect on the content of commercial offers – which describe a procedure whereby consumer is forbidden by law to accept an offer within a period of 7-10 days, in order to clearly analyze the offers content and to decide wisely – necessitated additional definitions provided by significant papers published in the mentioned field.

The project implementation implied sequential research on the existence of unilateral control prerogatives in the field of withdrawal acts, analyzing the *residual* judicial prerogatives of control over the abusive exercise of withdrawal rights, neutralizing unilateral retract inside a group of contracts at the level of its practical reverberations, establishing taxonomies for rights of retract in the sphere of indivisible groups of contracts and discussing the existence of withdrawal rights in the field of testing-based sales, while establishing the consequences of its deviant judicial regime.

#### *a. Progressive Making of Agreements – Practical Consequences*

As mentioned above, in the contemporary Romanian Consumer Law, the legal sphere of incidence allocated to revoking rights includes punctual areas such as the contracts concluded outside commercial spaces (a), the contracts concluded

by distance (b), the time-sharing legally binding pacts (c), the contracts on travels organizing (d), the contracts of credit concluded by consumers (e) and the contracts formed by using electronic means (f). The formation process implies, in the case of the mentioned contracts, that the original consent provided by the consumer is insufficient for the contract to be legally binding, the legislator presuming the insufficiency of information during pre-contractual relations, as the consumer needs a supplementary period of time in order to clearly evaluate the risks and the opportunities attached to the respective contract. Accordingly, the consumer's prior assent needs to be doubled by a secondary (final) consent to the same convention, which is to be expressed during the period of 7, 10 or 14 laboring days since the provisional contracts had been signed. Only the secondary assent is able to finalize the bargain formation, as a confirmatory judicial acceptance act needs to take place in order for the bargain to become legally binding for the consumer, by non-using, upon his/her will, the retract discretionary right allocated by law. The retract right implies for the consumer a judicial power of control over the formation of the contract, whose progressive character is to be underlined.

Turning to the concept of time-sharing property, the mentioned notion usually describes a species of real estate characterized by an intellectual (abstract, non-physical) division of ownership rights, based on equal or alternative time units, each unit of time entitling the part-time owner to exclusively exercise his/her legal powers, as defined by Law no. 282/2004 on owners' legal protection in the field of contracts having time-sharing property as object. Proposed to consumers for real estate situated in tourism areas mainly, these offers represent an alternative to the more expensive acquisitions in plain property; according to the cited text of law, time-sharing contracts are concluded for a minimum period of 3 years and generate an immediate obligation for the consumer to pay the amount of the global price corresponding to the time units convened. Justified by the risks attached to the generally large period of time making the object of the concluded contract, consumer's right to discretionarily revoke his/her prior assent may be exercised during a period of 10 laboring days since the contractual documents have been signed.

One important sphere of retract incidence in the Romanian Consumption Law worth mentioning is that of contracts concluded outside a commercial location, in which cases the consumer is entitled, upon will, to unilaterally denounce the agreement, during a period of 7 laboring days since the bargain has been signed or, in some cases, since the product delivered has been received by the client, as article 9 of Ordinance no. 106/1999 on contracts concluded outside commercial spaces, modified, clearly stipulates. The contractual parties are allowed to agree upon a larger period of time for the exercise of retract right, exercise which may take place by using a written, recommended letter, as the legislator requested. Notification of the professional upon the exercise of the unilateral retract right exonerates the consumer of any contractual obligation the denounced contract may have primarily generated, with the only exception of the consumer's duty to return the product to

the vendor, subsequent to contract dissolution. Omission of professional vendor to inform the consumer on the existence of the legal right of retract is sanctioned by automatic extension of the legal period of retract to 60 laboring days, according to article 10 of Ordinance no. 106/1999 on contracts concluded outside commercial spaces, modified.

On the other hand, in the field of contracts concluded by distance, consumer's right of retract may be exercised during a period of 10 laboring days since the product has been delivered, according to article 7 of Ordinance no. 130/2000 on contracts concluded by distance, modified, no duty to motivate his/her refuse to maintain the product being attached, the only costs supported by the consumer being those implied by the returning of the product to the vendor process. The 10 days term begins, for products delivered, with the day after the reception of the product and, respectively, for services, with the day after the bargain concluding, supposing that the consumer has been properly informed, using a written document, on the existence of the legal right of retract. In cases implying a violation of the professional's duty to inform the client, the later may express his/her refuse during an extended period of 90 days since the reception of the product and, respectively, for services, since the bargain concluding. According to article 8 of Ordinance no. 130/2000 on contracts concluded by distance, modified, if the consumer exercises the legal right of retract, the professional vendor is compelled to return the price paid by the prior, respecting the legal period of 30 days form the receiving of the notification regarding the consumer's option to unilaterally denounce the contract.

#### *b. Focusing on the Rationale of Withdrawal Rights*

The legal faculties of contract breakage have as an objective the retardation of the making of contracts process, representing cases of progressive formation of consent. The proposed theory surpasses the traditional criteria of establishing the withdrawal rights main sphere of incidence, implying an analysis of the opposability between the restrictive thesis and the extensive thesis regarding the withdrawal rights main sphere of incidence. For instance, the contracts concluded by distance represent contracts of sale having a professional and a consumer as parties, exclusively utilizing, in the bargain making process, at least one of the communications at distance techniques enumerated by Ordinance no. 130/2000 on the contracts concluded by distance, modified (printed letter, e-mail, fax machine, automatic calls etc.). In case of telephonic communications, at the beginning of each conversation, professionals are compelled to declare the commercial purpose of the call initialized, the sale rule being in force in the field of advertising messages communicated by phone, according to article 3 of the mentioned ordinance).

These bargains present the particularity of imposing a commercial decision to the consumer in the absence of the possibility of physically entering in contact with the product offered by the vendor and of priory testing the product. The advantages implied by a sale concluded at distance, such as economy of time and

effort, are doubled by the risk of being persuaded by the vendor's offer without consulting other parallel offers formulated by competitors or the risk to compulsively buy goods whose characteristics are not clearly stated in the text offer. Utilizing a communication at distance technique implies a progressive making of the agreement, in three steps: (1) emission of the professional vendor's offer; (2) acceptance of the offer by the consumer, also using a communication at distance technique; (3) confirmation of the reception of acceptance, consumer's consent progressively maturing by non-using, upon will, his/her legal right of retract during the 10 laboring days form the delivery date.

### *c. Oversight on the Technique of Agreement Retardation*

Traditional authors had difficulty visualizing a judicial figure of a progressive formation of contracts concluded by consumers, based not only on the acceptance of the professionals' offer, but also on the non-exercise of the consumer's legal right to retract or maintain his/her consent during a legal period of 7 to 10 days (or, in some cases, 14 days) from the emission of his/her prior assent. However, in practice, cases in which complex contracts are subject to a progressive, non-instant formation tend to be frequent, especially in the sphere of credits offered by bankers, contracts concluded by the internet or outside commercial spaces etc. The obvious purpose of an assignment is to create an interest in the assignee, which the assignee would then assert. The internal law courts, lack of specialized literature and of express regulations, are not consistent in the policies they asserted in the field of the contractual transmissibility of bargains or in the field of progressive formation of the contractual assent. Therefore, the study we propose aims at influencing further absorption, in the Romanian Private Law, of new concepts recently developed in the European Contracts Law. The mentioned part of the research focuses on formulating theories in the field of rights of retracts reserved by assent, implying the correlation between the clause of withdrawal effects and the progressive formation of contracts theory, the resale agreement attached by the vendor – the investigation of validity conditions and of judicial effects, delimiting withdrawal rights, commitment pacts and resolution clauses and, finally, discussing the role played by earnest in the field of assent withdrawal.

The first scientific instrument at stake is the investigation of the withdrawal rights main sphere of incidence, which encompasses a critical analysis of the traditional criteria of establishing the withdrawal rights main sphere of incidence, followed by an analysis of the opposability between the restrictive thesis (a) and the extensive thesis (b) regarding the withdrawal rights main sphere of incidence; the theoretical evaluation of the opposability between the voluntary (a) and the legal (b) withdrawal of assent; the investigation of the judicial acts of unilateral formation (a) and of bilateral formation (b), as generators of private norms; delimiting judicial private norms of abstract character (a) and of concrete character

(b) and, respectively, establishing the fundamentals of withdrawal rights in the field of negative acts (a), declaratory acts (b) and efficient acts (c).

The second part of the research focuses on formulating theories in the field of rights of retracts reserved by assent, implying the correlation between the clause of withdrawal effects and the progressive formation of contracts theory, destined to analyze the judicial nature and the judicial regime allocated to the withdrawal rights, encompassing the investigation, delimiting discretionary prerogatives form non-discretionary prerogatives / controlled by the judge.

### **III. Results and Discussions. Rationale for Consent Retract in the Field of Consumer Law**

The legal faculties of contract breakage have as an objective the retardation of the making of contracts process, representing cases of progressive formation of consent (Picod, Davo 2005). The theory proposed by us surpasses the traditional criteria of establishing the withdrawal rights main sphere of incidence, implying an analysis of the opposability between the restrictive thesis and the extensive thesis regarding the withdrawal rights main sphere of incidence, the theoretical evaluation of the opposability between the voluntary and the legal withdrawal of assent, the investigation of the judicial acts of unilateral formation and of bilateral formation, as generators of private norms, while delimiting judicial private norms of abstract character and of concrete character and, respectively, establishing the fundamentals of withdrawal rights in the field of negative acts, declaratory acts and efficient acts.

The term of “progression of agreement” also refers of the most recent theory in the field of civil and commercial contracts formation: the contractual transfer of agreements is an example of a *progressive making* of a bargain, implying a three-step process: (1) the offer to transfer the contractual situation, (2) the acceptance of this offer, by the assignee and (3) the anticipatory consent to the transfer, delivered by the assignor and referring to the assignee identity, the last one being a confirmatory consent (consent of agreement). The distinction is critical in the frequent cases which involve both an assignment of rights and a delegation of contractual duties. Rights and liabilities of the parties following valid delegation of duties are different form those arising from a valid transfer of agreement. If the delegation arises out of a transaction in which the delegating debtor bargained to have another take over his / her contractual duties, he / she may have extracted an express promise to perform for the delegated new debtor. On the other hand, the complete liberation of the assignee marks the main effects of a contractual transfer of agreement.

The direction of research mentioned implies the correlation between the clause of withdrawal effects and the progressive formation of contracts theory, as revising traditional received theories from this new angle therefore promises to yield many new insights. A number of aspects of progressive contract formation that have troubled previous scholars would become more intelligible. This research

suggests accurate relationships between the progressive making of agreements and the theory of the retractable character of consent. In addition to laying new paths for further research, a comparison between the traditional concept of substantial consent and the new concept of anticipatory consent would foster legal reform initiatives of regulating the contractual transfer of agreements<sup>8</sup>.

*a. Withdrawal of Assent Rights Allocated in Consideration of the Distribution Techniques: the Case of Contracts Concluded by Distance or Outside Commercial Spaces*

The contracts concluded by distance represent contracts of sale having a professional and a consumer as parties, exclusively utilizing, in the bargain making process, at least one of the communications at distance techniques enumerated by Ordinance no. 130/2000 on the contracts concluded by distance, modified (printed letter, e-mail, fax machine, automatic calls etc.). In case of telephonic communications, at the beginning of each conversation, professionals are compelled to declare the commercial purpose of the call initialized, the sale rule being in force in the field of advertising messages communicated by phone, according to article 3 of the mentioned ordinance). These bargains present the particularity of imposing a commercial decision to the consumer in the absence of the possibility of physically entering in contact with the product offered by the vendor and of priory testing the product. The advantages implied by a sale concluded at distance, such as economy of time and effort, are doubled by the risk of being persuaded by the vendor's offer without consulting other parallel offers formulated by competitors or the risk to compulsively buy goods whose characteristics are not clearly stated in the text offer. Utilizing a communication at distance technique implies a progressive making of the agreement, in three steps: (1) emission of the professional vendor's offer; (2) acceptance of the offer by the consumer, also using a communication at distance technique; (3) confirmation of the reception of acceptance, consumer's consent progressively maturing by non-using, upon will, his/her legal right of retract during the 10 laboring days form the delivery date period.

Delimiting the lines of retract rights in the field of offers with nominal and non-nominal addressee and, subsequently, the analyze of juridical consequences in the case of abusive withdrawal of an offer (by the professional vendor) after its arrival to destination and of offers fixed in the text of a promise to contractual assent permits establishing the fundamentals of the author's duty to maintain the commercial proposal during the allocated period of reflection, while analyzing

---

<sup>8</sup> An analyze of the judicial nature and of the judicial regime allocated to the withdrawal rights would encompass the investigation of the unilateral nature of withdrawal rights, while delimiting discretionary prerogatives form non-discretionary prerogatives / controlled by the judge and determining rights of retract and legal faculties of withdrawal, followed by analyses allocated to the categories of transmissible and non-transmissible rights of retract. The elaboration of a general theory of the unilateral rights of retracts helps surpassing the traditional lack of insight into what the legal withdrawal of agreements requires, while exploring themes such as the judicial nature and regime of consent withdrawal.

judicial manifestations contributing to the formation of unilateral acts of reception. The study of the progressive formation of certain types of consumption contracts such as contracts concluded by distance and electronic contracts implies the establishment of both theoretical and practical elements regarding the remedies in the field of unlawful refusal to bargain, encompassing the theme of unlawful/lawful reasons to refuse a contract formation solicited by the consumer. Secondly, the elaboration of a duty to advise the client theory implies defining it as a duty of result and not a merely duty of prudence and diligence, which circumscribes the specific functions and the sphere of applicability for the professional's duty to inform and/or advise the consumer. The intent of the described analysis is to correct the classical vision on these contractual duties, as to distinguish between the circumstantial advice, the solicited advice and the formation of contract on the assumed risks of the client.

The investigation of the retract existence in the field of consumers legal protection, in the case of contracts concluded outside commercial spaces, is to be focused on the analyze of withdrawal rights generated by sales concluded in non-commercial locations and on discussing theories formulated on the legal right of consumers to retract the assent in the field of electronic sales, followed by the study of the legal right of consumers to retract the assent in the field of time-sharing contracts, the identification of legal terms and conditions affecting the exercise of consumer's withdrawal rights and an analysis of the legal sanctions applicable to hypotheses of consumer's withdrawal rights violations. The legal formation of certain consumption contracts is therefore based on the legal time to reflect on the content of the offer – fixed by law, in certain cases, at 7-10 days, in order to avoid impulsive, not wise acceptance of the offer. The mentioned theory allowed us to identify theoretical premises for a progressive kind of contract formation, in the field of consumption credit mostly. Accordingly, the focus of attention must be upon the legal concept of the maturing of agreements. An accurate glance through any judicial situation of consumption – in the case of contracts concluded by correspondence – is a sufficient reminder of the risk that consumer's credulity or lack of experience will be exploited by the professional party<sup>9</sup>. Consumer's agreement may be manifested wholly by the non-exercising of his/her legal right to retract his/her prior will. An additional aim of this study is to suggest some of the difficulties encountered when one attempts to define the judicial nature of the consumer's right to control the contract formation by retracting his /her prior assent.

---

<sup>9</sup> The primary aim of the sequential research was to examine the rules and techniques employed by the legislator in determining whether agreement between the professional and the consumer has been achieved to such an extent that legal consequences should follow. See N. Rzepecki (2002), *Droit de la consommation et théorie générale du contrat*, Presses Universitaires d'Aix-Marseille, Marseille, pp. 118-123.

*b. Legal Rights of retract Allocated in Consideration of the Nature of Commercial Operations: the Case of Time-sharing Contracts*

The concept of time-sharing property describes a species of real estate characterized by an intellectual (abstract, non-physical) division of ownership rights, based on equal or alternative time units, each unit of time entitling the part-time owner to exclusively exercise his/her legal powers, as defined by Law no. 282/2004 on owners' legal protection in the field of contracts having time-sharing property as object. Proposed to consumers for real estate situated in tourism areas mainly, these offers represent an alternative to the more expensive acquisitions in plain property; according to the cited text of law, time-sharing contracts are concluded for a minimum period of 3 years and generate an immediate obligation for the consumer to pay the amount of the global price corresponding to the time units convened. Justified by the risks attached to the generally large period of time making the object of the concluded contract, consumer's right to discretionarily revoke his/her prior assent may be exercised during a period of 10 laboring days since the contractual documents have been signed.

The establishing of the judicial regime for the exceptional rights of retract, such as those allocated to consumers in the case of time-sharing contracts, implies the classification of withdrawal rights excluded from the indirect action sphere of incidence (Poillot 2006), while elaborating new theories on the personal rights of retract, attached to the entitled subject and enouncing the fundamentals of exclusion form the indirect actions sphere of withdrawal rights allocated to consumers. The second part of the research process focuses on the consumers control over contract formation in the case of contracts concluded on time-sharing and necessarily continues the discussion of terminology regarding the concepts of legal rights to denounce a contract. A particular attention will be paid to the irrevocable character of the consumer's will to breach the contract (a) and to the indivisibility of its object (b). By law, the consumer is provided with the opportunity to denounce the time-sharing contract in 10 days form the use of signatures, by retracting his/her prior assent, without any necessary explanations due to the professional. The examination of the concepts of discretionary rights also allows to show the interrelated way in which the indivisibility and the irrevocable character of the consumer's will to breach the contract actually operate.

The new theory proposed permits identifying the category of non-transmissible rights of retract, by establishing the fundamentals of the non-transmissible character in the case of certain withdrawal rights from the perspective of universal successors of the entitled subject, doubled by the analyze of legal and contractual non-transmissibility of withdrawal rights born in the sphere of time-sharing contracts, from the perspective of particular successors of the entitled subject, while analyzing the non-transmissibility of withdrawal rights implied by their *intuitu personae* character.



*c. Proposing the Absolute - Relative Reserves Dichotomy*

This distinction between absolute (a) and relative (b) contractual reserves is critical in the frequent cases which involve both an assignment of rights and a delegation of duties, as the subject remains of the utmost importance in considering the lack of doctrinal analysis on the subject, in the contemporary Romanian Law. By *absolute reserves* we design the stipulations inserted in the contractual text by one of the parties in order to circumscribe the addressability of the offer / acceptance, stipulations impossible to all potential addressees. On the contrary, a *relative reserve* has a limited opposability, as only some of the addressees are referred to.

As to the arguing of the *indivisible* character of the retract prerogatives, in determining the exception defenses available to the assignee, one must first distinguish between real or objective defenses (a) and personal or subjective defenses (b). Real defenses are those which show that no contract was validly formed, or that there was fraud in the execution of the contract. On the other hand, personal defenses generally admit the formation and proper execution of the contract, but assert some bar to its enforcement. The reason it is necessary to distinguish between real and personal defenses is because all assignees take subject to real defenses. On the contrary, assignees take subject to personal defenses only to the extent indicated in the transfer of the agreement provisions. Similarly, if the debtor has executed an enforceable waiver or whatever defenses he or she has against the assignor, he or she will be barred from later asserting such defenses against the assignee.

As mentioned above, the concept of consent retract in the field of consumption credit has been recently regulated in the Romanian Private Law, by Ordinance 50/2010 on the credit contracts concluded by consumers, as a transposition of the European Directive 2008/48/CE of the European Parliament and of the European Council from April 23<sup>rd</sup> 2008 on the credit contracts concluded by consumers (repealing the European Directive 87/102/CEE of the European Council), ordinance which provides a set of imperative norms, destined to avoid excessive bargain formation in the field described. Though apparently complete, the Romanian regulation does not provide any special procedure for excessive accumulation of contractual duties by consumers, unlike the French legislator, whose option to provide efficient remedies for bankers abuse was clearly expressed by the adoption of a legal moratorium procedure. As to the Romanian Consumption Law, an alternative to the present sanction applicable to non-formal credit contracts – the null and void act rule – which is an visibly excessive option – would be the nullification (by the court, upon written request of the consumer) of the contract or the remedy consisting in the mitigation of creditor's stipulated interests.

Simply stated, the test is whether, if the judicial instrument of the retract rights is used by the legislator to temporize the formation of certain commercial contracts, considered to present a exceptional amount of economic risks for the consumer, as a contractual party, the excessive debt will be avoided to a substantial amount or, on the contrary, the lack of judicial education and of information would

retain consumers from exercising their discretionary legal rights. A corollary to the matter mentioned above is that, since the professionals vendors are compelled to respect the unilateral character of the legal rights of retract, the legislator should be more preoccupied to elaborate future concrete norms describing the sanctions enforceable in case of rights violations, as contemporary legal texts do not always sufficiently stretch the legal powers allocated to the National Authority for the Protection of Consumers representatives and does not offer details on the concrete role allocated to the consumers' organizations, regarding the defense of individual or collective interests of their members.

#### *d. Retract of Assent Defined*

Retract of assent describes the consumer's right, allocated by a legal text, to revalue his/her consent, during a legal period of 7-10 days since the conclusion of a bargain, based on a sufficient evaluation of the risks and benefits involved by the formation of the contract, deciding on the opportunity of remaining in the field of the contractual relations established or leaving the conventional sphere, no duty of motivating his/her decision being attached. Generally, the mentioned right has a discretionary, non-onerous character and is utilized by the legislator in order to temporize the bargain formation, as the consumer needs time to reflect upon the various consequences of contractual relations proposed by the professional. Based on his/her right to retract the prior assent, the consumer is enabled to unilaterally denounce the contract, by returning the product to the vendor during the legal period fixed by the legislator, which is 7 laboring days from the delivery date, according to article 9 and 10 of Law no. 106/1999 on contracts concluded outside commercial spaces, respectively 10 laboring days from the delivery date, in case of contracts concluded by distance, as article 7 of Ordinance no. 130/2000 on consumers protection regarding the formation and the execution of contracts concluded by distance describes it. The legal right of retract has the judicial nature of a unilateral control right (Terry 2008), by which one understands the discretionary exercise of the right, as the author is subject to no duty to motivate his/her retract, his/her option being not censurable by courts of law; similarly, the exercise of a control right, such as the consumers' right to retract the prior assent does not depend upon any action or reaction of the professional party to the contract, as the right described is always unilaterally exercised.

As already mentioned, in the contemporary Romanian Consumer Law, the legal sphere of incidence allocated to revoking rights includes areas such as the contracts concluded outside commercial spaces, the contracts concluded by distance, the time-sharing legally binding pacts, the contracts on travels organizing, the contracts of credit concluded by consumers and the contracts formed by using electronic means. The formation process implies, in the case of the mentioned contracts, that the original consent provided by the consumer is insufficient for the contract to be legally binding, the legislator presuming the insufficiency of information

during pre-contractual relations, as the consumer needs a supplementary period if time in order to clearly evaluate the risks and the opportunities attached to the respective contract. Accordingly, the consumer's prior assent needs to be doubled by a secondary (final) consent to the same convention, which is to be expressed during the period of 7, 10 or 14 laboring days since the provisional contracts had been signed. Only the secondary assent is able to finalize the bargain formation, as a confirmatory judicial acceptance act needs to take place in order for the bargain to become legally binding for the consumer, by non-using, upon his/her will, the retract discretionary right allocated by law. Being a rights of unilateral control, the retract right implies for the consumer a judicial power of control over the formation of the contract, whose progressive character is to be underlined.

*e. Intricacies of the Romanian Legal Framework Concerning the Retract of Contractual Assent*

The concept of retract of assent in the field of consumption credit has been recently regulated in the Romanian Private Law, by Ordinance 50/2010 on the credit contracts concluded by consumers, as a transposition of the European Directive 2008/48/CE of the European Parliament and of the European Council form April 23<sup>rd</sup> 2008 on the credit contracts concluded by consumers (repealing the European Directive 87/102/CEE of the European Council), ordinance which provides a set of imperative norms, destined to avoid excessive bargain formation in the field described. According to article 58 of Ordinance no. 50/2010 on the credit contracts concluded by consumers, the consumer benefits of a legal right of retract, which may be exercised during a period of 14 days since the credit bargain has been signed.

On the other hand, the consumer is entitled, upon will, to unilaterally denounce a contract concluded outside a commercial location, during a period of 7 laboring days since the bargain has been signed or, in some cases, since the product delivered has been received by the client, as article 9 of Ordinance no. 106/1999 on contracts concluded outside commercial spaces, modified, clearly stipulates. The contractual parties are allowed to agree upon a larger period of time for the exercise of the withdrawal right, exercise which may take place by using a written, recommended letter, as the legislator requested. Notification of the professional upon the exercise of the unilateral retract right exonerates the consumer of any contractual obligation the denounced contract may have primarily generated, with the only exception of the consumer's duty to return the product to the vendor, subsequent to contract dissolution. Omission of professional vendor to inform the consumer on the existence of the legal right of retract is sanctioned by automatic extension of the legal period of retract to 60 laboring days, according to article 10 of Ordinance no. 106/1999 on contracts concluded outside commercial spaces, modified.

It should be also noted that, in the field of contracts concluded by distance, consumer's right of retract may be exercised during a period of 10 laboring days

since the product has been delivered, according to article 7 of Ordinance no. 130/2000 on contracts concluded by distance, modified, no duty to motivate his/her refuse to maintain the product being attached, the only costs supported by the consumer being those implied by the returning of the product to the vendor process. The 10 days term begins, for products delivered, with the day after the reception of the product and, respectively, for services, with the day after the bargain concluding, supposing that the consumer has been properly informed, using a written document, on the existence of the legal right of retract. In cases implying a violation of the professional's duty to inform the client, the later may express his/her refuse during an extended period of 90 days since the reception of the product and, respectively, for services, since the bargain concluding. According to article 8 of Ordinance no. 130/2000 on contracts concluded by distance, modified, if the consumer exercises the legal right of retract, the professional vendor is compelled to return the price paid by the prior, respecting the legal period of 30 days form the receiving of the notification regarding the consumer's option to unilaterally denounce the contract.

#### **IV. Conclusions**

Retract of consent remains the cornerstone of consumers' protection at the conclusion of those contracts producing, in the legislator's vision, dangerous or simply ample patrimonial effects. The legal rights of retract have the judicial nature of discretionary rights, by which we described the fact that the reasons for the rights exercise is not subjected to the judgment of courts, as the consumer is bind by no duty to motivate his/her retract, the option being simply not censurable. Furthermore, the exercise of consumers' right to retract the prior assent does not depend upon any action or reaction of the professional party to the contract and the notification of the professional upon the exercise of the unilateral retract right exonerates the consumer of any contractual obligation the denounced contract may have primarily generated, with the only exception of the consumer's duty to return the product to the vendor, subsequent to contract dissolution. It is important to stress that sanctions applicable to professionals' violation of informative formalities attached to the exercise of retract are not unitarily regulated, since they have been prescribed by the Romanian legislator for each type of contract, most of penalties being originally administrative, as the violation of retract rights by professionals is usually and priory seen as a contravention.

Despite some early ambiguities relative to the judicial potestative nature of retract rights and to the possibility of a progressive formation of certain commercial contracts, as a substitute for the traditional instant formation of bargains and in spite of some theoretical inconstancies present in the contemporary Romanian Consumer Law, most of the retract rights allocated by the legislator when regulating the time-sharing contracts, credit contracts and those concluded outside commercial

spaces benefit of a clearly defined judicial regime and encompass important spheres of unbalanced commercial relations.

The following concluding remarks may be formulated, based on the discussions mentioned above: (1) the legal right of retract has the judicial nature of a prerogative conferring unilateral control over contract formation, by which one understands the discretionary exercise of the right, as the author is subject to no duty to motivate his/her retract, his/her option being not censurable by courts of law; (2) the exercise of a withdrawal right, such as the consumers' right to retract the prior assent does not depend upon any action or reaction of the professional party to the contract; (3) notification of the professional upon the exercise of the unilateral retract right exonerates the consumer of any contractual obligation the denounced contract may have primarily generated, with the only exception of the consumer's duty to return the product to the vendor, subsequent to contract dissolution; (4) the examination of the discretionary rights concept also allows to show the interrelated way in which the indivisibility and the irrevocable character of the consumer's will to breach the contract actually operate.

Consumption Law is still to be developed, in the Romanian legal system, the black or grey zones being largely spread. Between do's and don'ts in the progressive formation of bargains process, the theme of legal rights of retract deserves a modern approach, based especially on the way the unilateral exercise of retract rights is conceived by the legislator and on the manner that the risk of excessive debt is to be avoided for consumers using the legal time of 7 to 10 days allocated for the analyze of contractual risks and benefits and, therefore, for the complete formation of the commercial bargain concerned.

**Acknowledgement:** This work was supported by CNCSIS-UEFISCSU, project number PN II-RU 396/2010

## REFERENCES

- Albortchire, A.; Cibert-Goton, V. (2007), *Pratique du droit de la concurrence et de la consommation*, Eska, Paris.
- Apan, R. D. (2007), *Protecția juridică a consumatorilor. Creditul destinat consumului și domeniile conexe*, Sfera juridică, Cluj-Napoca.
- Auguet, Y. (2008), *Droit de la consommation*, Ellipses, Paris.
- Batteur, A. (1996), "La protection illusoire du consommateur", *Le Dalloz. Recueil*, vol. 34 no. 1, pp. 82-84.
- Beauchard, J. (1996), *Droit de la distribution et de la consommation*, Presses Universitaires de France, Paris.

- Berenger, F. (2007), *Le droit commun des contrats à l'épreuve du droit special de la consommation: renouvellement ou substitution?*, Presses Universitaires d'Aix-Marseille, Marseille.
- Brunaux, G. (2010), *Le contrat à distance au XXIe siècle*, L.G.D.J., Paris.
- Bureau, D. (1994), "Remarques sur la codification du droit de la consommation", *Le Dalloz. Recueil*, no. 2, pp. 291-292.
- Calais-Auloy, J.; Steinmetz, F. (2000), *Droit de la consommation*, Dalloz, Paris.
- Calais-Auloy, J. (1994), "L'influence du droit de la consommation sur le droit civil des contrats", *Revue trimestrielle de droit civil*, no. 2, pp. 239-240.
- Chirică, D. (2008), *Tratat de drept civil. Contracte speciale*, C. H. Beck, București.
- Fauvarque-Cosson, B. (2007), "Quelle protection des consommateurs pour demain?", *Recueil Dalloz*, no. 14, pp. 956-960.
- de Matos, A.-M. (2001), *Les contrats transfrontalieres conclus par les consommateurs au sein de l'Union Europeenne*, Presses Universitaires d'Aix-Marseille, Marseille.
- Mirabail, S. (1997), *La retractation en droit privé français*, L.G.D.J., Paris.
- Picod, Y.; Davo, H. (2005), *Droit de la consommation*, Armand Colin, Paris.
- Piedelièvre, S. (2008), *Droit de la consommation*, Economica, Paris.
- Poillot, E. (2006), *Droit européen de la consommation et uniformisation du droit des contrats*, L.G.D.J., Paris.
- Popa, I. F. (2005), "Notă critică, Tribunalul Cluj, decizia civilă nr. 584/R/2004", *Pandectele române*, no. 6, pp. 127-129.
- Popa, I. F. (2003), "Obligația de securitate – mijloc de protecție a consumatorului", *Dreptul*, no. 3, 59-63.
- Preston, I. L. (2010), „Interaction of Law and Ethics in Matters of Advertisers' Responsibility for Protecting Consumers”, *The Journal of Consumer Affairs*, vol. 44 no. 1, pp. 259-264.
- Raymond, G. (2008), *Droit de la consommation*, Litec, Paris.
- Rzepecki, N. (2002), *Droit de la consommation et théorie générale du contrat*, Presses Universitaires d'Aix-Marseille, Marseille.
- Scoditti, E. (2006), "Regole di efficacia e principio di correttezza nei contratti del consumatore", *Rivista di diritto civile*, no. 1, pp. 119-126.
- Terryn, E. (2008), *Le droit de la retractation. Une analyse de droit comparé: droits européen, allemande, français, néerlandais*, Larcier, Paris.

## CONSIDERATIONS CONCERNING THE LEGAL STATUS OF SHARES BELONGING TO ONE OF THE SPOUSES IN THE CASE OF THE MARITAL COMMUNITY TERMINATION

MONICA IONAȘ-SĂLĂGEAN<sup>1</sup>

**ABSTRACT.** The following notes were inspired to me by the diversity of solutions offered by the jurisprudence for a matter of permanent actuality. Analyzing some of those solutions, we have endeavored to argument the opinion according to which, in the case of the spouses' marital community termination, the spouse who is not a partner is entitled to a quota of the monetary rights afferent to the shares owned by the other spouse, if the contribution of the latter falls under the legal status of a marital community item.

**Keywords:** *legal status, shares, spouses' marital community termination, Romania.*

**JEL Classification:** K29.

### 1. Introduction

The analysis making the object of the present survey was suggested to us by the contradictoriness of the court awards given in a case having as its object the division of the joint possessions of the former spouses. The matter under dispute enjoyed three different approaches, matching the three degrees of jurisdiction to which it was subjected. Thus,

- whilst the court, as court of first instance, resorted to a specialized assessment meant to determine the value of the shares on the divorce date in order to assign a quota of that amount to the spouse who was not a partner, matching the distribution quota of the full mass of joint possessions,
- the court of law considered that what the spouse may obtain was strictly the par value of the becoming to the not associated spouse, in accordance with the joint possessions division quota, whilst
- the court of appeal completely removed the shares from the marital community considering that the shares are own goods of the partner spouse thus exceeding the category of joint possessions subject to division. The practical relevance

---

<sup>1</sup> Senior Lecturer, PhD, Universitatea Babeș-Bolyai din Cluj-Napoca, Faculty of Business, monica.ionas@tbs.ubbcluj.ro.

of each of these solutions becomes conclusive by the overwhelming influence on the value of the two patrimonies resulted from the marital community termination.

The disproportion between them increases, in the analyzed case, at the same time with the hierarchical level of the court: the state of balance between the two patrimonies, created by the solution of the court of first instance is completely, dramatically and irrevocably overturned by the award of the court of recourse. Extending the analysis, we have found out that, though it represents a matter of strict actuality, it benefited of very little doctrinaire attention [Popa, 2003: 93-99], and that, surprisingly, after almost twenty-one years of practice in the matter of corporate law, of a modest and highly controversial jurisprudence, marked by diametrically opposed solutions. Their impact on the patrimonial situation of the not associated spouse is unfortunately often devastating.

## **2. Material and Method**

From our point of view, the analysis, corroborated with the incidental legal norms seated in the Family Code, on the one hand and in Law N<sup>o</sup> 31/1990 on trading companies, as republished and amended, (hereinafter called LSC) on the other, allows for the coagulation of correct, just solution, faithfully harmonized with the legal dispositions and principles which govern the matter. Thus,

## **3. Results and Discussions**

The contribution to the share capital, irrespective of the fact that it is composed of an amount of money and/or goods of an economical value, debts – only when the law allows them, and, irrespective of the fact that it is subscribed at the moment of the company set up, or, subsequently, on the occasion of share capital increases, becomes the measure unit of the rights and obligations of the partner who subscribed them, in his relationship with the company. According to that contribution, to the quota it represents in the entirety of the share capital, the partner's participation in the vote cast in general assemblies will be dimensioned, his participation in the dividends distributed by the company from the profit made at the asset quota becoming at the moment of the company dissolution and liquidation and the corresponding monetary rights at the moment of his withdrawal or exclusion from the company will be determined. These are not the only rights generated by his investment in the company capital but they are the basic, fundamental ones. Hence, the contribution to the share capital becomes the currency for the entire portfolio of rights and obligations which defines the partner's status in his relationships with the company. As a rule, the amount, the good, the debts, etc brought as contribution, become the property of the company as of the moment of its registration with the Trade Register, (art.65 of the LSC). From this effect it becomes obvious that a first condition in order to bring them as contribution is the quality of owner of the person subscribing them and which confers on them this destination allowed by his right to dispose freely of them.



When the contribution belongs to a married partner, as a rule, such contribution comes from the marital community of the spouses, irrespective of its nature (a good with economical value, an amount of money, etc.). Subsequently, according to the provisions of art.35 of the Family Code, the company partner spouse's decision to bring it as contribution to the capital benefits of the assumption of the other not associated spouse's agreement, except for the cases when the object of the contribution is a piece of land or a building for which the express consent of the not associated spouse becomes necessary. The legal status of the contribution, as spouses' marital community, became, in the analyzed cases, the source of the controversial solutions. Surprisingly though, most of them end up in ignoring it, facilitating the ascertainment that, though joint possession, it generated exclusive personal rights and obligations in favor of or binding for the partner spouse, also in what concerns the monetary rights issuing from his position of partner. In these jurisprudential opinions it seems that, along the distance from the marital community from which it left and the company patrimony where it ended up as effect of its subscription as contribution to company capital by one of the spouses, the good "converted" itself from an originally joint possession item into one exclusively owned by the partner spouse, as of the moment of the company set up or of its capital increase, according to case. We believe that the opinion is seduced by the fact that inside the company, the rights and obligations derived from the position of partner are exercised only by the spouse holding the said position and not also by the second spouse who is not a partner. It is true, it is just the partner spouse who has the right to participate in the corporate life expressing his right to vote in the general assemblies, controlling and auditing the administrators' activity, requesting information, data from them, requiring the engagement of their liability, etc. The ascertainment favored the reasoning which, in our opinion, is totally wrong, that not only the non-patrimonial rights, as those mentioned, but also the patrimonial ones, deriving from the position of partner should exclusively be due to the partner spouse. Such a conclusion comes in an obvious disagreement with the provisions of art.30, line (2) of the Family Code, penalizes with nullity any convention which removes the marital community status of the goods acquired during the marriage. As already shown, the main deficiency of such a reasoning is that it "forgets" the nature of joint possession item of the partner spouse's contribution to the share capital. No logic or legal argument supports the hypothesis that the monetary rights granted by the company as fruits of the said contribution can be considered as personal. And an agreement signed by the spouses and having such an object is prohibited by law which penalizes it with absolute nullity (art.30, line (2) of the Family Code). Subsequently, we contradict the jurisprudential solutions which converge to this conclusion by asserting that:

a) Making use of the liberty to associate, each individual exercises personally, inside the company, the rights and obligations becoming from the position of partner. If this position of partner was acquired by bringing as contribution a joint possession item, this means that, to that aim, he benefited of the other not associated spouse's express or alleged consent. The shares of interest/social shares, the stock

gained in exchange for the contribution to the capital – joint possession item will be, in their turn, marital community goods of the two spouses. Subsequently, the partner spouse gains the representation right of the other spouse in the relationship with the company, in accordance with the dispositions of art.83, art.90 and 102, line (3) of LSC, as well as the tacit mandate of the other spouse representation as according to art. 35 of the Family Code.

b) The patrimonial rights becoming to the partner may be represented by the dividends distributed from the company profit, (art.67 of LSC), or the amounts afferent to the shares/shares of interest/stock owned in the company, at the value which is determined at the moment of withdrawal, (art.226, line (3), art.134, of LSC), exclusion (art.224, line (2) of LSC), transfer or, according to case liquidation. In none of these hypotheses, the transferor, withdrawn or excluded partner will not be paid just the nominal equivalent of the shares/shares of interest, but the amount given by the value of the company patrimony on the date of the respective operation occurrence, with the observance of his participation quota in the share capital. In the case of joint stock companies, in the exceptional situations when partners may withdraw, the law on trading companies with its art.134, line (4), establishes even the rule according to which the value becoming to the withdrawn partner is calculated, (as the average value which results from the application of at least two assessment methods recognized by the legislation in force at the moment of assessment. The fact is that, in each of these legal hypotheses, in an unitary manner, the becoming amounts may be qualified as fruits of the contribution to the share capital. Being the fruits of a joint possession item they will preserve the legal status of the said item and hence return to the spouses' marital community, *„harvested during the marriage, the fruit and the revenue of the own goods are marital community. For instance, the interest afferent to the own amounts placed in bank deposits produced during the marriage will be jointly owned. Also, civil fruits will be the dividends (benefits) of the obtained from a commercial activity”* [Florian, 2008: 131]. Subsequently, also in the reversed situation, of the marital community termination, the not associated spouse is entitled to the amount representing the value of the shares/shares of interest/stock determined in accordance with the value of the company patrimony on the date of the termination operation and with the observance of the quota according to which the full mass of joint possession items is shared. The payment obligation will be quantified as the partner spouse's assignment, as balancing payment, and, in exchange, he stays, as effect of the division, the exclusive owner of the shares with all their afferent rights. If, in the case of withdrawal/exclusion, the obligation to pay the value of the shares/shares of interest was assigned to the company as it was the consequence of the termination of the partner position, in the case of the marital community termination, payment will be done not by the company but by the partner spouse as balancing payment. The latter preserves his position of partner but as holder of shares which became his own goods by the balancing payment.

c) The termination of the marital community with reference to the shares/shares of interest/stock is not the only possible solution but it surely is the most comfortable. Theoretically, the partition may have as its object even the shares/shares of interest/stock and not only the monetary rights corresponding to them. But, such a solution becomes difficult if not impossible to capitalize in practice in the case of the companies of persons as well as of the limited liability one, therefore, in the companies where the *affectio societatis* element has relevance. In their case, the not associated spouse to whom shares/shares of interest/stock would be distributed as effect of the marital community termination, needs the agreement of the partner spouse and, respectively, should there be the case, of the other company partners in order to gain, in his turn, the position of partner. The partners' change being considered amendment of the deed of establishment, makes necessary the signature of all the other partners (or at least of the statutory majority regulated in the case of the limited liability company) in order to be assigned legal effects. Of course, the solution does not involve difficulties in the case of joint stock companies, the distribution to the allotment of the not associated spouse of a number of stocks matching the partition percentage not being, in this case, conditioned by the agreement of the other stockholders. The stockholder spouse will have the option of the balancing payment or of the assignment of stock in favor of the other spouse. Obviously, the difference results from the different legal status of the stock as compared to that of the shares/shares of interest, the first being securities entered in the civil circuit.

d) We need to observe that if the monetary rights afferent to the withdrawal/exclusion from the company would have been acquired during the marriage, nobody would have denied them the status of joint possession. All the more surprising becomes the jurisprudence which removes such qualification at the moment of the marital community termination, as well as that taking into consideration strictly the nominal value of the contribution to the capital eliminating the status of joint possession item of the fruits of that contribution.

#### 4. Conclusions

Those analyzed above lead also to a conclusion which exceeds the proper theme being though related to it and, moreover, substantially important for the practice. We have in view the consequences of the form of unlimited and joint liability which is characteristic to the partners in the limited partnerships and limited partnerships by shares as well as to those in the general partnerships, on the spouses marital community, in the case of the partner spouse who subscribed and deposited as contribution to the share capital a joint possession item. More exactly, according to art.3 of the LSC, the creditors of the general partnership and those of the limited partnership will direct themselves first against the company for the liabilities it contracted and, only to the extent in which the company will not pay them within not more than 15 days from the notice of delay, they may direct

themselves against the partners, the active ones respectively. If they have brought joint possession items in the share capital, benefiting of the tacit or express agreement (according to case) of the other spouse, for the reasoning mentioned above, the fruits and liabilities generated by the respective contribution preserve the status of a joint possession item. The rule generates a second consequence, namely: in order to pursue in subsidiary the personal wealth of the married partner with unlimited liability, with the aim of recovering the corporate liabilities which were not covered by the company, under the terms regulated by art.33, line (2) of the Family Code, the division, as a priority, of the joint possession items does not become necessary. According to that text, “*after having pursued the own goods of the debtor husband, his personal creditor may request the division of the joint possession items but only to the extent necessary for the coverage of his debt*”. Per a contrario, the contributed good, being of a joint possession, the payment liability of the partner spouse, deriving directly from the law, may be reported to the mass of the spouses’ marital community. The conclusion is, of course, as burdensome for the partner as it can be convenient for the social creditors of the company in which the latter holds the position of partner with unlimited liability.

As a conclusion, we believe that a correct corroboration, the application to their spirit and not to the letter of the incidental legal dispositions may lead to the avoidance of certain practical solutions with irreversible dramatic effects, inequitable for one of the spouses when the other is the holder of shares/shares of interest/stock acquired during the marriage, as effect of contributing to the share capital a joint possession item. The quality of joint possession item of the contribution to the share capital is preserved also with reference to the “fruit” of such a contribution, consisting of the monetary rights due at the moment of the transfer, withdrawal, exclusion or, according to case, company liquidation. Obviously, what was shown above is far from exhausting the arguments in favor of this conclusion. The theme may be amply developed, with the satisfaction of “placing” in a position of equilibrium the balance measuring the goods acquired by each of the spouses as effect of the marital community termination.

## REFERENCES

- Florian, Emese, 2008, *Family Law*, 2<sup>nd</sup> Edition, Bucharest, C.H.Beck.  
 Popa, Carmen, 2003, „The Counterperformance of the Contribution to the Set Up of the Share Capital and the Status of the Spouses’ Marital Community”, in *Revista de drept comercial (Commercial Law Magazine)* N<sup>o</sup> 3, pp. 93-99.  
 \*\*\* Civil Code.  
 \*\*\* Family Code.  
 \*\*\* Law N<sup>o</sup> 31 of 1990 (LSC).