

Tatiana Camelia  
**DOGARU (CRUCEANU)**

*(Coordinators)*

Ionuț-Bogdan  
**BERCEANU**

# Public sector opportunities in times of crises



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Tatiana-Camelia DOGARU (CRUCEANU)

Ionuț-Bogdan BERCEANU

(Coordinators)



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Redactor: Cristina STOIAN

Copertă: Mihai GĂZDARU

Revizie text: Elena CONSTANTIN

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Tatiana-Camelia **DOGARU (CRUCEANU)**

Ionuț-Bogdan **BERCEANU**

(Coordinators)



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Oficiul poștal 25, Ghișeul 1, Căsuța poștală 31  
e-mail: [comenzi@edecon.ro](mailto:comenzi@edecon.ro)

Tel.: (+4) 031.432.96.02; Fax: (+4) 021.210.73.10  
<http://www.edecon.ro>

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## Foreword

Modern societies are going global and, in this process, are redefining the boundaries between the domestic and the external, therefore the possibility that an event in a part of the world to become a “black swan” is a significant and realistic one. In this sense, for policy-makers, a crisis is a test since they need to prove their ability to successfully manage the country during turbulent times. The crises and the governments’ responses to them impact the functioning of public institutions starting with the basic functions of government and public administration such as law- and policy-making and public service delivery. Thus, although crises shake the systems, and are usually analyzed in relation to their harmful face, they also open a window for opportunities and learning. Since, based on the system theory state, the public sector can be seen as a system with the property to adapt itself to the environmental changes, this volume explores an intuitive assumption, meaning “*Public sector developments are driven by crises*”. In this regard, the studies from this volume took the challenge to explore the agility of the public sector in various contexts determined by different types of crises (e.g. economic, social, political, health), by analyzing certain administrative, political, legal and policy responses. The pandemic crisis generated by the corona virus affected all the world and its social systems. They had to rapidly adapt and take drastic measures in order to answer in an effective and efficient way to the virus dispersal (Berceanu et. al., 2020).

Therefore, since crises challenge the capacities of organizations and the actors’ competencies, attention has been focused on how the public sector was able to adapt through time to face certain types of crises. This has materialized in an attempt to see if crises have really been discounted in rethinking how the public sector should react in the future in order to have prompt and solid answers to the issues and problems of the environment, or whether they represent an opportunity that could generate incremental change and convergence within an

existing organizational structure in order to fulfil a certain deliberate strategy. Crises are defined by their relationship with uncertainty (Brändström, Bynander, and t'Hart 2004, 191), which Steinbruner (2002, 16) defines as “an imperfect correspondence between information and the environment”. On the other hand, as a result of “global tendencies in politics, economy, development of technologies, migration and demography, society and civic participation”, the European Public Administration Network (EUPAN) has described the increasingly dynamic environment for public administration in Europe as characterized by four elements (EUPAN, 2016):

- Volatility: the dynamics, scale and pace of change;
- Uncertainty: the lack of predictability, the fact that parts of future events will be surprising;
- Complexity: the varied forces and factors that affect the operation of organizations;
- Ambiguity: the difficulties of precisely determining the connection between causes and consequences, and hence the risk of erroneously interpreting events.

The most recent crises, the financial crisis of 2008 and the health crisis of 2020 (COVID-19 pandemic) revealed the challenges and the opportunities for public sector and called for policy learning and trans-sectorial policies. At EU member states level, these events emphasized five major challenges for public administration in order to answer for the present and future challenges.

These are the following ones:



**Source:** European Commission, 2021

Recently, the current crises have reinforced the relevance of public administration outcomes, result-orientation, receptivity and reduction of bureaucracy across Europe. Smart administration, development of human capital and related ICT of administrative and public services were seen as a fundamental requirement. The need to learn from failures becomes essential in times of crises, and fundamental for public organizations that are faced with scarcity of resources and bureaucratic culture, and although they are not into a competitive environment like the ones on the market, they are under the pressure of citizens' demands. Thus, organizational learning is affected by the organizational culture and, based on that, the organization could adapt faster to unexpected situations (Dogaru (Cruceanu) et. al 2021). Adaptation and learning of an organization require administrative capacity, which is a multi-layered concept involving many components, including human resources, institutions, organizations, and physical resources and a crucial factor explaining successful policy implementation and government quality.

*The coordinators*

**End Notes**

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# Opportunities for change in Romania: the National Resilience and Recovery Plan

Ionuț-Bogdan Berceanu<sup>1</sup>

## Introduction

The pandemic generated by the corona virus pandemic affected all the world and its social systems. They had to rapidly adapt and take drastic measures, in order to answer in an effective and efficient way to the virus dispersal. A crisis occurs when a system is required or expected to handle a situation and the existing resources, laws, procedures, structures and mechanisms are inadequate (Bryson 1981, 181-196).

The concept of crisis in every sphere of public life, in engineering, biological, administrative systems has its own definition and interpretation of the phenomenon that describes the changes or some crucial stage in the system's functioning (Andrushkiv, Vovk, Pohaydak & Fedyshyn, 2011, 18-25).

Systems theory provides an internally consistent framework for classifying and evaluating the world. There are clearly many useful definitions and concepts in systems theory. In many situations it provides a scholarly method of evaluating a situation. An even more important characteristic, however, is that it provides a universal approach to all sciences (Berceanu, 2018, 34). As von Bertalanffy points out "there are many instances where identical principles were discovered several

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<sup>1</sup> Lecturer PhD, National University of Political Studies and Public Administration, Faculty of Public Administration. He has two bachelor degrees: one in law and the second one in European administration and holds a Ph.D. in Administrative Sciences. His research interest includes the reforms in public administration systems, emerging administrations in south-eastern Europe. He teaches disciplines from the area of the public law.

times because the workers in one field were unaware that the theoretical structure required was already well developed in some other field. General systems theory will go a long way towards avoiding such unnecessary duplication of labor” (von Bertalanffy, 1968, 33).

As the system theory states, many systems have the property of adapting themselves to changes in the environment, such as the Covid-19 crisis. The nature of the crisis is, accordingly to Alinsky (1971 apud Bryson, 1981, 181-196), composed by two characters:

- one representing danger
- the other one representing *opportunity*.

The paradigm adopted in this paper is that explained by Bryson (1981, 181), when key governmental (e.g. public administration system) and environmental (e.g. other parts of the social system) actors have deeply and widely felt perception of danger, the normal constraints on their relationship with one another are altered, and by these altered constraints are resulting *opportunity spaces* for governmental planning and actions. Thus, in recent years, many developed and developing countries have embarked on a thorough re-evaluation of the role of government in their societies (Dogaru, 2016).

Generally, the opportunities for changes viewed as governmental planning and actions in crises could be (Bryson (1981, 181-196):

- the government can address issues/do reforms they normally cannot,
- consensus at the government levels is easier reached than is normally the case,
- comprehensive solutions to problems become more possible at higher levels of government than it is normally the case,
- there are sought new and innovative financing solutions at the government level.

This work aims to evaluate the European Union response to the Covid-19 crisis by creating a special institutional instrument, as *opportunity space* – the Recovery and Resilience Facility (RRF), giving to the member states the *governmental planning and actions*. The analysis conducted in the paper will be a qualitative one, and will explain the opportunities given to Romania, as EU member state for change to make system changes through the Recovery and Resilience Facility.

## General aspects regarding the Recovery and Resilience Facility

The Covid-19 crisis put in tremendous stress the EU member states social systems (political, administrative, health, economic, educational), also it increases the inequalities between countries, regions and social groups. Responding to the Covid-19 pandemic the European Council took the important decision to provide unprecedented financial support to member states, to help them with the fall-out of the ensuing economic crisis. Thus, in a short time period the EU agreed to the creation of a temporary institutional structure to support member states in need. Its formal establishment occurred in February 2021: the Recovery and Resilience Facility (RRF) would provide financial support to member states, notably through a combination of grants and loans (Vanhercke & Verdun, 2021, 204-223).

The Facility is a temporary recovery instrument. It allows the Commission to raise funds to help Member States implement reforms and investments that are in line with the EU's priorities and that address the challenges identified in country-specific recommendations under the European Semester framework of economic and social policy coordination. It makes available €723.8 billion in loans (€385.8 billion) and grants (€338 billion) for that purpose.<sup>2</sup>

The EU will borrow large amounts of funding from the financial markets, which is then allocated to member states as grants and loans. This represents a paradigm shift in the Union as many countries had, until now, always opposed joint borrowing and EU-financed grants (Pilati, 2021, 4).

The Facility is structured around six pillars:<sup>3</sup>

- 1) green transition;
- 2) digital transformation;
- 3) economic cohesion, productivity and competitiveness;
- 4) social and territorial cohesion;
- 5) health, economic, social and institutional resilience;
- 6) policies for the next generation.

---

<sup>2</sup> European Commission, Recovery and Resilience Facility, available online at: [https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility\\_en](https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility_en), accessed: 23.11.2021

<sup>3</sup> See, European Commission, Recovery and Resilience Facility, available online at: [https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility\\_en](https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility_en), accessed: 23.11.2021



The juridical instrument regulating the Facility is the Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021<sup>4</sup>, which lays down its objectives, its funding, and the forms of Union funding under it and the rules for the provision of such funding.

*The general objective* of the Facility shall be to promote the Union's economic, social and territorial cohesion by improving the resilience, crisis preparedness, adjustment capacity and growth potential of the Member States:

- by mitigating the social and economic impact of that crisis, in particular on women, by contributing to the implementation of the European Pillar of Social Rights,
- by supporting the green transition,
- by contributing to the achievement of the Union's 2030 climate targets set out in point (11) of Article 2 of Regulation (EU) 2018/1999 and
- by complying with the objective of EU climate neutrality by 2050 and of the digital transition,

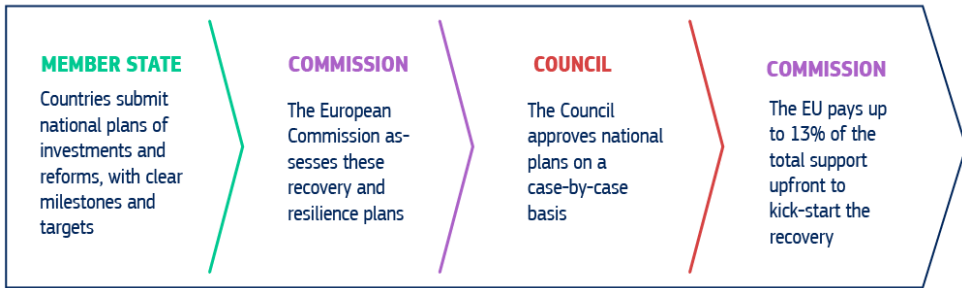
Thereby contributing to the upward economic and social convergence, restoring and promoting sustainable growth and the integration of the economies of the Union, fostering high quality employment creation, and contributing to the strategic autonomy of the Union alongside an open economy and generating European added value.<sup>5</sup>

In order to achieve the general objective, the *specific objective* of the Facility shall be to provide Member States with financial support with a view to achieving the milestones and targets of reforms and investments, thus access the RRF funds, member states needed to submit detailed National Recovery and Resilience Plans (NRRPs), which should be approved by the European Commission (see Figure 1).

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<sup>4</sup> Published in the Official Journal of the European Union, L 57/17, 18.2.2021, p. 17–75 (the act has been changed and consolidated)

<sup>5</sup> Article 4, Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021, establishing the Recovery and Resilience Facility, published in the Official Journal of the European Union, L 57/17, 18.2.2021, p. 17–75 (the act has been changed and consolidated)



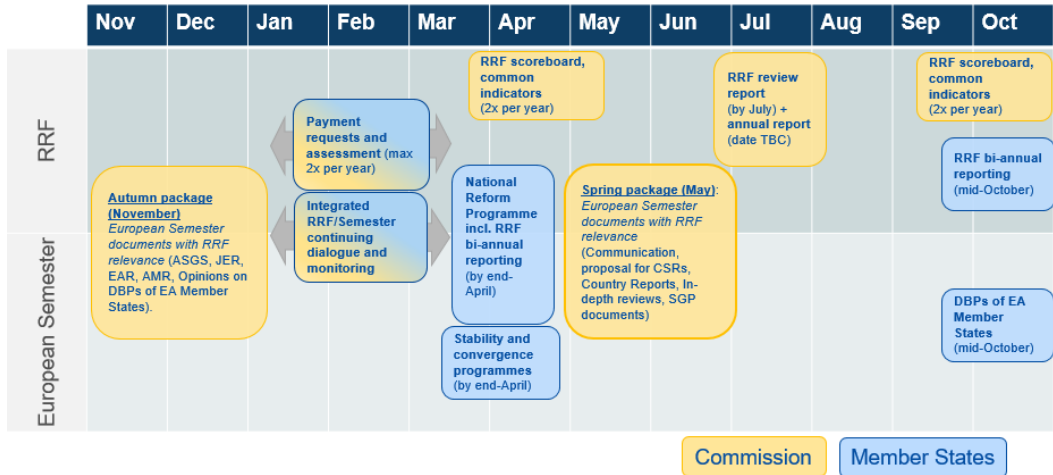
**Source:** European Commission, Recovery and Resilience Facility, available online at: [https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility\\_en](https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility_en)

**Figure 1.** Steps for approving the NRRPs

The NRRPs are approved as stated in the article 20 of the Regulation (EU) 2021/241, by a *Council implementing decision* as a rule, at the proposal of the European Commission, within four weeks of the adoption of the Commission proposal. To implement the RRP correctly, the Commission should request as many details on the measures as possible, and intermediate and ex post assessments from the member states. In turn, national governments should improve the transparency of the implementation phase of their respective NRRPs (Pilati, 2021, 5).

For this reason, starting from its 2022 cycle, the European Semester<sup>6</sup> process has been adapted to take into account the creation of the Recovery and Resilience Facility and of the implementation of the recovery and resilience plans (see Figure 2).

<sup>6</sup> The European Semester is a cycle of economic, fiscal, labour and social policy coordination within the EU. It is part of the European Union's economic governance framework. Its focus is on the 6-month period from the beginning. During the European Semester the member states align their budgetary and economic policies with the rules agreed at EU level (see more, for this, at: <https://www.consilium.europa.eu/en/policies/european-semester>, accessed: 23.11.2021)



**Source:** European Commission, Recovery and Resilience Facility, available online at: [https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility\\_en](https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility_en)

**Figure 2.** *Integration of the European Semester and Recovery and Resilience Facility processes*

It can be observed that the RRF funds are disbursed when Member States have fulfilled key steps in the implementation of the reforms and investments included in the recovery and resilience plans, which we assimilated in this work as *governmental planning and actions*, part of the crisis change opportunities, these key implementation steps are referred to as milestones and targets. Milestones represent a qualitative implementation step, targets a quantitative implementation step. The milestones and targets each Member State has to achieve are set in a Council Implementing Decision.

### Opportunities for change in Romania by implementing the National Plan for Recovery and Resilience

The theory of change is providing some attributes that each recovery and resilience plan should confirm are present before committing to an evaluation and, should revisit throughout the implementation and evaluation of the plan (Connell & Kubisch, 1998, 1-16):

- It should be *plausible*. Do evidence and common sense suggest that the activities, implemented, will lead to desired outcomes?

- It should be *doable*. Will the economic, technical, political, institutional, and human resources be available to carry out the initiative?
- It should be *testable*. Is the theory of change specific and complete enough for an evaluator to track its progress in credible and useful ways?

The Recovery and resilience plan of Romania is structured around six pillars which are presented in the RRF and the country has requested €14.3 billion in grants and €15 billion (see in table 1 the timetable of the NPRR) and it includes measures on sustainable transport, education, healthcare, building renovation and the digitalization of public administration<sup>7</sup>.

**Table 1.** *Timetable for approval of the Romanian NPRR*

Date	Actions
May 31 <sup>st</sup> 2021	Romania submits its national recovery and resilience plan (in accordance with Article 18(1) of Regulation (EU) 2021/241)
September 27 <sup>th</sup> 2021	European Commission endorses Romania's recovery and resilience plan
October 29 <sup>th</sup> 2021	Council of the European Union approves the assessment of the recovery and resilience plan of Romania
December 2 <sup>nd</sup> 2021	European Commission disburses €1.8 billion in pre-financing of grants to Romania

**Source:** [https://ec.europa.eu/economy\\_finance/recovery-and-resilience-scoreboard/timeline.html?lang=en](https://ec.europa.eu/economy_finance/recovery-and-resilience-scoreboard/timeline.html?lang=en)

As observed in the Council implementing decision on the approval of the assessment of the recovery and resilience plan for Romania<sup>8</sup>, the NRRP of Romania has a holistic approach to achieve recovery and increase potential growth, contains mutually reinforcing and coherent reforms and investments that refer to policy areas of European relevance structured around the six pillars.

In the table below will be presented according to the approved objectives and measures of the NRRP as change opportunity.

<sup>7</sup> European Comision, Recovery and Resilience Facility: Romania, source: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_21\\_2792](https://ec.europa.eu/commission/presscorner/detail/en/ip_21_2792) accessed: 12.12.2021

<sup>8</sup> Available online at: <https://data.consilium.europa.eu/doc/document/ST-12319-2021-INIT/en/pdf>, p.8.

**Table 2.** *Opportunities for change NRRP of Romania*

Governmental planning	Governmental actions
Green transition	<ul style="list-style-type: none"> <li>▪ Railway modernization: modernizing railway infrastructure, including electrified or zero-emission railways and rolling stock. €3.9 billion</li> <li>▪ Urban mobility: infrastructure for a green and more secure urban transport. €1.8 billion</li> <li>▪ Clean energy production: phasing-out of coal and lignite power production, deployment of renewables as well as related production processes, and hydrogen. €855 million</li> <li>▪ Energy efficiency of buildings: energy-efficient renovation and seismic renovation of buildings to reduce CO<sub>2</sub> emissions by at least 0.15 million tons in private buildings and 0.075 million tons in public buildings. €2.7 billion</li> <li>▪ Biodiversity and environmental protection: afforestation and reforestation and forest nurseries, as well as other biodiversity measures for ecological reconstruction and species protection. €1.1 billion</li> </ul>
Digital transition	<ul style="list-style-type: none"> <li>▪ Digitalization of public administration: digitalizing public administration in key areas such as justice, employment and social protection, environment, civil service management and skills development, public procurement, cybersecurity, tax and customs, while building a secure government cloud infrastructure and supporting eID deployment. €1.5 billion</li> <li>▪ Digitalization of health: developing an integrated e-Health system, connecting over 25,000 healthcare providers and telemedicine systems. €470 million</li> <li>▪ Digitalization of education: improving digital pedagogical skills educational content and equipment and resources, including in universities. €881 million</li> </ul>
Reinforce the economic and social resilience	<ul style="list-style-type: none"> <li>▪ Strengthening the public administration: measures reinforcing the effectiveness of the judicial system and fighting corruption will contribute to improving the quality and effectiveness of the public administration.</li> <li>▪ Social and territorial cohesion: modernizing the Romanian social benefits system by implementing the minimum inclusion income reform, a reform of the pension system, measures to improve the employment and digitizing social protection digital systems.</li> <li>▪ Fiscal sustainability: Reinforced budgetary framework, better expenditure control and review of taxation, pension system reform.</li> <li>▪ Strengthened resilience of the health system: investing in modern hospital infrastructure to ensure patient safety and reduce the risk of healthcare-associated infections in hospital settings. €2 billion</li> </ul>
In total there are 171 measures: 64 reforms and 107 investments divided into 15 components	

**Source:** Author, on the data provided NextGenEU, Romania's recovery and resilience plan, online available at: [https://ec.europa.eu/info/sites/default/files/factsheet-romania\\_en.pdf](https://ec.europa.eu/info/sites/default/files/factsheet-romania_en.pdf)

From the many actions Romania has to do to change, the measures on the digitalization of the public administration (including health, justice, environment, employment and social protection) and the full digitalization of the tax administration are underlined as key opportunities in the Council implementing decision on the approval of the assessment of the recovery and resilience plan for Romania.

Even if the digitalization is considered to be an important opportunity for change, the European Commission underlines that there also some limitations of the NRRP of Romania, for instance it exceeds only with 1% the minimum of 20% required by the RRF Regulation regarding the digital transition.

Also, it is important to mention that in order for the governmental actors to reach all the reforms and changes, there are investments that are provided so that all the process will be sustainable, as can be observed in Table 2. This represents an immense opportunity given to all the EU countries by the NRRPs.

## Conclusion

The Covid – 19 pandemic taught us that a crisis tends to increase the possibility of consensus at higher level of government by changing the nature of perceived costs and benefits of any proposed actions. In the absence of a crisis the advocates of change are more likely to sustain their own agenda without sufficient regard to the agenda of the others, of the organization or the system as whole (Bryson, 1981, 181-196).

Also, it can be underlined that the EU member states learned from the 2008 financial and economic crisis, from implementing austerity plans (Dogaru, 2016, 13-19), a situation which the states wanted to avoid this time.

The Covid – 19 crisis changed the EU member states agenda, and in a short period of time they found the consensus to create a new EU financial and juridical instrument, the Recovery and Resilience Facility, through which the EU gives to the member states the *opportunity space* to recuperate after the two year pandemic crisis by giving them the money and the planning to do the changes needed in all the states sub-systems they require, to become more sustainable and green (see table 3).

**Table 3.** *Opportunities for change after Covid-19 crisis*

Covid -19 crisis	
<i>opportunity space</i>	<i>governmental planning and actions</i>
The EU Recovery and Resilience Facility	<ul style="list-style-type: none"> <li>▪ National Recovery and Resilience Plans</li> </ul>
finance for transitions towards a more sustainable and digitalized economy.	<ul style="list-style-type: none"> <li>▪ milestones</li> <li>▪ targets</li> </ul>
five-year reform and investment strategy	<ul style="list-style-type: none"> <li>▪ structural reforms of the public administration</li> <li>▪ investment in digital infrastructure</li> <li>▪ reforms of pension and tax systems</li> <li>▪ building renovation and renewable energy sources</li> </ul>

**Source:** author elaboration on the information provided by the Regulation (EU) 2021/241 establishing the Recovery and Resilience Facility.

The success given by the Recovery and Resilience Facility depends in principle by the member states beliefs, vision and systemic capacity development, they should take into consideration that the NRPSs should be plausible, double and testable. By doing this, the member states could have the opportunity to do important changes, translated in: long-term investment and reform strategy for successful twin transitions while ensuring social and territorial cohesion.

The same situation it is for Romania, as direct beneficiary of the Recovery and Resilience Facility. In the last year, the covid-19 crisis and the opportunity to change given by the Recovery and Resilience Facility made the possibility to reach some consensus at government level, especially for the proposed reforms and investments that are expected to strengthen the resilience of the health system and the measures in the plan aim to help the next generations mainly by addressing challenges in terms of quality, equity and infrastructure in the educational system.

Also, other important changes that normally would reach difficult political and governmental consensus, are those regarding the reforms and investments in the areas of sustainability of public finances, the pension system, public administration, business environment, and green and digital transition.

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## Policy learning in challenging times: a conceptual framework

Tatiana-Camelia Dogaru (Cruceanu)<sup>1</sup>

### Introduction

We are affected by public policies daily, either as their beneficiaries or as their policy-makers. There is at the same time a general feeling that there is no interest for learning if a public policy is satisfactory for all concerned. But the world does not stand still, people travel, get new ideas, change their expectations and create new ones, learn from their experience; all of these create pressure on policy makers, especially when things start going wrong. In these situations, policy makers need to seek fresh measures to dispel dissatisfaction and to regain the popularity. The common approach is to look to their past experience in the organization for a solution, and later to scan the world. For learning from experience, the theory suggests that this kind of learning prepares us only to replay what we have learned in order to make sense of and enact practice in a similar scenario. Scanning for a solution in the past experience is the first instinct of the policy makers in situations under pressure, but if the experience is not adequate, they need to search for a solution that works abroad. Since nowadays many problems of national governments are *intermestic*, combining both domestic and national influences, the national governments need to pay attention to what other countries do (Rose, 2005). Moreover, a conscientious policy maker, applying an instrumental learning will try to find new solutions not even in unsatisfactory situations, but also for improving the conditions in their society.

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<sup>1</sup> Lecturer PhD, National University of Political Studies and Public Administration, Faculty of Public Administration, [tatiana.dogaru@administratiepublica.eu](mailto:tatiana.dogaru@administratiepublica.eu)

On the other side, there is a general assumption that organizations as well as policy makers fail to learn from challenging events (crisis) or the learning in and from experience prepare them only to replay what we have learned in order to make sense of and enact in a similar scenario. In this sense, the literature (Elliot & Macpherson, 2010, 2) states that one reason is the confusion of learning with identifying lessons especially within the policy literature and the narrow view of learning process as enacting legislation and regulations.

For the last one, the literature (Elliott, 2008) readdressed the issue and redefined the leaning as “the flow of fresh understandings into new organizational operating norms and practices” and the processes of organizational learning from crisis as “knowledge creation at policy and micro levels, its transfer through regulation and field configuring events, amongst other means, and ultimately through assimilation, evident in individual and organizational behavioural changes”. Learning is imperative in governments’ responses to crises.

This chapter is concerned with the processes whereby lessons from crises are translated into policies, practices, rules and best practice as a means by which learning may become institutionalized and uses insights from two literatures, namely public policy and organizational learning. The approach is based on bounded rationality model proposed by Simon (1947), according to which the actors are limited in gathering and processing information especially due to the available time for actors to pursue these tasks and their rationality to analyze the information (Simon, 1985).

In the last decades, in a context of emerging policy issues and convergence objectives we are witnessing an increasing travelling of public policies (policy transfer, diffusion, learning-lesson, policy circulation so on) and challenge the methodological nationalism on policy making (Dogaru (Cruceanu) 2021). The literature on policy learning is vast and in the last three decades has generated a huge amount in terms of concepts and methods (Bennett & Hall 1992; May 1992; Dunlop & Radaelli 2013).

### Policy learning: twofold view

In his early work, Heclo (1972) argued most strongly that the policy process should be viewed more as a process of learning than as a process of conflict resolution, so that to a certain extent what is learned is policy itself. He also, argued that learning involves learning about both the substance and process of policy. In another view (Etheredge & Short, 1983; Etheredge, 1979), learning is defined in organizational terms, meaning that state organizations learn and state organizations change when learning takes place.

There is also, another perspective (Sabatier, 1987) according to which learning is not so much about organizations but more about ideas. According to Sabatier, policy-oriented learning is “an ongoing process of search and adaptation motivated by the desire to realize core policy beliefs”. This interpretation is quite similar to Rose’s view on his study of lesson-drawing, applied particular in those situations when existing policies do not reach their end goal, creating dissatisfactions. Nevertheless, it can be found also a broader view, Hall’s view, (1988) according to which learning leads to the extension of the objectives and fundamental ideas of public policy, as well as to the enlargement of the beliefs held by the policy-makers, affecting both its means and results. Thus, in an interrelated world, searching for lessons from abroad becomes a natural approach because it gives a variety of benchmarking, since there is no single solution or identical responses for a problem. Numerous scholars view cross-national policy transfer as a form of policy-oriented learning and lesson-drawing. For lesson-drawing, concepts are absolutely essential, and policy is quite an inappropriate, inadequate term to use because it has multiple meanings. Thoenig lists at least 40 in the introduction to his 1980 analysis of public policies (Thoenig, 1985, apud Knoepfel, 2007). It can refer to whatever government chooses to do or not to do (Dye, 1984) to the interrelated decisions of the governments to solve policy problems or to a programme of action specific to one or more public or governmental authorities within a sector of society or a given area” (Mény & Thoenig, 1989, 130).

In relation to the goal of this chapter, it will refer to the later one. According to Rose (2005, 8) “a lesson is a detailed cause-and-effect description of a set of actions that governments can take into consideration in the light of experience

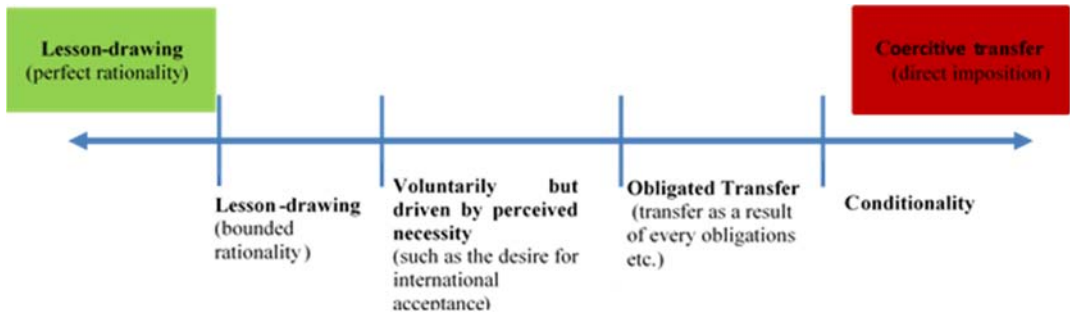
elsewhere and it uses knowledge of foreign measures to create a programme that can be applied at home or, in the case of learning from failure, a lesson shows how to avoid repeating foreign mistakes”. Important to note that a lesson is not a photocopy of a foreign programme, nor is it a model devoid of national context, but a recreation of the generic model by re-contextualization. Therefore, a lesson is “more likely to be an adaptation or synthesis of a programme observed elsewhere”. According to Rose there are five broad categories of lesson-drawing, ranging from copying the original program without much change to using a foreign idea as an inspiration for designing one’s own program.

**Table 1.** *Types of lesson-drawing*

Types of lesson-drawing	Description
Copying	Enacting more or less intact a program already in effect in another jurisdiction
Adaptation	Adjusting for contextual differences a program already in effect in another jurisdiction
Hybridization	Combining elements of programs from two different places
Synthesis	Combining familiar elements from programs in a number of different places to create a new program
Inspiration	Using programs elsewhere as an intellectual stimulus to develop a novel program

**Source:** adopted from Rose (1993, 30).

The result of lesson-drawing is a proposal that is designed to fit into your country. Despite that drawing lessons can contribute to improving the quality and rationality of domestic policy-making, the degree to which a policy maker adopts a particular lesson depends by the economic program and political feasibility. The motivations underpinning the decision to borrow policies from other countries can be positioned on a continuum from “want to” at one extreme to “have to” at the other (Dolowitz & Marsh, 2000, 9).



**Source:** Guiraudon, V., Lahav, G. (2007), based on Dolowitz and Marsh (2000).

**Figure 1.** *Policy transfer continuum*

In the voluntary policy transfer the assumption is that policy actors rationally choose to search for solutions from other countries, aimed to use those solutions for innovation and optimization of existing policies (Rose, 1991). The stimulus for that can be the dissatisfaction with local circumstances, uncertainty about the course of action during a crisis or legitimization needs (Dolowitz & Marsh, 1996). On the other hand, coercive, conditioned or obligated policy transfer implies transposing external rules under “external inducement” or compulsion to conform (e.g., structural adjustments imposed by international organizations). So, it can be noted from the interpretation of policy learning and the mechanisms of learning, that there are two contexts in which policy learning can occur namely, in normal times (routine situations) and challenging times (crises).

Still, in a “shrinking world” policy lessons are increasingly drawn on a cross-national basis, rather than on specific national experience, and are less and less constrained by cultural and geopolitical boundaries.

### Policy learning in normal times

Traditionally, policy making and public policy have been viewed as a domestic idiosyncrasy, affected by the domestic factors and actors, but it is obvious that this is not the reality. In reality, modern societies are going global and the policy making and policy problems are shaped not only by the domestic environment,

but also by the international and transnational context (Dogaru (Cruceanu) 2021, 46), so policy learning becomes a key aspect. For many policy fields, it is a fact, policies travel among states, although the study of travelling policy recipes has not been always well embraced by practitioners. On the other hand, research into policy transfer underwent an exponential growth, and scholars from various research fields pay attention to it.

There is an extensive literature on policy learning (Bennett & Howlett, 1992; Vagionaki & Trein, 2019; Rose, 1991, 1993; Wolman & Page, 2002; Dolowitz & Marsh, 2000; Dunlop & Radaelli, 2013) and its analogous terms, social learning, policy transfer, lesson-drawing, policy diffusion, policy convergence, each of them with a more theoretical or analytical approach for exploring the mechanisms, the types or the triggers. Deutsch (1963) was arguably the first to emphasize learning in the study of politics and policy in his relatively rationalist theory of government. Bennett and Howlett (1992) discussed the subject of learning (who learns?); the object of learning (learns what?) and the results of learning (to what effect?), while Wolman and Page (2002) examined policy transfer as an instance of policy learning focus on information networks, including producers, senders and facilitators of information as well as recipients.

At its most general level, policy learning may be defined as the updating of policy beliefs and preferences (Dunlop & Radaelli 2013). To understand policy learning is important to keep in mind that it is related to policy process, which involves policy actors that act within an institutional system of a country. Therefore, a recent approach (Moyson et. al., 2017; Moyson, & Scholte, 2018) was to classify the numerous contributions into three sets of approaches, namely the managerialist approaches, the diffusion and convergence approaches, as well as the social learning approaches.

The managerialist approaches of policy learning are grounded in organizational theory (Etheredge & Short, 1983; Argote, 2012). In general terms, organizational learning represents the process followed by an organization in adapting to its environment. According to Argyris and Schön (1996) “organizational learning involves multiple loops, such as single-loop learning (not only detection and correction of errors for implementing the existing organizational objectives and norms); double-loop learning (modification of objectives and norms) and

deutero-learning (an organization can even look at past episodes of learning in order to learn how to learn successfully)". In this context of organizational learning the contributions of bounded rationality paradigm and inter-organizational learning are notable.

The second approach is flourished in using concepts as policy transfer, policy diffusion, lesson-drawing and policy convergence for referring to the process through those decisions made in one institutional setting are made based on previously decisions made in another one. For Dolowitz and Marsh (2000) policy transfer is "the process by which knowledge about how policies, administrative arrangements, institutions and ideas in one political setting is used in the development of policies, arrangements, institutions and ideas in another political setting". According to (Porto de Oliveira & Pimenta de Faria, 2017) policy transfer perspective "reinforce the idea that it is not sufficient to compare similarities and differences between units, but it is also important to trace the genealogy and trajectory of models and to understand how two (or more) countries are embedded in dynamics of mutual learning, competition and reciprocal influence". Still, because there is a need to be very lucky to transfer a policy *per se*, meaning to find and foreign model entire suitable, the policy transfer needs to be viewed in terms of learning, changes in the processes and behaviours of policy makers and policy instruments. Moreover, it is important to keep in mind that policy making is not a linear process and the policy transfer, usually does not take place from one government to another, but on contrary there are complex movements, policy networking which are involved in drawing different directions as well as frameworks for translating.

Looking back, it can be remarked that policy transfer found its inspiration in the lessons-drawing perspective, according to which even at local or international level states pursue readily existing solutions to problems of public policy. The content of learning may include "hard" components of public policies like definitions of problems, objectives or instruments, as well as "softer" aspects like ideas, ideologies and concepts (Moyson & Scholten, 2018). According to Hecló (1974) policy making is a "form of collective puzzlement on society's behalf; it entails both deciding and knowing [...]. Much political interaction has constituted a process of social learning expressed through policy" (Hecló 1974: 305 -306).



For Heclo policy learning is “the creative process decision-makers use to process various data and information obtained from understanding, imitating, or even replicating regulations used by other parties to solve problems or minimize uncertainties”.

Started from this, the third approach of policy learning is social learning and it is concerned with the management of uncertainty and the puzzling of ideas by policy actors (Moyson & Scholten, 2018). In this vein, three main social learning perspectives can be distinguished: “epistemic communities”, “social learning” and “advocacy coalition framework”.

Another way to see the above three sets is through the lens of the level at which they analyze policy learning. Based on that, the following typology has been carried out (Dunlop & Radaelli, 2013; Moyson et. al., 2017):

- Micro-level approaches assume that learning occurs within and among individuals within social settings (also called “social learning”) (e.g., epistemic communities, advocacy coalition framework, social learning);
- Meso-level approaches focus on organizational learning;
- Macro-level approach focuses on how learning occurs at the system level, often across governments units.

Looking to the foundations of policy learning, one can see that these are philosophically grounded in pragmatism and its concern for what works. There are several branches studying policy learning, integrated by Dunlop et. al. (2018) into a family tree of policy learning. An interested approach from this family tree of policy learning is the 1990s-2000s one, which although is not exactly a new perspective, conducted to several specific concepts, such as “lesson-drawing” (Rose, 1991), “policy transfer” (Dolowitz & Marsh, 2000), “policy diffusion” (Marsh & Sharman, 2009), “policy convergence” (Bennett, 1991; Knill, 2005), outlined the cross-national learning. In policy learning’ paradigm an attractive idea is that instead of learning from the experience at home, which inevitably includes making mistakes, a government can learn from abroad, from the experience of other countries.

Policy learning is also termed as an incremental model in policy formulation (Agustino, 2020, 118).

## Policy learning: in crisis times

In general terms, crisis conditions are thought to have the potential to accelerate policy learning (Stern 1997, 73; Devereil 2009, 180-181; Birkland 2004). According to the literature on crisis management we have entered a new phase characterized by “transboundary crises” (Boin et. al. 2009, 367) which set themselves apart from the traditional crisis by their potential to cross different boundaries of sector.

Learning during crisis needs special attention being substantially different from learning in “normal”, routine situations because rationality is even more bounded in non-routine situations. In these situations, the certain is diminished, heuristics are not available or provide an insufficient guidance, although the actors are still intended rational. According to Hillyard (2000, 9) a basic objective of crisis management is to accumulate wisdom by “learning together from the event in order to prevent, lessen the severity of, or improve upon responses to future crises”. As it is well known crises are characterized by high consequentiality, limited time, high political salience, uncertainty, and ambiguity, so, all of these make learning more difficult. Moreover, according to Boin et al. (2005, 120), crisis learning contains a paradox: “When the need to learn is at its peak, the institutional capacity of public leaders and their organizations may be disappointingly low”.

However, crises can also create learning opportunities. In 1990, Lagadec argued there is a potential for crisis learning if the following principles are followed:

- identifying the major hazards, including those that are taboo;
- involving partners;
- making strategic decisions to reduce risk;
- making leaders responsible for these issues.

Also, Schwartz and Sulitzeanu-Kenan (2004, 97) warn that although crises draw political attention, policy change requires certain conditions: a perception of a problem in need of a solution, a perception that increased legal and hierarchical accountability is a feasible solution, and a political climate that is conducive to policy change. Another aspect, worthy to be kept is the both crises learning, namely intercrisis learning (learning from one crisis and making changes to prepare for another) and intracrisis learning (learning that seeks to improve response during a single crisis episode).

It is noted (Lagadec, 1990, 21) that intracrisis learning is more difficult than intercrisis learning because of the dynamic nature of a crisis when the actors do not have enough time to make calculated decisions, but rather they are engaged in “fuzzy gambling”. Thus, the postcrisis learning makes easier the possibility to identify suitable policy changes and therefore it supports the intercrisis learning. For policy-makers, crises “unsettle long-held beliefs and disturb routines taken for granted during normal times without replacing them with something new (Starke et al. 2013, 5).

The public policy process has been shaken after the global financial crisis from 2008 and nowadays, after the current health crisis (COVID-19), and in that context, the public institutions had the difficult mission to get an equilibrium between resources and policies results in order to achieve efficiency. Thus, in almost all countries started a process of changing, and public institutions make no exception (Dogaru, 2018). While governments are no stranger to natural disasters or human-made crises, responding to the COVID-19 pandemic, caused by a novel coronavirus (SARS-Cov-2), has presented an unprecedented challenge to governments of all levels and regions. As a transboundary crisis of global scale, COVID-19 presents a rare naturally occurring experiment to draw on for comparative public policy research and policy learning.

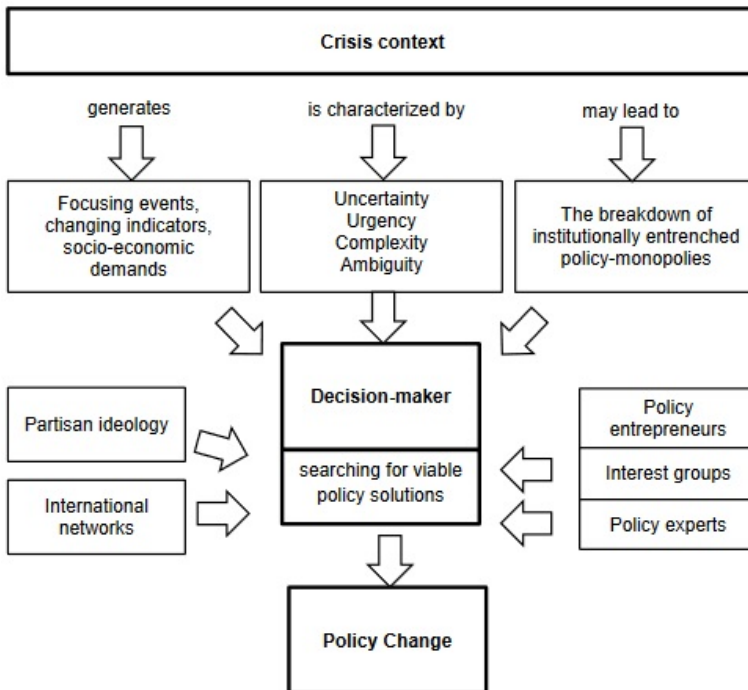
Global events represent a phenomenon both in terms of trigger factors and in terms of consequences and measures to combat it, especially because the quality of public administration and public policies is an important driver of a country’s competitiveness (Dogaru, 2016).

In this context, in a short time, under pressure and uncertainty conditions, governments had to react in order to give responses to different public problems occurring in almost all fields of activity. The need to learn from failures becomes essential in times of crises, and fundamental for public organizations that are faced with scarcity of resources and bureaucratic culture, and although they are not into a competitive environment like the ones on the market, they are under the pressure of citizens’ demands. So, organizational learning is affected by the organizational culture, and based on that the organization could adapt faster to unexpected situations or fail.

It seems that crisis is a trigger factor for learning and the policy learning a causal determinant for change. Wenzelburger, Kaiserslauten and Wolf (2015) developed a model of policy-making in the crisis and outlined that the “crisis situation challenges the decision-maker in at least three respects, namely:

- It generates focusing events and socio-economic demands that put certain policies on top of the agenda and pressure the decision-maker to deal with them;
- They challenge the decision-making process of the actor as they are characterized by uncertainty, urgency, complexity and ambiguity – a situation which the decision-maker has to cope with;
- The crisis context may lead to a breakdown of institutionally entrenched policy monopolies that have dealt with policies in a certain subsystem hitherto – a situation which challenges the information processing capacities of the decision-maker even more”.

The model proposed by authors is depicted in the below figure.



Source: Wenzelburger et. al., 2015.

**Figure 2.** Policy-making model in the crisis

In accordance with this perspective (Wenzelburger et. al., 2015), in time of crisis:

- political actors may resort to their core values and evaluate policy solutions according to them;
- international networks could play a major role as an arena where policy solutions are discussed and evaluated. Moreover, agreements in such contest as to which policy solution should be adopted can affect national policy-making directly.
- the influence of policy entrepreneurs should be especially relevant in the crisis context. Experts in a certain policy area and interest groups can be credibly present readily-made policy solutions to the time-pressed and uncertainty-plagued decision-makers.

So, time is a vital dimension in contemporary public policy-making, sometime determining, also, the quality of public policies (Dogaru, 2018).

In the context of the recent health crisis, based on their past experience or of others, governments introduced gradual measures from the simplest to the most drastic (e.g. lockdowns). At the beginning, they have developed their own responses, but later they started to transfer the solutions from one to others. The COVID-19 outbreak has required critical learning and adaptation in governmental responses (Dunlop et al., 2020; Lee et al., 2020) because the related policy challenges have been multifaceted and entangled and the disease context constantly evolved.

Beyond the health and human tragedy of the pandemic, the crisis is profoundly affecting economies, employment-levels, and public administration system. While national governments are responsible for managing the crisis, regional and municipal governments are responsible for implementing day-to-day containment measures, ensuring health care and social services, and advancing economic development and public investment.

Earlier research on the impact of the COVID-19 crisis (CoR-OECD, 2020) showed that the lack of technical means and equipment, a paucity of financial resources at the subnational level and a lack of coordination (vertical and horizontal) with other levels of government are among the biggest challenges they face in managing the health crisis. COVID-19 offers a unique opportunity to conduct truly global large N comparative studies of the processes and forces that underpinned

pathological policy responses. Some authors suggest that path dependency, in the sense of previous experience with similar crises (like SARS), helped in dealing with the COVID-19 pandemic in China (Liu and Saltman, 2020), Taiwan (Huang, 2020), and similar Asian countries as well as on other continents, for example, in Australia (Moloney and Moloney, 2020). Moreover, studies such as Powell and King-Hill (2020) or Chubarova, et. al., (2020) list relevant researches for learning of policy in COVID-19 pandemic crisis.

To deal with the current health crisis, from a broader perspective on the policy instruments, it can be noted that the most countries have been using the same tools, namely:

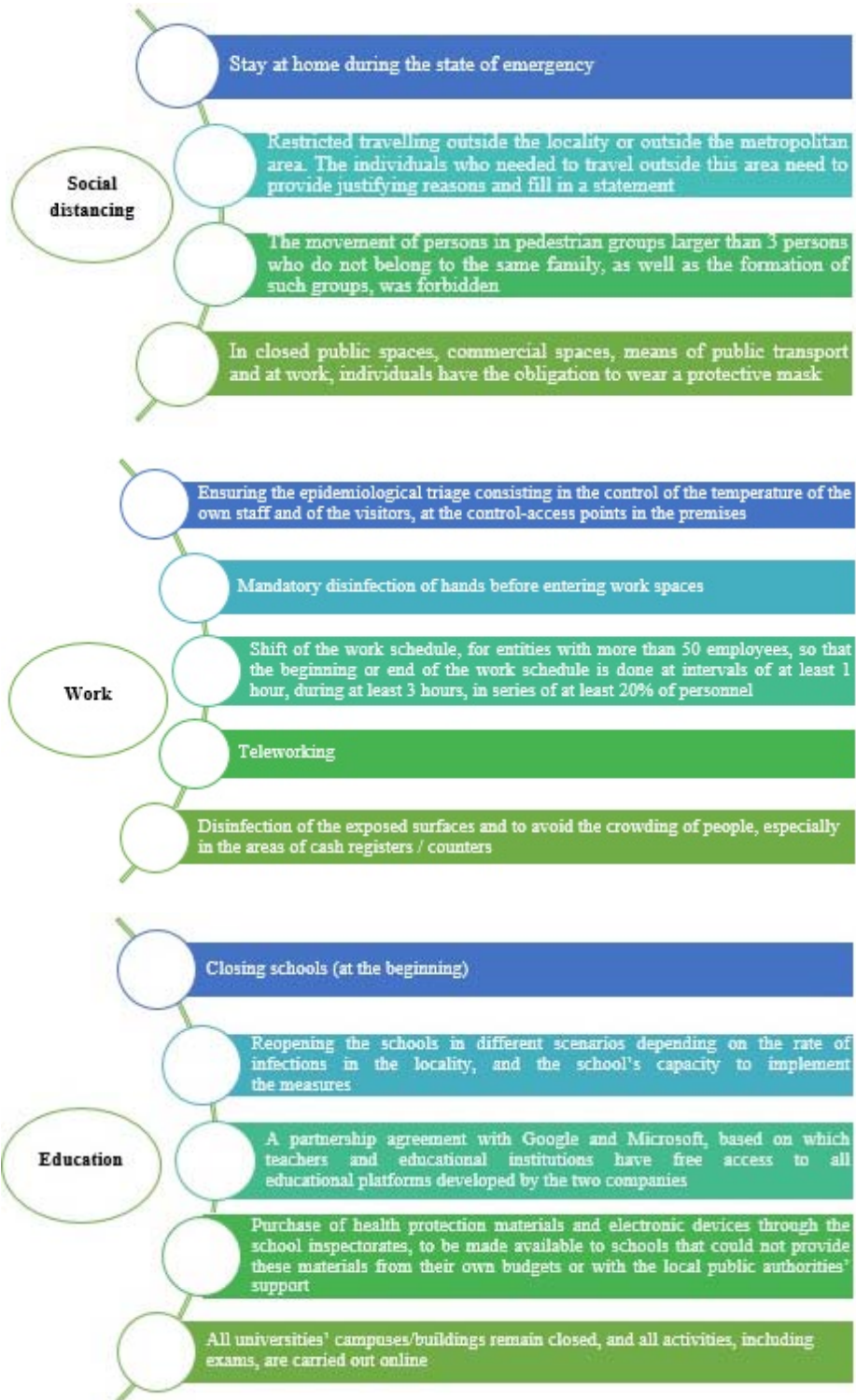
- Testing and mobility restriction;
- Border control;
- Quarantine (and contact tracing);
- Priority group for treatment and Limits on mass gatherings;
- Closing non-essential business (and school);
- Social distancing and other hygiene practices (e.g., mask wearing);
- Public information campaign.

Particularly, in case of Romania where the state of emergency was declared for 30 days, on 16 March 2020, by presidential Decree<sup>2</sup>, and the state of alert was initially declared on 15 May 2020, by Decision<sup>3</sup> of the National Committee for Emergency Situations, for a period of 30 days, during crisis the following measures can be mentioned, on sector/domain (examples):

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<sup>2</sup> Decree on the establishment of the emergency situation on the territory of Romania (Decret nr. 195 din 16 martie 2020 privind instituirea stării de urgență pe teritoriul României), 16 March 2020.

<sup>3</sup> Decision on approval of national alert, institutions and measures to prevent and control information, in the context of the epidemiological situation generated by the SARS-CoV-2 virus.



Therefore, at the beginning, the majority of states from all over the world imposed restrictions of movement and lockdown for a certain period of time. In this sense, in case of Romania, the Decree provided that in order to prevent the spread of COVID-19 and to achieve the management of the consequences, related to the evolution of the epidemiologic situation, during the state of emergency the exercise of the following rights was restricted: (a) free movement, (b) the right to intimate, family and private life, (c) inviolability of the domicile, (d) the right to education, (e) freedom of assemble, (f) the right of private property, (g) the right to strike, (h) economic freedom (Berceanu et. al., 2020).

As Peters et. al. (2011, 13-27) underlined, a crisis may demand new approaches to governance problems, and hence may create the punctuation in even a stable equilibrium. If there is a crisis, there may be evidence that the old patterns of governance were not effective and there is some need for new approaches to the policies in question. To some extent, the presence of the crisis will reveal the need for change, but it may also be an opportunity for people in government to make changes that would not be possible without the presence of a crisis.

Several challenges and opportunities revealed by the COVID-19 crisis for public governance and policy learning, in Romanian context were:

- Strengthening the collaboration and cooperation between institutions. Inter-institutional communication and mutual access to databases are not enough, being need for a structural dialog and the consolidation of the inter-ministerial committee in trans-sector policy-making. While these have been established since 2005 by the Government Decision no. 750/2005<sup>4</sup>, their effectiveness is still under question. Moreover, it is necessary a stable framework for cooperation between central and local public authorities which can ensure a functional and flexible relation, free of political tension (see also Cor-OECD's study, 2020). In the same time, the local authorities need to develop their policy capacity through learning from central authorities and to correlate their actions with the central policies and national priorities. At the time of this research, there are no regulations for local policy-making<sup>5</sup> and documents of policies; all the activities

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<sup>4</sup> Government Decision no. 750/2005 on establishing the permanent inter-ministerial committee, <https://legislatie.just.ro/Public/DetaliiDocumentAfis/63663>

<sup>5</sup> There is Guide for planning and fundamentation of decision-making at local level, but its implementation is still insufficient, <http://poca.ro/wp-content/uploads/2016/04/6-Anexa-VI-Ghid-APL.pdf>



in this regard are carried out based on local authorities' experiences or in certain cases through extrapolation of the central ones.

- Involving the stakeholders, particularly the citizens, NGOs into policy-making. Although in 2016 through Government Decision no. 523/2016<sup>6</sup> have been improved the consultation stage of policy-making, its positive impact is still at a minimal level. In that context, the crisis reveals that is need for a reform a civil service, including a direction for creating and supporting the policy experts/analysts. Unfortunately, in Romanian public administration there is not this kind of position (there are some similar ones), and in those cases where existing specific policy structures, such as policy units, their mission is underestimated or altered.
- Continuing the digitalization of public administration. The crisis pushed the institutions to change their behavior and to pay more attention to online mechanism for interaction with their clients. Procedures have been simplified, digital sign have been increased, but still according to DESI index there is place for improvements. Thus, although there are several progresses on the matter, is necessary to keep and to be driven in order to become a mode of operation.
- Developing the partnership with civil society and business. Seen for a long time as a difficult relation, nowadays, in the context of crisis, the complementarity of this relation has been outlined. In that time have been created networks, but it is still needed to extend them to more fields of policy and to improve the legal framework, including also initiatives on lobby regulations for facilitating the opportunity to get the know-how and exchange of good lessons. On the other hand, the existence of an active society is a fundamental condition for a stable and functional democracy.
- Combating the fake news and disinformation represent a sensitive aspect not only for acceptance of policy options, but also for the level of trust in public institution. Measures for increasing the transparency, apolitical approach of sensitive subjects and the focus on value add appear as necessary.
- Drawing a coherent framework for exceptional (emergence) situations because in the actual framework a lot of unconstitutional issues concerning the fundamental rights of people.

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<sup>6</sup> Government Decision no 523/2016 to amend and supplement the Regulation on procedures for the development, monitoring and evaluation of public policies at central level <https://legislatie.just.ro/Public/DetaliuDocumentAfis/180505>

Above all of these challenges, the COVID-19 raised multiple challenges for policy-making in the health, education and entrepreneurship and business sectors. In Romania's case, in addition to the aspects highlighted by the crisis, health policy must take into account the migration of human resources that the country has been facing for some time. More than ever, the relationship between migration and sectoral development policies such as health and social protection, labor market, education, investments and finance, public administration have been stress tested during crisis.

Therefore, taking into account that public administration is a fundamental subsystem of the social system, there is a strong relation between it and the changes that occur at society level, as well as between the changes from the its own system. Since, public administration is part of the social systems, the changes and transformations have their roots into the interaction between internal and external factors (Berceanu, 2018, 41-42).

## Brief conclusions

Policy learning in conceptual terms is well-covered, and the studies identified that learning occurs through the updating of policymakers' beliefs. Public policy-making presents a dilemma to public administrations. On the one hand, governments should strive for "good policy" that satisfies societal needs and expectations, which suggests a rigorous process that involves planning and resources. On the other hand, the environment for policy is continually evolving, which forces decision-makers to be responsive to changing conditions and nimble in reacting to events.

Based on literature (Elliot & Macpherson, 2010, 5) it could be noted that the lessons learned are often captured in new standards, policies or regulations that guide behaviors or set out norms of "best practice" in organizations and institutional fields. It can be concluded that drawing lessons from foreign experiences or domestic fields of policy can contribute to improving the quality and rationality of domestic policy-making. In that sense, policy transfer is often associated with rational approaches to policy-making, based on the notion that decisions should be based on evidence of "what works", instead of a particular

ideology. Without doubt, the differences in the responses that national governments make to a common problem offer the opportunity to compare the strengths and weakness of the own policies with what other countries are doing, but in the same time it is important to keep in mind that the political and economic resources as well as the bureaucratic system of the borrowing country are crucial factors for transfer.

Both in normal situations as well as in crisis times, the drawing-lessons can fail, particularly for three major factors: (a) uninformed transfer – meaning insufficient information about how the policy operates in the donor country; (b) incomplete transfer – when key features of what made the policy successful in the original setting are not transferred; (c) inappropriate transfer – meaning a limited fit between the social, economic, political and ideological contexts of the transferring and borrowing settings.

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# Theoretical and Practical Approach for Risk and Early Warning Systems using Bayes Rule

Mihail Păduraru<sup>1</sup>

## Introduction

In the present century the main challenge for intelligence organizations seems to be no longer the secret, but the over-information, with the secondary implications: distracting attention from the relevant information, the feeling of inability to integrate the amount of available data and the constant obligation to receive and process new information. Hence, the role of intelligence analysis is to extract certainty from uncertainty, as well as to facilitate coherent decision-making, in an incoherent and unclear environment generated by an overload of contradictory data (Kent, 1996).

*The present research aims to explain how conditional probability theory can be integrated into a risk assessment tool? – in order to detect in advance, the risks that may arise in social or economic systems. The findings will be highlighted by a qualitative research method, aiming to outline a taxonomy of the concepts used in probabilistic analysis, which will then be defined and compared. Both the positive and negative aspects of the Bayesian method of analysis will be presented, followed by a case study and conclusions meant to lead to future research. That being said, the focus is on the concept of early warning, which is defined by the “The United Nations Office for Disaster Risk Reduction”, as*

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<sup>1</sup> Phd Candidate at The Bucharest University of Economic Studies Postgraduate Certification in Criminology with Stonebridge College UK and Professional Police Practice Postgraduate under Institute for Public Order Studies of The Ministry of Internal Affairs, mihail.paduraru@ro-intelligence.com



“the provision of timely and effective intelligence, through identified institutions, that allows individuals exposed to hazard to take action, to avoid or reduce their risk and prepare an effective response (Grasso & Singh, 2012)”. Over time, different early warning methods have been built, most of which, are based on comparing the values of individual indicators in times of crisis and stability. If the value of an indicator exceeds a threshold, it signals an imminent crisis, so, the use of key determinants, internal and external, as explanatory variables is the common feature of early warning systems.

Different indices were also built, some of them summed up the indicators that signal the crisis, others emphasize the severity of the signals, or the statistical significance of the variables, and others capture the deterioration of the fundamentals, by adding past signals (Kaminsky & Reinhart 1999, 473-500). Specialized research has also led to the development of qualitative early warning systems, tailored to conflict prevention (Gurr 1994, 20-24), based on systematic evaluation of information according to a given set of criteria (Gurr 1994, 347-377). These criteria were classified by Grasso and Singh in 2012 (Grasso & Singh, 2012), into five main categories: (a) structural (identification of the contexts for a violent conflict); (b) accelerator (identification of triggers and past conflicts); (c) threshold (identification of similarities or patterns from other conflicts); (d) conjunctural (identification of the signposts of pre-conflict phase); (e) response models (identification of the impact of various interferences related to the conflict). As part of the project “An Internet-Based Early Warning Indicators System for Preventive Policy”, Henrik Lundin proposed a potential model for an OSINT EWS, designed to reflect the negative social, political, and economic developments in a country (Lundin, 2004). Lundin’s prediction model was built on structural (country’s annual structural data) and event driven indicators, as well as on accelerators (worsening events), de-accelerators (events decreasing the risk of conflict) and triggers (escalating events) (Harff, 1998). His model, outlined structural and event indicators, by importing data from external sources and the categories of indicators were used to design a risk index. Subsequently, acceleration/deceleration events were identified and analyzed. In their paper on EU early warning systems, Montaro and Schunemann have shown that “between 80% and 90% of the necessary information for an EWS can be gathered through open sources (Montaro & Schunemann, 2011)”.



**Source:** <https://linkurio.us/blog/graph-based-intelligence-analysis/>

**Figure 1.** Various OSINT information sources

The researchers thus confirmed Pareto's principle in intelligence, which states that 80% of intelligence needs can be supplemented from open sources, with only 20% effort, and the remaining 20% of intelligence needs require 80% gathering effort, through HUMINT (Bizadea & Puzderie 2013, 108) sources. All of these examples point out that, most Early Warning Systems are built on open-source intelligence, which would allow much faster detection of weak signals regarding the possibility of a negative event occurring.

### Risk assessment tools – alternative early warning systems

Unlike conventional approaches to early warning systems, which require statistical expertise and tend to focus on specific techniques for each area of application, conditional probabilities can widely be applied in various fields, even without prior

statistical training. The Bayes rule facilitates constant monitoring tasks and measures a risk according to certain conditions, in order to determine whether it may occur, or not. However, should not be ignored that, the accuracy of this process is directly proportional with the quality of the information available. According to Russell Ackoff, the human mind constantly processes, evaluates, and interprets qualitative and quantitative signals from the environment, which it classifies into the following categories: (a) Data: symbols; (b) Information: data that is processed to be useful, provides answers to the questions: Who?, What?, Where? and When?; (c) Knowledge: application of data and information; answer How? questions; (d) Understanding: appreciations to the question Why?; (e) Judgment: evaluation of understanding.

According to Ackoff, the first four categories refer to the past, they deal with what was, or what is known, and only the fifth category, judgment deals with the future, incorporating projection and vision (Ackoff, 1989).

**WHO? WHAT?; WHEN?; WHERE?; HOW?; WHY?**

In this equation, the main challenge is uncertainty, which represents the absence of intelligence regarding the understanding causes, consequences, plausibility, events, and all these elements determine the level of risk, which can be measured by multiplying the consequences of an event, with its probability or frequency. In other words, the risk targets potential events and their consequences and is expressed as a combination of consequences and the plausibility (probability, possibility) of an event.

- The greater the risk, the greater the probability of the occurrence of an unwanted event (with negative consequences),
- The greater the impact or consequences, the higher the potential threats and vulnerabilities;
- The risk is lower, as long as all components have lower levels;
- The attribution of an event with a certain degree of risk (a certain value) is conditioned by two factors: the possibility of the unwanted event occurring and the consequences of its occurrence.

- The risk identification stage implies the perception of the risks and the causes (factors) that produce them, which must take into account:
  - the causality and consequences of risk factors;
  - the time horizons in which they express themselves
  - the correlations of causes and factors and their cumulative tendencies;

### Conceptual delimitation of Risk

The next lines were reserved to explain among other related notions, the concept of “*risk and threat*”, because, even if there are considerable number of studies on this subject, the experts could not eliminate the confusion caused by the convergence of these two concepts. Most often and wrongly, people misuse the term of risk and confuse it with the threat. Although it is associated with risk, the threat is distinct and needs to be understood correctly. The threat is defined as the function of the enemy “capacity” and “intent” and is opposite to the risk, which is a function of “probability of action” and “severity of damage / loss”, but nevertheless the risk and the threat most often coexist (Paduraru 2021, 1-38).

$$(\text{Risk} = \text{Likelihood of Danger} \times \text{Severity of Injury})$$

while

$$(\text{Threat} = \text{Capacity} \times \text{Intent}).$$

The risk, was defined in (1812) based on philosophical proofs, when Marquis de Laplace wrote his *Theorie Analytique des Probabilites* (1886). Then, Laplace established ten primary principles concerning probability:

- Probability is defined as the ratio of the number of favorable cases to all possible cases.
- If the cases are not equally possible, then the possibility is the sum of the possibilities of each favorable case.
- When the events are independent of each other, the probability of their simultaneous occurrence is the product of their separate probabilities.
- If two events are dependent on each other, then the probability of the combined event is the product of the probability of the occurrence of the first event in the probability that the second event will occur given the occurrence of the first event.

- If probability of combined event of the first phase and that of the second phase is determined, then the second probability divided by the first is the probability of the expected event drawn from an observed event.
- When an observed event is linked to a cause, the probability of the existence of the causes is the probability of the event resulting from the cause divided by the sum of the probabilities of all causes.
- The probability that the possibility of an event falls within given limits is the sum of the fractions falling within these limits (as described above at point 6).
- The definition of mathematical hope is the product of the potential gain in the probability of obtaining it.
- In a series of probable events, of which some produce a benefit and the others a loss, we shall have the advantage that results from it by making a some of the products of the probability of each favorable event by the benefit that it produces, and subtracting from this sum of the products of the probability of each unfavorable event by the loss that is attached to it. If the second sum is greater than the first, the benefit becomes a loss and hope is changed to fear.
- Moral hope is defined as the relation between its absolute value divided by the total assets of the involved entity. This principal deals with the relation of potential gain to potential loss and describes the basis for not exposing all assets to the same risk.

It should be noted that identifying risks is not the same as assessing risks. When identifying risk we recognize that a certain risk may have serious potential consequences. In assessing risk, we review the totality of those consequences in terms of their impacts on systems, organizations, businesses and governments (Ramsay, Cozine & Comiskey, 2021).

(1) the risk, **R**, represents the probability of an unwanted event occurring, **E<sub>n</sub>**, **p**:

$$R = p (E_n)$$

where:

**R** = risk;

**p** = probability;

**E<sub>n</sub>** = unwanted event

(2) the risk, **R**, represents the product between the probability of the occurrence of an unwanted event, **p**, and the impact, **I**, or the consequences, **C**, of it:

$$R = p * C;$$

$$R = p * I,$$

were:

**R** = risk;

**p** = probability;

**I** = impact;

**C** = consequences

(3) the risk, **R**, represents the conjunction between a threat, **T**, and a vulnerability, **V**, which make possible an unwanted event:

$$R = T * V;$$

were:

**T** = threat = intention + capability;

**V** = vulnerability = weaknesses

(4) the risk, **R**, represents the product between the impact (**I**), the probability (**p**) of (**A**, **T**, **V**), all divided by the right set of countermeasures (**c**):

$$R = I * p(A, T, V) \times 1/c$$

where:

**A** = Activity/Action;

**T** = Threat;

**V** = Vulnerability;

**c** – Countermeasures;

**p** – probability function;

**I** – impact coefficient

The perception of risk must be oriented towards knowing the reality, understanding the risk factors and consequences, thus becoming directly correlated with the level, the amplitude or the evolution of the risk. Procedural knowledge, means that social or procedural development must be oriented towards the disclosure of the causes and correlations, to the evaluation of the impact and the frequencies of production, thus realizing the basis of the forecasts of future events.

The harmonization of the differences of thought and concern must be supported by the deepening of the cognitive process, which is the basis of understanding, forecasting and planning. Acceptance of reality must be oriented towards the analysis of evolution, establishing causal links between people and events, cause-effect and intention-motivation relationships, as well as the in-depth understanding of various phenomenon, in order to articulate appropriate tactics and strategies to confront and counter, exploit them or to conquer and lead them in the desired direction where they can be governed (Paduraru, & Voicu, 2020).

The concept of risk must take into account the elements of a perceptive knowledge, which will guide them to conclusions, synthesis and even abstractions as follows: descriptive knowledge, where facts, events and consequences must be oriented towards understanding and explanation, as later to be able to formulate estimates and predictions.

### Bayesian reasoning

In probabilistic terms, the risk is a possible event, placed anywhere between **0(impossible)** and **1(cert)**,  $0 \leq P(E) \leq 1$ , but in reality, you can't measure something that does not exist yet or will never exist. So, the assessment of the probability is in fact the estimation of probability. Estimating the probability given some piece of information or evidence can be measured using the rule of Bayes:

$$P(H_0|E) = P(H_0) * P(E|H_0) / P(E)$$

where:

**P(H<sub>0</sub>|E)** is the posterior or revised probability of hypothesis **H<sub>0</sub>** (the starting or null hypothesis) given evidence **E**.

**P(H<sub>0</sub>)** is the prior probability of hypothesis **H<sub>0</sub>**, or base rate (akin to prevalence in epidemiology). It is the first „bet”, which must be stated explicitly before evaluating any information.

**P(E|H<sub>0</sub>)** is the likelihood of observing **E** in the case of hypothesis **H<sub>0</sub>** is true.

In some cases, historical records can be used to assess it. This is the norm in medical diagnostics, where the rate of true positives of a medical exam is known. In early warning tasks, this is not the case and it must be subjectively estimated.

$P(E)$  is the probability of observing  $E$  regardless of which hypothesis is true,  $H_0$  or  $H_1$  (the alternative hypothesis). It can be calculated as  $P(E) = P(H_0) * P(E|H_0) + P(H_1) * P(E|H_1)$ .

Therefore, also  $P(E|H_1)$  must be estimated, which is the likelihood of observing evidence  $E$  if the case  $H_1$  is true (Barbieri, & Paladini (2017)).

On the one hand the critics of Bayesian method complained that Bayes' rule does not reveal anything new for the analyst. On the other side, the adherents of Bayesian approach contradicted those claims by stating that this flexibility and ability to reflect preconceptions is entirely appropriate since data would quickly overwhelm and eliminate the choice of the prior.

### Pros and cons from the literature in the field

The Bayesian approach, as a tool to process the information, supports the analytical judgment, which could be expressed in terms of mathematical probabilities. Its purpose is not to offer new information in itself, but to support the structuring and efficient use of the available data. Hamming in 1991 wrote bluntly, "If the prior distribution, at which I am frankly guessing, has little or no effect on the result, then why bother; and if it has a large effect, then since I do not know what I am doing, how would I dare act on the conclusions drawn?" (Hamming 1991). Hence, Hamming stated the fact that, the Bayesian approach, although it sometimes yields reasonable answers, is not scientific because it traffics in subjective judgments. Although this conclusion may be rather facile, it is important to critically review the Bayesian embrace of subjectivity. Recognizing the inescapability of subjectivity, does not mean that analyst should not still strive for objectivity, at least when risk analyses were deployed in scientific or public policy uses.

*If different analysts are always getting different results, what is the benefit of analysis at all?*

Objectivity is essential in any scientific endeavor, as it generates reproductibility, which makes relevant analysis possible. It also endows the results with a print of reasonableness by intersubjective validation. In other words, it is the binder that



holds together any science and justifies public confidence. Of course, different analysts will produce different analyses, and different modelers will sculpt different models. However, in science, it is necessary for researchers to strive for objectivity to minimize the ambiguous elements that lead to uncertainty and more than that, in science there must be real attempts to identify disagreements as a starting point for further empirical inquiry. Insofar as the risk analysis is a science, it disavows the radical multiculturalism, which denies that, a right answer even exists. Leading Bayesians Casella and Berger or Bernardo, recognized the danger and took pains to emphasize the importance of sensitivity analysis as a way to disperse any doubt associated with the choice of a specific prior. Some analysts who called themselves “objective Bayesians” stated that one does not have to involve subjectivity in analyses, but most Bayesians believe subjectivity is inescapable and that the ability of Bayesian methods to account for and legitimize its use in scientific inference, was a crucial feature of this approach. In fact, many consider subjectivity even more central to “Bayesianism” than the use of Bayes’ rule itself.

Other Bayesians stressed the importance of responsible judgment of the analyst, as the key feature to justify the use of subjectivity. They argued that any analyst which uses Bayesian approach should undertake to justify assessing the prior and be honest about its weight selection. One way or another, this means taking personal responsibility for one’s personal beliefs. Opinions are divided, other Bayesians claiming that the issue of subjectivity was overblown because the numerical impact of the prior on the posterior, could be minimized in relation to probability and, in any case, it decreased with the accumulation of new data over time. This was perhaps the weakest argument which Bayesians offered for their use of subjectivity. The *original prior* for the quantity of interest, represented essentially a *theory*. In principle, the Bayesian approach has kept this theory forever, being only modified according to the problem and never simply replaced. However, given the zero-preservation issue and the possible inertia of the prior in relation to the new data, this could be a serious concern. Some practitioners have complained about the fact that the theory is never replaced, claiming that it is an unscientific feature of the Bayesian approach. Adherents of the Bayesian approach argued that this method was the only rational scheme for probabilistic modeling

and inference. It also provided intuitive structures and natural reasoning schemes for the accumulation and synthesis of knowledge (Jaynes, 2003; Malakoff, 1999).

Although numerous, the source of controversy was not philosophical objections to the ideas behind Bayesianism, but rather the many limitations and disadvantages of applying this probabilistic approach in practice. That being said, the most common controversies have concerned the following issues:

- **No data.** The greatest of the promises tendered to risk analysts is that the methods can function and produce answers when there is no data at all. When there is no data, no probability can be constructed, so the unmodified initial prior, serves as the zeroth posterior. It is guessing to be sure, but it is principled guessing. The central problem is that these answers will not tend to be empirically correct (Mayo, 1996).
- **Subjective judgments.** Another original advantage that supports Bayesian approach is that it provides an architecture for dealing with subjective information that an analyst collects from personal experience or from expert advice. This advantage is crucial because sometimes beliefs are all we have from which to construct inferences, synthesize conclusions and make decisions. The Bayesian approach acknowledges the inescapability of subjectivity in scientific endeavors and seeks to provide a formal framework in which analysts can use relevant knowledge that is not expressed as empirical data. It promises to legitimize the use of subjective information in science. But many people maintain profound philosophical and scientific objections to such use of subjective information. It seems likely these objections are not going to fade away, any time soon.
- **Generality.** The Bayesian method seeks to regularize the discrepancy between inputs, represented by spatial or temporal variability, differences among various components or individuals, analyst judgment or expert opinion, into a coherent analysis based on a universal definition of probability. This goal is particularly important if it could be supported by arguments that would allow analysts to generate relevant results that are applicable to real-world issues. The problem is that the Bayesian solution to the disparity between these inputs, is to merge them all into a common denominator of subjective judgment.

- **Flexibility.** Another often claimed advantage of Bayesian methods is their flexibility. They provide an adaptable general framework for risk analysis issues at several levels, from general to purely technical. These may allow the insertion of arbitrary stop rules in data collection. But flexibility, like any virtue, can be both a positive and a negative aspect. If different analysts can and regularly get substantially different answers, observers may not consider the analysis to be scientific in any way. Moreover, such an approach does not capture public confidence in its ability to expose the relevant characteristics of a problem and can be interpreted as a persuasive product coming from analysts. Also, due to the constant preservation of the prior model, some critics (Glymour 1980, 63-93) suggest that Bayesian update is unscientifically and rigid in principle.

Other purported advantages of Bayesian methods such as rationality, formality and connections with decision theory, fall in the context of group decision making, or seem irrelevant when assessing risks outside the technical environment or in politically charged environments. The application of Bayes' rule in practice is hampered by intellectual difficulties associated with intrinsic computational complexity. Another component of the Bayesian "issue" is that analysts should think about their problems individually. Moreover, the main reason why there is no convenient software that makes Bayes' rule easy to apply in routine problems is that Bayesians consider the real problems to be unique and do not admit facile or canned solutions. There is simply no formula or paradigm that can be applied to each situation, to select the prior or to shape the likelihood function.

More than that, the Bayesians support the idea according to which, decisions in probabilistic evaluations are truly the special and inescapable responsibilities of the modeler/analyst. Hence, the Bayesian approach is not intended to yield a quick and dirty, but adequate solution. Adherents of this method advance the idea according to which, the proper application of Bayesian methods requires admission to a professional competence class, which may exceed the abilities of an ordinary analyst.

## Sequence of steps in Bayesian analysis

### ***Formulate a problem***

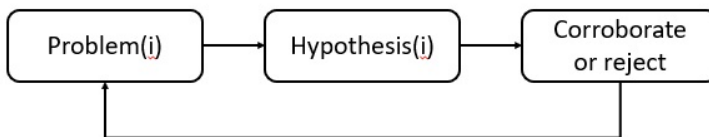
The analyst will need to present a suitably persuasive and comprehensive argument which details the causes, effects and extent of the problem based on a wide variety of sources.

### ***Identifying a possible solution (hypothesis)***

A hypothesis is a plausible explanation. The hypothesis doesn't represent the end of the problem-solving activity, is just a point en route to formulate the final interpretation.

### ***The attempt to invalidate (reject) it with the help of collected evidence***

If the hypothesis can resist against the confrontation of evidence, then it is temporarily accepted. A hypothesis can only be corroborated by evidence, but it has never been shown to be absolutely true. When is rejected, sooner or later, a new (probably harder) problem will emerge, which will be addressed with an updated and possibly more creative solution, in a knowledge-producing cycle, which is practically, infinite (Popper, 2002a).



**Figure 2.** *Simplified Bayesian Algorithm*

The framework of this method is similar to that of a criminal trial, and the possible outcomes of the trial are summarized in a confusion matrix.

	The subject is guilty	The subject is not guilty
The subject is judged guilty	True Positive	False Positive
The Subject is judged not guilty	False Negative	True Negative

**Figure 3.** *Confusion matrix – Trial*

### ***Competing hypotheses***

- **H<sub>0</sub>**: The subject is not guilty (presumption of innocence)
- **H<sub>1</sub>**: The subject is guilty
- Binary problem
- The prosecutor will bring evidence to falsify **H<sub>0</sub>**
- The defendant will bring evidence to corroborate **H<sub>0</sub>**
- A final decision is taken: either confirming **H<sub>0</sub>**, or rejecting **H<sub>0</sub>** and accepting **H<sub>1</sub>**

### ***Trial vs Bayesian Approach***

- Trial: starting hypothesis is “innocent”
- Underlying assumption: an innocent in prison is worse than a free criminal, i.e. a **FP** is worse than a **FN**
- Not always the case: in medical diagnostic as in Bayesian analysis, where a **FN** may be worse than a **FP** (e.g. failed cancer diagnosis, devastating terrorist attack)
- Analysts can start from the assumption that an individual is a terrorist, and then falsify or corroborate it.
- When tried (in court), the hypothesis can be inverted

### ***Assumption***

- A starting hypothesis must be stated EXPLICITLY
- If A were considered guilty (beyond any doubt), there would be no investigation (**P=1**)
- Same if the subject were considered innocent (**P=0**)
- Therefore **0 < P(H<sub>0</sub>) < 1**
- If analysts resort to Bayesian analysis, the individual is suspected to be a terrorist, otherwise the algorithm should be applied to everyone (“cry-wolf” situation, very expensive “big brother”)

### ***Objective probability***

- Classic: **P=m/n** (favorable cases/possible cases)

Limits: outside gambling, not all the outcomes are known or have the same chances

- *Frequentist* definition of probability (*law of large numbers*):  $\lim_{n \rightarrow \infty} f(E)/n = P(E)$
- **f(E)/n** = relative frequency of an event

Limits: cases at hand can be low in number

### **Subjective probability**

- *The degree of confidence that a subject will assign to an event based on available information, previous experience or personal evaluation (Baratgin, Over & Politzer, 2014)*
- How do we measure it? Betting (coherence); “How much do you believe in it?”
- Usually, probabilities are conditional

### **Conditional probability**

- What is the probability that the suspect is a terrorist *given that* he has a previous history of violent crimes?
- What is the probability that the suspect is a terrorist *given that* he rejects democratic values?
- The answer will be a prediction, an estimate

### **The rule of Bayes**

- Probability of hypothesis **H** given evidence **E**:  $P(H|E) = P(E|H)P(H)/P(E)$
- **P(H|E)**: *posterior* or revised probability
- **P(E|H)**: *likelihood* of event **E** in case **H** is true (historical)
- **P(H)**: *prior* probability of **H** (*base rate*, subjective)
- **P(E)**: probability of **E** in the population

### Diagnostics and intelligence

- The rule of Bayes is the standard in medical diagnostics
- Bayesian assessment is a diagnostics tool
- Usually, in diagnostics, **P(H)** is the prevalence of the disease (which is known from epidemiology)
- In intelligence, it is not always possible to evaluate the prevalence of a crime, especially in case of rare events like terrorist attacks → subjective estimate

### **Likelihood**

- Given that the suspect is a terrorist, how likely it is that he has a record of violent crimes?
- Given that the suspect is a terrorist, how likely it is that he rejects democratic values?
- Likelihood: frequency of an event in the past
- Historical databases can be used, if not → subjective probability (personal estimate)

### The algorithm

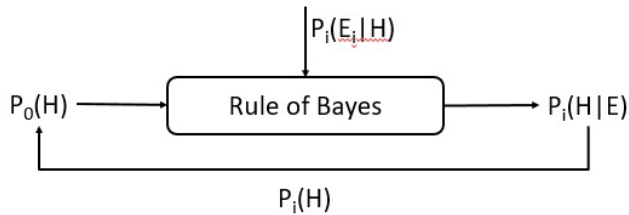


Figure 4. Bayesian Formula Algorithm

- Bayesian approach is a rational method for updating initial assumptions
- The algorithm can be implemented by means of a computer program
- The rule of Bayes will quantify the probability that an event with negative consequences will occur, based on the personal judgment of the analysts

### Tips for Open-Source documentation and mistakes avoidance

Even with dedicated software and a good knowledge of statistics and Bayesian inference, analysts are prone to errors due to the difficulty of calculating conditional probabilities based on various proofs and especially because some of the evidence is essentially contradictory. Therefore, each piece of evidence needs to be carefully and rigorously evaluated by experienced analysts, in order to accurately determine the likelihood and the relevance of that evidence for the final diagnosis.

- Consider the source – step away from the story to investigate the site, its mission and its contact info.
- Check the author – quick search on the author, are they credible? Are they real?
- Check the date – reposting old news stories does not mean they are relevant to current events.
- Check for biases – consider if his/her own beliefs could affect his/her judgement.
- Read beyond – headlines can be outrageous in efforts to get clicks. What is the whole story?
- Supporting sources – click on those links, determine if the info given supports the story.

- It is a joke? – If it is too outlandish, it might be satire. Research the site and author to be sure.
- Ask the experts! -ask a librarian or consult a fact-checking site.

When gathering online intelligence, an important aspect is represented by the cognitive paradigm through which the information is collected and filtered and mental models (or shortcuts), biases or analytical assumptions are the main obstacles.

- Propaganda which appeals to emotions – adopted by governments, corporations, NGO's to manage attitudes, values and knowledge.
- Click bait – eye catching, sensational headlines designed to distract, often misleading and content may not reflect headline.
- Sponsored Content – advertising made to look like editorials, potential conflict of interest for genuine news organizations, consumers might not identify content as advertising if it is not clearly labeled.
- Satire and hoax – look after social commentary or humor, varies widely in quality, and intended meaning may not be apparent can embarrass people who confuse the content as true.
- Errors – established news organizations sometimes make mistakes, mistakes can hurt the brand, offend, or result in litigation.
- Partisan – ideological and includes interpretation of facts but may claim to be impartial, privileges facts that conform to the narrative whilst forgoing others, emotional and passionate language.
- Conspiracy theory – tries to explain simply complex realities as response to fear or uncertainty, not falsifiable and evidence that refutes the conspiracy is regarded as further proof of the conspiracy, rejects experts and authority.
- Pseudoscience- purveyors of green washing, miracle cures, anti-vaccination, and climate change denial, misrepresents real scientific studies with exaggerated or false claims, often contradicts experts.
- Misinformation – includes a mix of factual, false, or partly false content, intention can be to inform, but author may not be aware the content is false, false attributions, doctored content, and misleading headlines.
- Bogus – entirely fabricated content spread intentionally to disinform, guerrilla marketing tactics, bots, comments, and counterfeit branding, motivated by ad revenue political influence or both.



- False attribution – authentic images, video or quotes are attributed to the wrong events or person.
- Counterfeit – websites and Facebook accounts that pose as a well-known brand or person.
- Misleading – content does not represent what the headline and captions suggest.
- Doctored content – content, such as statistics, graphs, photos, and video have been modified or doctored.

Out of over 300 known cognitive obstacles, the most common are (Pherson, 2018):

- a) confirmation bias: Seeking only the information that is consistent with the lead hypothesis, judgment, or conclusion;
- b) evidence acceptance bias: Accepting data as true without assessing its credibility because it helps create a more coherent story;
- c) hindsight bias: Claiming the key items of information, events, drivers, forces, or factors that shaped a future outcome could have been easily identified;
- d) vividness bias: Focusing attention on one vivid scenario while ignoring other possibilities or alternative hypotheses;
- e) mirror imaging: Assuming other actors will act in the same way the analyst would, given similar circumstances.

The main misapplied heuristics are:

- a) anchoring effect: Accepting a given value of something unknown as a proper starting point for generating an assessment;
- b) associative memory: Predicting rare events based on weak evidence that easily comes to mind;
- c) availability heuristic: Judging the frequency of an event or category by the ease with which instances come to mind;
- d) desire for coherence and uncertainty reduction: Seeing patterns in random events as systematic and part of a coherent world;
- e) groupthink: Choosing the option that the majority of the group agrees with or ignoring conflicts within the group due to a desire for consensus;
- f) mental shotgun: Lacking precision and control while making assessments continuously or providing quick and easy answers to difficult questions;
- g) premature closure: Stopping the search for a cause when a seemingly satisfactory answer is found before sufficient information is collected and proper analysis can be performed;

h) satisficing: Selecting the first answer that appears “good enough”.

The intuitive traps that can configure are the following ones:

- 1) confusing causality and correlation: inferring causality inappropriately; assuming that correlation implies causation. Also referred to as perceiving cause and effect;
- 2) expecting marginal change: focusing on a narrow range of alternatives representing marginal, not radical, change;
- 3) favouring first-hand information: allowing information we receive directly to have more impact than what we learn or are told second hand;
- 4) ignoring the absence of information: not addressing the impact of the absence of information on analytic conclusions;
- 5) ignoring inconsistent evidence: discarding or ignoring information that is inconsistent with what one expects to see;
- 6) lacking sufficient bins: failing to remember or factor something into the analysis because the analyst lacks an appropriate category or “bin” for that item of information;
- 7) over interpreting small samples: overdrawing conclusions from a small sample of data that is inconsistent;
- 8) overrating behavioural factors: overrating the role of internal determinants of behaviour (personality, attitudes, beliefs) and underestimating the importance of external or situational factors (constraints, forces, incentives). Often referred to as Fundamental Attribution Error;
- 9) presuming patterns: believing that actions are the result of centralized planning or direction and finding patterns where they do not exist;
- 10) projecting past experiences: assuming the same dynamic is in play when something appears to be in accord with an analyst’s past experiences;
- 11) rejecting evidence: continuing to hold to a judgment when confronted with a mounting list of contradictory evidence;
- 12) relying on first impressions: giving too much weight to first impressions on initial data, especially if they attract analyst’s attention and appear important at the time;
- 13) assuming a single solution: thinking of only one likely and predictable outcome instead of acknowledging “the future is plural” and several outcomes should be considered;

- 14) judging by emotion: accepting or rejecting everything another person says because the analyst strongly likes or dislikes the person. Also referred to as the halo effect;
- 15) assuming inevitability: assuming an event was more certain to occur than it was the case. Also referred to as the illusion of inevitability;
- 16) expecting marginal change: focusing on a narrow range of alternatives representing marginal, not radical, change;
- 17) ignoring base rate probabilities: failing to accurately assess the likelihood of an event when faced with statistical facts and ignoring prior probabilities or base rates;
- 18) misstating probabilities: miscommunicating or misperceiving estimates of subjective probability (most likely, could, probably);
- 19) overestimating probability: overestimating the probability of multiple independent events occurring for an event or attack to take place.

An example of poor practice in Bayesian analysis is *insufficient adjustment or anchoring effect* where the analyst, tend to stick with first bet  $P(E | H_0)$ , regardless of the incoming information (Epley & Gilovich, 311-318), as well as, *the base-rate fallacy* where the analyst, evaluate the risk of an event neglecting its prior probability, possibly due to lack of statistical expertise and subsequent adoption of some heuristics (Tversky & Kahneman, 1124-1131). The use of an Excel sheet can overcome the impact of this errors (Hahaianu & Dobre, 2017). If properly formatted and programmed, it can help intelligence professionals to revise their starting hypotheses coherently based on their assessments.

Furthermore, thanks to the Excel chart, the internal quality controller within an organization can understand and track how analysts' opinions evolve, as additional information is collected and evaluated. Thus, the managers can easily assess the work of their staff. Nonetheless, a few issues remain. In particular, analysts will be in trouble when assessing the temporal validity of the collected evidence, even when it is certified that the information is reliable and accurate. Usually, it is not possible to determine whether a piece of evidence is still up to date at the time of the final assessment, or even when the next intelligence item is being evaluated.

## Case study – The future of European Union Using Bayesian Assessment Tool

On the one hand, the purpose of this study is to demonstrate the usefulness of the Bayesian model to calculate the probability of materialization of a scenario. On the other hand, it aims to show how this analysis tool could be integrated into early warning systems. More than that, in order to provide an exercise for scientific research, this paper aims to explain how to use the Bayesian model, in early warning analysis, for calculating the probability of a scenario by drawing some working hypotheses on the evolution of the European Union, with ten years timeline, following Brexit and the coronavirus health crisis. The working hypotheses must be mutually exclusive and will be two, due to the fact that, any “n” – problem can be reduced to “n” binary problem.

*Scenarios Analysis* is a useful technique for exploring the many ways a situation might evolve, anticipating surprise developments, and generating field requirements when dealing with little concrete information and/or a highly ambiguous or uncertain threat. Scenarios Analysis is a systematic method for brainstorming multiple explanations of how a situation may develop when considerable uncertainty and several underlying key drivers are present.

*Judgment process = question => thinking => hypotheses/ideas => developing indicators for further collection and testing => focused data collection => predictive analysis*

Predictions are in fact an option which is given the highest degree of probability chosen by the analyst from a multitude of scenarios, or, as Liza Krizan states, are those hypotheses that have been “accepted” as the most probable among several competing hypotheses, based on the available data (Krizan, 1999). However, Charles Doran explains that predictions, unlike scenarios “fail in the end because they do not develop any technique to anticipate an event when nonlinearity manifests itself” (Doran, 1999).

More than that, scenario theory states that if scenarios are correctly identified, based on measurable indicators, enabling factors or inhibitors, then intervention can be made in advance, in order to maximize the likelihood that favorable scenarios occur. Finally, after the narratives are introduced in the decision plan, all the indicators underlying those scenarios must be identified and their evolution must be monitored. Multiple Scenarios Generation is a useful technique for exploring the many ways

a situation might evolve, anticipating surprise developments and generating field requirements when dealing with little concrete information and/or a highly ambiguous or uncertain threat. In counterterrorism for example, the analysts can use it to identify new vulnerabilities and assess, anticipate, and prioritize possible attacks and operating methods. It can be also used as an investigative tool, to provide a particular framework that allows the development of indicators and set up of intelligence requirements, for the field collectors or researchers.

## 8 Step Methodology

1. Identify the focal issue
2. Generate a list of forces or factors that will influence how the situation is most likely to evolve.
3. Define the two ends of the spectrum for each driver.
4. Pair the drivers in a series of 2 x 2 matrices.
5. Develop a “story” or two for each cell of each 2 x 2 matrix.
6. Select from all the generated scenarios those most deserving of attention because they illustrate compelling and challenging futures not now being considered.
7. Refine the list of key drivers.
8. Develop indicators that could be tracked to determine whether the selected scenario is or is not developing.

Due to the fact that the case study must be observed from multiple perspectives, only a few elements will be presented as evidence and the problem will be left open, in order to be integrated into an early warning system, to be monitored and evaluated through this method by other researchers as well.

- *H0: It is very likely that in 2030 year, the European Union will continue to function under the same structure and will expand to include more members due to its own mechanisms of social, political-economic cohesion and intra-community developments.*
- *H1: It is very likely that in the 2030, year the European Union will disintegrate because of many other states exiting the alliance and its heavy bureaucracy.*

It should be noted that when formulating hypotheses and trying to determine the probability of an event, individuals rely on information already held on the subject:

- a very difficult risk to imagine is perceived as very unlikely

- insensitivity to the quality of information leads to invalid evaluations
- you never know how much you know about a risk
- the role of emotions is a dual one if you know how to use them can help you in the evaluation
- the probability of an event tends to be estimated according to the area of risk it represents.

The hypothesis consists of two parts: the theory itself and the level of certainty with which it is supported. The level of certainty is expressed in terms of probability. One hypothesis provides a theory that can lead to the concentration of future data collection efforts. It is necessary to obtain additional information until the hypothesis can be confirmed or refuted, or until the correct one can be selected from a set of hypotheses. The sole purpose of the hypothesis is to be confirmed or refuted through testing. In order to confirm or reject the hypothesis or to choose one of several competitors, it is necessary to continue the activity of gathering information. After going through the intelligence cycle at least once, but most likely, a number of times, in order to reach the final result, the analyst will have a comprehensive level of knowledge about investigated subject or situation. A knowledge that cannot be matched, even by the beneficiaries of the report (be they operational staff or managers). The final result of any analysis should be to indicate a way forward. The analysis should answer the questions such as *“What are we doing now?”* and *“What are we not doing?”*. It is not the role of the analyst to make decisions, but to inform those who do. Making recommendations is a legitimate part of the process, but the aim and details of the guidance, may vary depending on the purpose of the analysis and the type of conclusions provided. The final section of the report may include a recap of the assumptions and / or conclusions drawn and should provide a list of recommendations that are based on the outcome of the analysis. Hence, it is necessary to take into account the criteria for evaluating the credibility of the source and the value of the information previously provided. However, there is not always enough previous information and more than that, relating to the past is – in fact – a prejudice: from a logical point of view. In a statistical series, any act subject to chance, has the same probability of occurrence, regardless of the number previously occurring.

## Scenario key fundamentals

- *H0: It is very likely that in 2030 year The European Union will continue to function under the same structure and will expand to include more members due to its own mechanisms of social, political-economic cohesion and intra-community developments (Todorean, Celac, & Scutaru, 2020, 189-196; 198-211; South China Morning Post; Negrescu, 2017; EU Parliament, 2020; European Commission).*<sup>2</sup>

### Supporting arguments:

- The EU is reportedly too large at the moment to consider adding new members and it's working on an integrated manner of surpassing the current multi-dimensional crisis to the satisfaction of all its members. It does not have the capacity to integrate more members so soon after Brexit and would likely focus on the vertical integration of its current members.
- There currently are five official candidates for joining the EU – Albania, Republic of North Macedonia, Montenegro, Serbia, and Turkey, and two potential candidates – Bosnia and Herzegovina and Kosovo. Neither of the candidates currently fulfil all the requirements to adhere to the EU, thus, an expansion of the union would be unlikely on the short term.
- The current challenges the EU is facing in the context of the COVID-19 pandemic, imminent economic crisis, possible new refugee waves, terrorist attacks suggest the EU will focus on maintaining the status quo and prevent further economic or social tensions from deepening the present problems and create new tensions among its members.
- The rise of nationalist parties along the continent implies popular dissatisfaction with the EU and thus the focus will be more likely on addressing these concerns within the alliance, rather than adding more members and spreading the budget even further.
- The economic prognosis shows a financial crisis more severe than the one of 2008 at the EU's doorstep, an average contraction of the EU economy of 7.5%, and an unemployment rate of 9%. Countries would likely focus on maintaining stability and will need EU financial aid to build resilience against its effects. The

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<sup>2</sup> European Commission, EU Enlargement, [https://ec.europa.eu/info/policies/eu-enlargement\\_en](https://ec.europa.eu/info/policies/eu-enlargement_en)

proposed EU economic recovery plans are ambitious are compatible with the implementation of the European Ecological Act, the Agenda for Digitalization.

- The Commission presented a common framework for a coordinated exit from the current health crisis after consulting experts and analyzing vast amounts of data. The framework includes packages for tourism, a strategy to re-establish free movement in the Schengen zone, as well as improved GDPR-compliant systems of tracking new infections. Member states would need a common strategy to prevent the prolongation of the crisis.
- The pandemic has an impact on European defense. The pandemic could be compared to war, and the current crisis has the attributes of a hybrid war. In Europe, national armies offered significant support to their governments in enforcing and managing the anti-covid-19 measures and even though they were mobilized for the crisis, they remained fully operational to fulfil their NATO obligations. It is likely that with the imminent economic crisis and budget cuts, the budget allocated by EU states for defense will decrease, and states will increasingly depend on one another for common defense.
- It is not the first time that the EU/Brussels are blamed for issues that are outside its core competences, such as health. The EU will likely not implode, but emerge stronger from this crisis, even with additional competences in areas in which a coordinated response is needed, as countries need to cooperate to ease out of the current health crisis.
  
- *H1: It is very likely that in 2030 year The European Union will disintegrate due too many states exiting the alliance and its heavy bureaucracy (Vollaard, 2020; Usherwood, 2020; Reynolds, EU Commission, de Waal, & von Twickel, 2020; Byrne, 2019, Böttger, VanLoozen, 2012; BBC; Baker, 2020).*

Supporting arguments:

- Brexit created a precedent for an EU state to exit the union. Eurosceptic parties in countries such as Poland, Hungary and Greece became very vocal on the possibility of their country to leave the EU as well.
- Frozen conflicts in the region, as well as the interethnic tensions reignited by the Russian annexation of Crimea, as well as Russian support given to various ethnic minorities in Europe could cause civil unrest and less tolerance to the integration process.



- The weak European response to the recent refugee crisis on its continent and the forceful refugee quota dependency on EU funds received by each state suggest a new imminent refugee crisis would likely be more difficult to overcome.
- The terrorist phenomena affecting EU Western states accelerates a nationalistic response within the targeted countries and makes integration of foreign citizens more difficult.
- Disagreements on EU budget repartition and the incorporation of rule of law conditionality for the funds received caused more tension with members such as Poland and Hungary.
- The statement of the German Chancellor, Angela Merkel, according to which „multiculturalism is an illusion, which would lead to the emergence of parallel societies”, and „this concept, in the EU was a failure, failed completely”, hides its skepticism towards the project of a united Europe.
- History of the EU member states makes the population reluctant to the old aggressors now presented as partners (e.g. Hungary - Slovakia; Hungary – Romania).
- Dissatisfaction of the population in the U.E. member countries facing high unemployment among young people, poor education, poor conditions in the health system and, regarding European rigid standards and restrictions which affect activities in agriculture, farming, and small meat producers and so on.
- Following Brexit, other members might follow the UK’s lead and question their role with the union due to dissatisfaction with European restrictions, budget limitations, as well as forced legislation on controversial issues in which states do not have universal values – imposed refugee quotas, same-sex marriage, multiple gender recognition, minority rights.
- Dissatisfaction within smaller countries, particularly in the East with the multi-speed Europe development proposals, which would deepen the current economic discrepancies.
- Dissatisfaction with Schengen access, which is conditional on the acceptance of other members.
- Europe was strongly impacted by COVID-19- If we take into account Russia, the aggregated number of the infections is comparable to the number of cases identified in the United States. In the first stages of the crisis the European

Union and its institutions, as well as the majority of the international organizations seemed surprisingly inactive. Recent opinion polls show the erosion of trust in the EU among the general population. Though in reality the institutions had a clear and direct communication policy and worked continuously to formulate a coherent, common plan to address the health crisis, the general perception remained that of a slow reaction and lack of response. One main issue was that by the time the Commission attempted to coordinate a common response to the health crisis and harmonize the measures taken by states individually across the EU, the states, as legitimate first responsible to tackle such crisis, had already implemented their own measures under the pressure of the public opinion and the rapid deterioration of the circumstances of the pandemic. As a result, a fragmentation of the management solutions adopted to tackle the crisis appeared across the continent.

- It is generally accepted that once the COVID-19 crisis will be over, the world will be significantly changed. Therefore, the international order and its institutional framework set up after the 2nd World War are questioned. Many criticisms are brought up especially against international organizations such as the World Health Organization and the United Nations, as well as the EU for their slow response, inefficiency, and incapacity to identify and advance solutions or to tackle promptly the current crisis.

Link	Source	Date	Evidence	$P(H_0)$	$P(H_1)$	Consistency	$P(E H_0)$	Consistency	$P(E H_1)$	$P(H_0 E)$	$P(H_1 E)$
<a href="https://www.ceps.eu">https://www.ceps.eu</a>	CEPS	04/03/2020	Frozen conflicts in the region, as well as	0.50	0.50	I-	0.35	I-	0.40	47%	53%
<a href="https://blogs.lse.ac.uk/hansvollaard/">https://blogs.lse.ac.uk/hansvollaard/</a>	Hans Vollaard	23/03/2020	Following Brexit, other members might f	0.47	0.53	I-	0.30	C-	0.60	30%	70%
<a href="https://www.reuters.com">https://www.reuters.com</a>	Reuters	30/04/2020	The terrorist phenomena affecting EU W	0.30	0.70	N	0.45	C-	0.55	26%	74%
<a href="https://journals.sagepub.com/doi/10.1177/0950080420371111">https://journals.sagepub.com/doi/10.1177/0950080420371111</a>	Simon Usherwood	27/05/2020	Brexit created a precedent for an EU stat	0.26	0.74	N	0.45	C-	0.70	19%	81%
<a href="https://ec.europa.eu/economy_finance/">https://ec.europa.eu/economy_finance/</a>	European Commission	30/07/2020	There currently are five official candidat	0.19	0.81	C+	0.85	I+	0.15	57%	43%
<a href="https://edition.cnn.com/2020/07/01/eu-budget-repartition/index.html">https://edition.cnn.com/2020/07/01/eu-budget-repartition/index.html</a>	CNN	01/09/2020	The weak European response to the rece	0.57	0.43	I-	0.55	C-	0.65	52%	48%
<a href="https://www.eurc.eu">https://www.eurc.eu</a>	European Parliament	17/12/2020	Disagreements on EU budget repartition	0.52	0.48	I-	0.45	C-	0.65	43%	57%

$P(H_0 E) =$	$\frac{P(H_0) \cdot P(E H_0)}{P(H_0) \cdot P(E H_0) + P(H_1) \cdot P(E H_1)}$	Source Reliability	0	$P(E H_0) =$
		Content Credibility	0	
		Relevance of the Evidence	0	
$P(H_1 E) =$	$\frac{P(H_1) \cdot P(E H_1)}{P(H_0) \cdot P(E H_0) + P(H_1) \cdot P(E H_1)}$	Completeness	0	$P(E H_1) =$
		Precision and Accuracy	0	
		Objectivity	0	
		@	0	
		Evidence Consistency= $P(E H)$	0	

Figure 5. Excel Spreadsheet – Bayesian Analysis Tool

In the figure above, only a small amount of evidence was introduced in an excel spreadsheet, in order to exemplify how can be calculated the conditional probability of the hypotheses.

However, users who wish to use this tool for in-depth monitoring of certain situations are encouraged to contact us.

## Final Remarks

The current literature on Early Warning Systems provides enough substance for the development of an effective Open-Source Intelligence-Early Warning System with components, functions and methodology adapted for intelligence collection and analysis. Moreover, Microsoft Excel can be a powerful and user-friendly tool with which certain financial estimates, economic predictions, market issues or security risks can be easily calculated in terms of mathematical probabilities. Specifically, it can decrease the weight of biases and ambiguities, while assist analysts to state quantitatively their estimates, in order to help beneficiaries better understand and monitor the situation under examination. However, analyst thinking in time and space parameters, will inevitably affect any assessment. The advantages of Bayesian model include the fact that, it acknowledges the existence of uncertainty model which has traditionally been ignored in formal assessments. More than that, it can express the analyst's beliefs regarding the relative likelihoods of the different models, and it can take account of relevant data that might help to choose between the models.

Furthermore, the Bayesian model has several significant disadvantages. Perhaps its greatest limitation is that the analyst must be able to enumerate all the possible models. This may be possible in some situations, but in general this can be an insurmountable task in itself, as some forms of uncertainty, models can resist to enumeration. For instance, *when* the model of uncertainty includes the choice of what parameters to use, the choices about the level of abstraction and the depth of details to incorporate into the model, *then* the space of possible models may be too complex for the methods discussed there.

Once the possible models are listed, the analyst must assign prior probabilities to each possible model. Again, this can be difficult in practice. When the number of models is large and some sort of equip probability scheme is commonly used. The calculation of the Bayes factors may involve a complicated integral, which can be computationally burdensome. These disadvantages can become uncomfortable obstacles to the practical use of Bayesian model and analysts should overcome them if the result is valuable enough, because in risk problems, the calculation of conditional probabilities is only a guiding tool and has no value of absolute truth. Analyst's experience and practical skills along with knowing the problem are what matter in the end. In the risk analysis, in order to have a more accurate result, a number of techniques and methods are employed depending on the training and experience of each analyst. Despite that, for a long time, statistics were polarized by fierce debates between frequentists and Bayesians. However, in recent years, the profession has matured, and this controversy has calmed considerably.

Nowadays discussions are more tolerant and inclusive, also both sides recognize the intrinsic advantages and disadvantages of the other. Nevertheless, outside of statistics, in the provinces of risk analysis or other mathematical and quantitative disciplines, the debates are only now heating up. These will never be straightened out, because they represent the fundamental complexity of human decision making, in an incompletely understood world. Hence, as other confusions are swept aside and misunderstandings are repaired by discourse and review, risk analysis will be richer for its growth. The different conceptions will lead to complementary perspectives that enlarge and deepen our understanding, readying us to answer the hard questions we face.

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# A description of social rights between history and contemporary problems

Vincenzo Desantis<sup>1</sup>

Genesis of the expression '*social rights*'

## ***Attempts at a definition***

The expression *social rights* is used to refer to a very particular and debated category of rights. Over the years the meaning of the phrase *social rights* has been interpreted in many different ways and with more or less success, but the current predominant opinion on this topic considers social rights as the set of legal protections that every State ensures to its citizens (Bin & Pitruzzella, 2013; Zagrebelsky, Marceno & Pallante, 2015; Tushnet, 1992, 1207).

Social rights are indeed often defined as all those human rights that protect the safe exercise of our autonomy, thus enabling us to achieve well-being (Fabre, 2000). Such a broad description allows us to include in this category a variety of legal relationships: fields such as education (Calamandrei, 1966; Atripaldi, 1975; Barone & Vecchio, 2012; Carloni apud, Bartolini & Pioggia 2016), health (Bottari apud Ridola & Nania 2001; Bruni 2007; Cavasino & Tulumello 2005; Cocconi 1998; D'Angelosante & Tubertini apud Bartolini & Pioggia 2016, 101), pension funds (Pessi 2016; Cinelli 1982, 163), employment (Scognamiglio 1978), family assistance services (Persiani 1973, 419; Colombo, 1959) and many others are certainly part of it. Looking at the social rights topic from the citizen's point of view, we can say that social rights are all those legal positions that the State administrative system should guarantee to the members of society.

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<sup>1</sup> Phd. teaching assistant at University of Trento, Faculty of Law, [vincenzo.desantis@unitn.it](mailto:vincenzo.desantis@unitn.it)



Although they are expressed differently from country to country or from one international instrument to another, they often present a recurring feature: they need be enforced only with the intervention of the State, such as the right to receive assistance or to access adequate housing in certain situations. Accepting these rights as human rights produces legal obligations on States to ensure that everyone in the country can provide remedies if they are violated. Principal International Instruments state a lot of economic, social and cultural rights<sup>2</sup>: so, for this reason, the detection of every single right is relatively simple. Nevertheless, giving a satisfying definition of what social rights are is a very difficult task. The expression “social rights” is indeed a very ambiguous lemma (Mazziotti di Celso, 1964; Grossi 2008, 13). When we talk about social rights we talk about an elusive and undefined object (Benvenuti 2012, 220). Social rights guaranteed by States are not fixed in precise catalogs or lists and the statutory provisions that refer to these rights are often partial and unsatisfactory (Corso 1981). This serious definitional problem forces us to investigate the historical origin of social rights (Pezzini 2001, 45-122; Ritter 1991) in the hope that the circumstances of their genesis can reveal to us the reason of their birth and the importance of their function.

An historical analysis can be useful in understanding the crucial importance of social rights: a class of right that has seen an incredible evolution across Europe and all over the world since at least 1848. Looking back at past years, we can say that the history of social rights goes hand in hand with the achievements of modern economics, mass society and pluralistic democracy. All these subjects are strictly related to each other and are still important in today’s debates on this topic. The relationship between economics and law is a useful lens through which to view rights, shedding light on the economic sustainability of social rights and their concrete potential for improvement (Garancini apud Rossi & Donati 1985). In addition to this, the realization of social rights is not affected only by the interaction between economics and law, but also by the dialogue between the

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<sup>2</sup> Universal Declaration of Human Rights (1948), International Convention on the Elimination of All Forms of Racial Discrimination (1965), International Covenant on Economic, Social and Cultural Rights (1966), Convention on the Elimination of All Forms of Discrimination against Women (1979); Convention on the Rights of the Child (1989); International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990); Convention on the Rights of Persons with Disabilities and many other regional treaties.

various parts of the political-legal system. Hence, for example, we are used to investigating the connection between *interpositio legislatoris* and the immediate justiciability of rights (Onida apud Carlassare 2001, 105; Violoni apud Celotto, Bifulco & Olivetti 2006, 775; Lupp 2004; Trubek 1984, 205; Tushnet 1992)<sup>3</sup>.

The most modern scientific mind-sets have solved the problem related to the definition of these rights in many different ways. Nowadays there are many different approaches to this topic. All these theories match each other and every scientific group, then, has tried to define the class of social rights by highlighting a specific feature of it (Grandi 2006). There are, for example, some who have defined social rights as those claims that every citizen can vindicate in order to obtain activities, goods, rights and much more from the State or other public authorities (Romano 1900, 171)<sup>4</sup>. Sandulli (1954, 1344) affirms that “civic” rights are legal situations which can produce benefits. All these benefits come from the public duties which are contained in statute laws or constitutional texts. According to these legal rules every State imposes on its public entities the realization of social rights.

Therefore, there is an important difference between the system of rights that every person can enforce in order to realize his/her claims and the set of social rights that every citizen can address to the State system. In the private law system we have a particular regime of obligations, but when a public actor is part of a legal transaction, the rules of the decision-making process are very different from normal. This description is based on the idea that citizens are able to vindicate a lot of claims because they are members of a group of people who profit from some benefits (Zilio Grandi 2006). Next to this idea there is a contemporary way of thinking that stresses the individual feature of every right, describing the class of social rights as a system of positions which belong to every citizen because every citizen is an active part of the State (Albanese 2007; Bonetti 2014, 485-571; Pioggia 2014).

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<sup>3</sup> Tushnet in *Civil Rights and Social Rights: The Future of the Reconstruction Amendments*, affirms: “(...) It has been contended that social rights are different. They often seem to require social provision; governments cannot simply stand aside, but must take positive steps to assure that rights to shelter, food, and work are honored. (...) I believe the foregoing claims are wrong”.

<sup>4</sup> The oldest theory on the definition of social rights connected the class of social rights to the category of public subjective rights. Specifically, social rights were connected to *civic rights* (*diritticivici* in Italian), which are all those rights of people that allow the fruition of public goods and services.

Along these lines, for example, is the concept of administrative citizenship. According to this background, every citizen can contribute to the definition of the social actions that his/her State should guarantee to him/her (Vettori apud Bartolini & Pioggia 2016). Regardless of this, as stated in one of the most influential definitions of social rights, these are claims that every person can apply to the State. Unlike democratic freedoms, social rights impose the enforcement of positive actions on a public entity (Mortati 1976, 1133)<sup>5</sup>. This definition was very successful, and it soon spread broadly. According to this definitional idea, many authors began to divide social rights from democratic freedoms, by starting a juxtaposition that would last for many years and still lasts today.

However, it has recently emerged that this distinction is often misleading because it is not possible to divide clearly these two classes of rights (Dicotti apud Pozzolo 2002, 125-174)<sup>6</sup>. Many of the most important social rights are usually included in the constitutional rules and this is very important in understanding that the achievement of social rights is a useful tool for the progress of both a country and society. The Italian Republican Constitution, for example, dedicates various paragraphs to the defence and the guarantee of social rights, and for this reason it represents one of the most advanced Constitutions on this subject: in the first four provisions the lemma *social-* appears six times and many of the following articles deal with social themes.

The following part of this work will attempt to investigate a part of these problems, with the aim of creating a summary framework of the most important and still open questions.

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<sup>5</sup> According to the opinion of this important author this kind of rights – which he never called *dirittisociali*, alias *social rights*, because he preferred to call them *diritticivici* – is divided into two types: on the one hand the social rights functionally oriented to the satisfaction of democratic freedoms, on the other hand social rights provided only in order to satisfy the material needs of the people.

<sup>6</sup> Opposing the idea of the gratuitousness or neutrality of democratic freedoms, this author stresses that the execution of these rights could be limited to a strict number of people. An example: the exercise of the *right to sit on a chair* does not involve any action from the State, but this particular right stops being neutral or unlimited when the number of chairs starts to decrease. So, in this case, the potentially unlimited right to sit loses all effectiveness.

## Some issues about social rights

Constitutions and equal statutes often lack lists of rights and many of their provisions affirm social right protection only in indirect ways. A similar set of issues suggests that every time we are talking about social rights we have to take into consideration different techniques of interpretation. When studying this class of rules, we have, indeed, to remember all the most important features of the topic of social rights theme: its breadth, its limits and its flexible and variable inspiration. More than this, claims made by people increase the complexity of this legal topic and they often produce potential new classes of social rights (D'Aloia 2003; Modugno 1995; Ruggeri 1995, 629). The great family of social rights is not composed of a closed number of legal scenarios, and many situations were added to a social class year over year, decade over decade. An example: we often listen to a lot of debates about the birth of another class or category of social rights. This is not the first time we hear something like this, since new classes of social rights will arise as long as laws exist. The features of this system give life and fluidity to the subject, but at the same time they make it complex and prone to a number of potential issues. The most important questions on these topics emerge when we need to draw the borders of the social right category or when, for example, we have to understand whether or not a personal claim can be fulfilled as a social right. Furthermore, another unresolved challenge regards the identification of the common part of the different social rights. Many authors have looked for the common feature of the community of social rights, the possible *trait d'union* (Pergolesi 1953, 38) that could bring them together into the same family.

Many scientific publications assert that the fundamental character of a social right depends on its origin. According to this reconstruction, the common aspect of social rights consists of citizens' claims, in a sort of strange cause-effect relationship (Bobbio 1990). This is certainly true, however many authors have argued that social rights could be granted by the authorities. We can have this particular kind of origin when governments decide to bestow many statuses or a lot of different types of guarantees (Vettori apud Bartolini & Pioggia 2016). With regard to the Italian case, the common feature of the Italian constitutional social-right class is, for example, represented by the change of plan which is contained in the paragraphs of the constitutional text. The social rights acknowledgment which we can find in the Italian Constitution depends on two fundamental

objectives: the realization of substantial equality and the enforcement of social duties (Caravita 1984; Careti & Barbieri 2002; Casavola 2004; Lavagna 1977; Pace 1988; Pezzini 2001; Salazar 2000).

### Labels and classifications ascribed to social rights

Leaving aside the aspects mentioned, the scientific literature has made many classifications of social rights. The labelling system made by the doctrine has ascribed many adjectives to social rights. This kind of rights has been defined for example as a generational or inferior social class. So, for this reason, by studying the social right class we are used to hearing that these rights are ontologically connected to the succession of the various generations. Social rights are indeed more recent than many civil and political rights and they are often included in the so called “second generation” of rights, a class of rights which extends from the right to food to the right to housing, from social security to unemployment benefits (Vasak in UNESCO 1977).

Over the years some scholarly reconstructions have established the widespread idea according to which human rights can be usefully grouped together in about four classes. According to this background, the first generation of human rights was pioneered in the 18th century<sup>7</sup> and includes rights such as the right to life, equality before the law, freedom of speech, right to a fair trial, freedom of religion, voting rights and many others. Close to these rights, second-generation human rights were recognized by several governments only after World War II: social rights are often ascribed to this second generation. In the last few decades, many documents of international law<sup>8</sup> have designed some new classes of rights, coining

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<sup>7</sup> Although some human rights were already drafted by many previous documents, first-generation human rights were pioneered by the U.S. Bill of Rights and by the French Declaration of the Rights of Man and of the Citizen. With regard to the U.S. Bill of Rights: A.A. Reed, *The Bill of Rights*, Yale University Press, 1998; L.W. Levy, *Origins of the Bill of Rights*, Yale University Press, 1999; B. Carol, *The Bill of Rights: The Fight to Secure America's Liberties*, New York, Simon & Schuster, 2012; with regard to the French Declaration: K. Baker, *The Idea of a Declaration of Rights* in D. Van Kley (ed.), *The French Idea of Freedom: The Old Regime and the Declaration of Rights of 1789*, Stanford University Press, 1997; G. Lefebvre, *The Coming of the French Revolution*, Princeton University Press, 2005.

<sup>8</sup> In this regard: Stockholm Declaration of the United Nations Conference on the Human Environment of 1972, Rio Declaration on Environment and Development of 1992.

the expression third-generation human rights". These rights are also known as "green rights" and include some positions such as the right to self-determination, the right to profit from natural resources, the right to profit from economic and social development, the right to participation in cultural heritage and some others.

Nowadays, technological development has suggested the creation of a new class of rights which might concern bioethics and related subjects (Son, Connolly & Nam 2018). Having said that, the evolution of human rights across the above mentioned division into several generations of rights shows that the surfacing of many of them is often related to the particular conditions of every historical period as well as to the specific development of both society and people's needs. Considering this, looking for the symptoms for the introduction of new social rights could be a useful exercise in order to better define their nature, problems, specific features and much more. In this regard: we often read articles that link the genesis of social rights to the circumstances of a specific historical period or to the particular social claims that have originated from the social classes. Well, this type of connection is certainly reliable, but we have to pay attention to exceptions and particular cases. There are, indeed, a lot of social rights that were born without particular popular tensions or riots. The history of social rights reveals that, sometimes, social rights were granted in order to keep peace or to avoid wars and conflict.

Furthermore, other doctrinal reconstructions affirm that social rights are essentially *legislative rights*. Many authors have indeed described the class of social rights as a legislative right class: a category of rights that perforce needs statutory provisions. The authors who promote this interpretation wanted to specify that the enforcement of these rights needs an expressed statutory provision because without a specific written statute they would not be able to be effectively guaranteed (Grossi 2002; Bartole 2012 in Brunelli & Cazzetta 2013; Dogliani 1982). Well, this standard is also partially true. A lot of social rights are, indeed, already contained in the articles of the Constitutions. So, according to the cogent character of this kind of provisions, social rights should not require an expressed provision in order to be enforced. In spite of this, it has often happened that a lot of social rights which were included in the constitutional legal patterns have been enforced only when many parliamentary statutes established their enforcement (Amorth in Pad 1984; Crisafulli 1952; Piromallo in Pad 1948; Lavagna 1977; Romano 1950).

Turning back to the classifications, we can add that there are some authors who have upheld that social rights are less enforceable than other right classes such as, for instance, democratic freedoms. The reason for this sustained inferiority could be found in the date of birth of these categories and, specifically, because democratic freedoms were established before the social rights *corpus*. Nevertheless, we refuse every thesis about this supposed inferiority (Luciani 1995, 118; Pezzini 2001; Bifulco 2003). The latter belief is probably suggested by all those insidious interpretations of international documents which typically declare that social rights are to be provided to the degree compatible with the state of economic development of countries. Anyway, stating a compatible enforcement of social rights does not imply the inferiority of social rights compared to other rights. Although States are obliged to enforce rights proportionally to their developmental levels, economic difficulties could not put off the total enforcement of social rights: a minimal effectiveness of them should be guaranteed at all times and not only in times of economic well-being.

Another classic and scientific distinction opposes the expansions of social rights to the alleged lack of costs of democratic freedoms. According to a background which is as obsolete as it is shallow, the guarantee of social rights would always make greater efforts than democratic freedoms. This particular belief is based on the idea that the enforcement of democratic freedoms does not cause any effort for the community (Holmes & Sunstein 2000; Nussbaum 1997, 66; Sen 2004, 315-356)<sup>35</sup>. Specifically, this way of thinking asserts that freedoms do not need particular interventions in order to be operated. According to this background every citizen indeed is able to exercise his absolute freedoms without the particular assistance from the system of government. With this in mind, what the system has to do in order to allow the fruition of freedoms is to abstain from doing anything. So, for this reason, they are also called “negative rights”.

Well, overcoming the idea of a clean opposition between positive and negative rights, we have to pay attention to a fundamental aspect: every right may impose a burden on public expenditure beyond its direct costs. Although a widespread thesis continues to affirm that negative rights do not cause particular expenditures or efforts for the community, such a background is wrong and must be refuted. An example will help us to explain this point: freedom of movement is established in a State by the abolition of contrasting laws which prohibit any movement from one area to another.

This abolition could seem to be an operation without economic consequences, but the “public costs of building urban infrastructure – water supply, sewage systems, schools, hospitals, and so forth – for the millions who, using their newly won freedom of movement, have flooded from the countryside into cities, is proving astronomically high” (Holmes & Sustain 2000). This simple example shows that rights cannot be cheap or free only for the fact that they require an expressed positive intervention of the public authorities. Sustaining the opposite background, we should instead divide legal claims into free self-enforceable positions and expansive positions which have to be enforced: a misleading and simplistic *summa divisio*. A similar operation is indeed certainly wrong because it claims to separate “expansive rights”, which require an active intervention by the State, from some legal positions which appear at zero cost: a reconstruction which risks making every discussion about the guarantee of social rights a discussion about costs and efforts, limiting the core of this great problem to a simple economic aspect even if it involves many other aspects and arguments. Recalling all these difficulties, the next parts of this paper will try to outline the origin and current status of our topic, highlighting issues of effectiveness of social rights and possible ways to solve them.

### Modern concrete effectiveness of social rights in Italy: Problems and challenges

The misgivings about the direct effectiveness of social rights reflected on the substantial equity program of the Italian Constitution. Over the years, the compound panorama of the opinions on this topic was constituted, on one hand, by a lot of authors and politicians that wanted to keep the distinction between the old rights of freedom and the new social rights (Pezzini 2001, 101); on the other hand there was a large political group who wanted to overcome the old bipartition of these two kinds of rights. Even though the problem of the immediate effectiveness of social rights was not solved, the solution of this question had been postponed to a later date. The issue represented by the concrete and immediate justiciability of the Social Constitution was again discussed when the Members of Parliament had to untie the interpretative knot of the contrast between programmatic dispositions and immediate effective dispositions.



Today this problem has been overcome: almost the majority of the authors highlight the need to adopt some measures which might execute the statements of the Social Constitution. The vast majority of legal scholars affirms that the dispositions about social rights grant to every citizen an individual position of interest which must be concretely realized by the authorities (Ruotolo 2014, 391-424; Pizzorusso 1995). Anyway, the most important problem of the realization of the Social Constitutions is represented by the fact that the text of the Constitution cannot efficiently describe all the specific and necessary forms of enforcement. The specification of the measures which are necessary in order to enforce every right is, indeed, a task of the legislative function: only the Parliament and the other bodies which can play the normative role could take action in order to make effective social rights. When the Parliament does not act, the constitutional system suffers a short-circuit. The Parliament is part of a complex mechanism in which constitutional decisions are regulated by specific measures. When the Parliament does not adopt the necessary measures, its constitutional requirement remains undone, incomplete. Nevertheless, the devolution of the enforcement in favour of parliamentary acts and the insufficient indications of particular tools which can guarantee the realization of social rights do not mean that social rights have to remain without effect.

All these cases reveal indeed the existence of a gap, but the importance of the Constitutional role requires this gap to be filled by interpretation. According to the importance of an immediate enforcement of social rights, we should support all those solutions that will grant effectiveness to the Constitutional provisions. The Constitutional status of a lot of social provisions imposes that the definition of many intersubjective relationships cannot be entirely devolved to political debates: the essential meaning of many social provisions is, indeed, unquestionable and its minimal enforcement has to be realized with or without parliamentary intervention. In all these cases there is an axiological gap (Guastini 1996): the lack of a statement which is announced by another statement. So, for this reason the Italian Constitutional Court has come up with a plan that extends the judicial review of legislation to all the potential gaps of protection: it develops the interpretation of the constitutional social principles in order to specify them. Only a progressive specification of the potential meaning of every principle can indeed define more precisely the perimeter of every right (Bin 1992; Cavallaro

2000, 27-41; Colapietro 1996). This kind of operation is fundamental in order to give sufficient effectiveness to the several constitutional provisions about social rights (Hayek 1966). So, the relevant problem of the axiological gap promotes the creation of a lot of new interpretative solutions: the enforcement of social rights should not be stopped by the inaction of Parliament, but the new judiciary products of interpretations constitute an obstacle with regard to the fundamental principle of the separation of powers. The legislative function is, indeed, an exclusive power of the Parliament. According to this background, the Italian Constitutional Court has for example established that only the partial oversights of legislation are concretely detectable. These are represented by the omissions which exclude only a limited part of citizens from the enforcement of a particular social right: this is referred to as the *tertium comparationis* model (Florenzano, Borgonovo & Cortese 2015; Clarizia 2006; Scaccia 2007, 286-302; Paladin 1997, 899).

Anyway, the greatest problems remain those linked to the absolute lack of legislation. In these cases, we cannot use the *tertium comparationis* model: the parliamentary enforcement of the constitutional provisions is indeed absolutely missing, and the Constitutional Court cannot impose its decisions over the potential ones of the Parliament. These situations cannot be easily solved: the needs related to the separation of powers impose that the protection of social rights can be ineffective until Parliament has established the relevant legislation: a real problem for the concrete effectiveness of social rights. The concrete realization of this category of rights can, indeed, depend on the discretion or the arbitrariness of the Parliament. In this way the constitutional provisions can be set aside, bringing the inutility of all those constitutional statements that recognize legal protection to several social positions.

## Conclusions

So, the complex panorama that has been quickly described suggests that the enforcement of social rights is partially recovered in the hands of Parliament. In the majority of cases, the lack of political will can stop every constitutional proposal aimed at guaranteeing social rights. Many social rights provisions risk remaining great, but unkept, promises: a very common situation that affects many modern constitutional texts (Cheli 1998, 1773-1796).

Anyway, the problems related to the lack of political will of enforcement are not the only ones that affect the effectiveness of social rights. The long period of social rights enforcement that we have known in recent years can be put into a crisis situation from the actual economic downturn (Cicala 1967; Diciotti 2006; Teghi apud Bertolissi 2012; Busatta 2018). The narrowness of financial resources imposes the quota system of services and threatens the effectiveness of social rights even if they were already guaranteed by a statutory discipline of implementation. So, if on the one hand the lack of political will can undermine the constitutional social rights provisions, the narrowness of the financial resources can, on the other hand, bring about the same problematic situation. In this particular context, the action of Supreme Courts becomes the last tool for ensuring the effective realization of social rights (Ruggeri 1994, 23).

The evolution of social rights does indeed still seem to be at a crossroads. The full realization of constitutional rights is threatened by parliamentary inaction, and EU legislation prefers pursuing economic interests to a full social rights safeguard (Bertolissi 2013). The rules about both the limited budget of the European Community and cost reduction do not allow for allocation of many funds for social purposes (Capriglioni & Semerano 2012; Volpe 2007), and the analysis of the relationship between the lack of resources and the concrete realization of social rights is one of the most problematic aspects of this topic (Cheli 1998, 1773-1796; Cicala 1967; Diciotti 2006; Bertolissi 2012). In this regard, the Italian Court has often balanced lack of resources and social rights enforcement establishing that the essential core of every right has to be guaranteed anyway (Mortati 1972, 964; Onida 1993; Luciani 1995, 51-61). According to this, the Court has for example stated that the parliamentary power of choice does not entail that the judicial review of legislation cannot ensure minimum protection to social rights<sup>9</sup>.

Along these lines, a few years ago the same Court declared the constitutional illegitimacy of the block of the automatic reassessments of pension benefits<sup>10</sup>. In another case, the Court affirmed the illegitimacy of the block of collective bargaining<sup>11</sup>, but the protection of social rights has involved also other fields such as the right to healthcare.

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<sup>9</sup> Italian Constitutional Court, judgment no. 27/1998.

<sup>10</sup> Italian Constitutional Court, judgment no. 70/2015.

<sup>11</sup> Italian Constitutional Court, judgment no. 178/2015.

In 2016, the Court indeed established that a regional discipline which limits the transport service for persons with disabilities to the available funds contrasts with the Constitution<sup>12</sup>. So, for this reason the guarantee of this particular service has to be granted in spite of the lack of resources.

The abovementioned cases show that the concrete implementation of all the constitutional provisions about social rights represents one of the most important challenges that should be overcome in the future.

The global economic crisis that started in 2007 has imposed a rethinking of the welfare state system, but the entire evolution of both the current legal systems and the socio-economic systems requires the realization of all those measures that can make effective the protections announced by the Constitutions. Problems like these will be felt even more by the economic scenario that will arise after the Sars-CoV-2 pandemic. The pandemic scenario of the last two years has revealed all the fragility of the institutions, the insufficiency of the market laws and the need for state interventions to support the economy and guarantee social benefits. In addition to this, the health emergency has shown new forms of social rights, such as the right to be protected from contagion, the right to be vaccinated and the duty of the state to protect fragile individuals.

So, all things considered, the unsolved problem of the cost of social rights cannot be an alibi in order to put aside the question of the missing implementation: the Constitutional assessment requires the complete realization of every guarantee, admitting derogations or exceptions only if it is necessary to protect other constitutional positions (Gambino 2015; Bertolissi 2012; Carlassare 2015; Maccanico 1958, 515; Mercati apud Bartolini & Pioggia 2016, 375).

This way of balancing is the only method we have to justify the narrowing of the implementation of social rights, because claims for the enforcement of social rights rise in parallel with the growth of the crisis. The greatest challenge we have indeed to overcome is the need to protect the Social Constitution even in times of trouble, achieving that the implementation of social rights stops being something to do in spite of crisis and becomes something to do precisely because of the crisis and a fortiori for the existence of the crisis.

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<sup>12</sup> Italian Constitutional Court, judgment no. 275/2016.

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# The relevance of happiness for public policies in time of crisis

Claudia Elena Marinică<sup>1</sup>

## Introduction

This article captures the growing efforts of states and organizations, at national and international level, to analyze, evaluate and implement through public policies adopted as accurately as possible the relevance of happiness and well-being of citizens in times of crisis, in the context of the current crisis generated by the COVID 19 pandemic.

First, the research briefly presents the concepts of “happiness” and “well-being” and how they have evolved in recent years, starting with the initiative of the state of Bhutan.

Secondly, it brings to the forefront the need for analysis and development of public policies taking into account this objective and aspiration at the same time (“happiness”), identified as a criterion underlying the development and evaluation of national policies, taking into account good governance.

Thirdly, research emphasizes that, in times of crisis, public policies need to be adapted so that citizens’ happiness, well-being and satisfaction are more than aspirations and goals to be pursued.

In a society forced to respond to the actual pandemic crisis, in order to continue to respond to the phenomenon of globalization and to identify and apply practical

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<sup>1</sup> Assistant professor, Ph.D., Faculty of Public Administration National University of Political Studies and Public Administration, [elena.marinica@administratiepublica.eu](mailto:elena.marinica@administratiepublica.eu)

solutions for taking care of the individuals, we are currently witnessing a repositioning of states regarding the concept of combating the effects of the pandemic, a realization of the concept of European solidarity, as well as the need to rethink public policies so as to adapt to the new reality, in times of crisis, constantly pursuing happiness, well-being, the right to health of all citizens.

The year 2020, the year when the pandemic generated by COVID-19 caused the most diverse effects, has definitely left its mark on the states of the world, on the public and private sector and on the measures taken, aiming to identify and apply the most appropriate public measures and policies to ensure that the rights and freedoms of citizens are respected and exercised, in a society increasingly characterized by globalization.

One of the main challenges for nation states in the context of the pandemic caused by COVID-19 is how they have managed and implemented measures to ensure respect for citizens' rights and freedoms and to adapt the public sector to this new situation, through public policies to ensure the health of citizens, their well-being and happiness in times of crisis.

In view of the above, this article aims to emphasize that in times of crisis (e.g. pandemic crisis), it is necessary to adapt public policies to minimize the negative effects of the crisis on citizens, in order to ensure happiness and well-being -a frame placed on new pillars. Happiness must have a direct impact on national and international public policies, especially on the economic and social segment, including on choices and policies on the well-being of citizens, ensuring the preconditions for job creation and social inclusion.

**The concepts of “happiness” and “well-being” into focus at international level**

Happiness can be considered an aspiration, a common goal of most of us, in this respect the academical research on the right to happiness and the proposal that it be one of the new rights was fast to appear, rousing over time the legal and political interest of the states, considering the pursuit of this objective through the developed public policies that must pursue the happiness of the citizens.

Based on the adoption of United Nations Resolution 65/309, on July 19, 2011, which congratulated the initiative of Buthan State to paraphrase “gross domestic product” with “gross national happiness”, emphasizing that happiness is a goal and a universal aspiration, and that the aspiration for happiness is a fundamental human goal, in France the initiative was launched to include happiness and well-being in the criteria underlying the national policies of good governance (Marinică 2017, 49-56).

Identifying and creating an indicator of happiness in the state of Bhutan based on human, economic, political and social progress contributes directly to job security and, at the same time, ensures access to the benefits offered by public services (e.g. health, education, environmental protection, culture, etc.), giving citizens the opportunity to participate in local development, to ensure transparency in the management of public resources and to ensure the “good practices” of those who govern for better governance.

In 2013, the OECD developed the Better Life Initiative: Measuring Well-Being and Progress, a set of guidelines for measuring well-being and progress, key priorities that the OECD set out to analyze in order to create an index of well-being prospects for member countries<sup>2</sup>. The launch of the Welfare and Progress Measurement Index was calculated and analyzed for all member states of the organization, stimulating discussions on economic and social development, as a community can have economic growth, but not necessarily social development.

The World Happiness Report (WHR) stood out as part of UN measures and commitments, mainly through the United Nations Sustainable Development Network (SDSN), which has been operating since 2012 under the auspices of the UN Secretary-General. We have to mention also The Global Happiness Policy Report (2018), which seeks to identify best practices at national and local level in seeking and achieving happiness and well-being (Marinică 2019, 43-50).

One of the best known researchers on happiness, Jeffrey Sacks, said that “skeptics of the happiness movement believe that power, not happiness, is the business of governments. However, the pursuit of happiness is not only idealistic, it is the best

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<sup>2</sup> For more details see <https://www.oecd.org/statistics/better-life-initiative.htm>, accessed at 31.08.2021.

and perhaps the only hope to avoid a global catastrophe. In World Happiness Reports, terms such as “happiness”, “satisfaction”, “well-being” and “fulfilment” constantly intersect.

Others appreciate that “for the general feeling of happiness, however, it is important that a country’s economy is in balance, that prosperity is distributed as fairly as possible. Research shows that the happiest people live in the countries where income inequality is at its lowest and healthcare is provided in the best way—such as in Finland, Denmark, Sweden, Norway and the Netherlands” (Smeets 2021).

Unlike the World Happiness Report, which shows who and why states are happy, The Global Happiness Policy Report contains best practices (applied policies) for promoting well-being and happiness in the world, how states can improve the well-being of their citizens, including issues that highlight public sector trends in different states for achieving personal happiness and measuring happiness. This report is a starting point in the development of appropriate public policy proposals, on the basis of examples designed and proposed for different purposes but which have also entered into these policies of happiness because they support some form of happiness. In the future, regular and widespread collection of data on subjective well-being is needed, leading to improving the scientific basis for evaluating policies designed to improve happiness (Marinică 2019, 43-50). The report says that “looking ahead, there is, therefore, a broad scope of policy-driven strategies of happiness, better coordination between government activities, supported by experimental evidence. Wide coordination and applicability are much more likely to be supported by government guidelines for evaluating policies based on happiness (e.g. Bhutan and the United Arab Emirates)” (The World Happiness Report 2018).

Measuring citizens' happiness is a sensitive issue not only in terms of material well-being but also in all other perspectives related to the community, the environment and public services, which must be determined and established as the main objective of governance (Cocoşatu 2014) at national level, but also regarding society, private partners and the community at large. Community happiness is linked to the progress of citizens in achieving common goals, economic well-being and social progress. We agree that “it is tempting to apply subjective well-being

measures to improve outcomes by directly maximizing an aggregate happiness measure. Happiness functions are a reasonably good – or at least the best existing – approximation to a social welfare function. The optimal values of the determinants so derived are – according to this view – the goals that economic policy should achieve” (Stutzer, & Bruno, 2011). Measuring well-being is another activity that is increasingly drawing the attention of specialists and, similarly, finding a suitable definition for the concept can be divided into two components: the objective component, which uses quantitative data as measuring instruments, in the form of statistics (economic, social or environmental), and the second component is the subjective component of well-being, consisting of a wide range of emotional and cognitive processes, more precisely people's perception of quality of life (Șerban, Iancu & Olteanu, 1990-2014). For this reason, it happens quite often that subjective well-being is associated with the concept of happiness “although from a psychological point of view the latter seems to be a much more limited concept” (Șerban, Iancu & Olteanu, 1990-2014).

The well-being of citizens can be interpreted as a natural consequence of economic growth, but these two concepts are not always positively correlated, as there are situations where the opposite phenomenon occurs. Of course, the well-being of citizens can be seen as a final objective of public policies, and the reporting of this well-being through economic, social, and other related indicators that are at the same time reliable and valid should be addressed by each state and regularly measured in order to contribute to the process of developing and evaluating public policies.

In the most recent World Happiness Report for 2021, it is stated that “until recently, it was not possible to apply the WELLBY approach to public policy for lack of direct quantitative information about well-being (Nicolescu 2018)<sup>3</sup>. So effects on well-being had to be inferred from people’s choices, and cost-benefit analysis done this way could only be applied to a limited range of policy choices. Now,

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<sup>3</sup> However, this shortcoming can be overcome by using participatory and / or computerized tools of public policies that allow filling in the missing information, including the simulation technique. See more about best practices in the field, Nicolescu, C.E., *Modelarea și simularea computațională – instrumente cheie pentru policy makers. Teorie și aplicații practice*, Ed. Economică, ISBN: 978-973-709-873-3, București, 2018.

however, the science of happiness provides direct evidence on measured well-being and what affects it. This makes it possible to analyse policy in a quantitative way over a much wider range of policy areas. The numbers may not be perfect, but it is far better to use empirically-based numbers than pure hunch” (World Happiness Report 2021).

At the European Union level, a series of analyses<sup>4</sup> applied to subjective well-being reveals that it “comprises three distinct but complementary sub-dimensions: life satisfaction, based on an overall cognitive assessment; affects, or the presence of positive feelings and absence of negative feelings; and eudaimonics, the feeling that one’s life has a meaning, as recommended by the OECD Guidelines on Measuring Subjective Well-being. In the Eurostat quality of life framework, all three sub-dimensions are covered” (Eurostat 2021). Therefore, according to these statistics, “almost 80% of European residents rated their overall life satisfaction in 2013 at 6 or more<sup>5</sup>. This represents an average (average) satisfaction of 7.1, with values ranging from 4.8 in Bulgaria (followed by Portugal, Hungary, Greece and Cyprus, all at 6.2) to 8.0 in Finland, Denmark and Sweden. [...] Material living conditions, social relations and health status are clearly linked to life satisfaction” (Eurostat 2021).

According to the study mentioned above, in 2018 compared to 2013, it was noted that most states in the European Union have registered an improvement in the welfare of the population, and their happiness enjoys a positive trend. The northern and central Member States of the European Union have been found to perform better in terms of the perception of subjective well-being and population satisfaction than the countries in the south-east of the European Union.

The concept of “satisfaction” comes and offers a positive complement to the contributions brought by “happiness” and “well-being”, offering a deeper perspective on the perception of life in general. Thus, “it can be noted that higher satisfaction with life correlates with a higher frequency of being happy, higher satisfaction with the financial situation and employment and to less extent with higher satisfaction with personal relationships” (Eurostat 2021). It is revealed “that

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<sup>4</sup> Although figures and statistics are at the level of March 2015.

<sup>5</sup> On a scale of 0 to 10.

financial situation, employment and social interactions play an important role for the satisfaction of individuals across the EU and day-to-day feelings and moods are interrelated with subjective well-being” (Eurostat 2021).

### Developing public policies considering happiness and well-being

Over the last decade, the concepts of “happiness”, “well-being”, “satisfaction” have been consolidated internationally, aiming to help shape a global vision of a society that bears the imprint of these concepts and provides better governance and effective public policies to citizens. The pandemic generated by COVID-19 has led to a crisis on multiple levels, including the need for immediate action around maintaining the specific objectives of these concepts.

Because “public policy is a principle used to guide governmental actions to implement public interests (Woll 1974 apud Oishi & Diener 2014)” and considering that “the business of government is to promote the happiness of the society, by punishing and rewarding” (Bentham, 2008), “in the late 18th century, Bentham envisioned that public policy be guided by its effect on citizens’ happiness. In reality, however, it is safe to say that public policies in most nations have not been always guided by public interests and happiness, but rather, they are guided by and biased toward economic and political interests of some groups” (Bentham, 2008). Some opinions relate that “the UK is the leading country in Europe in terms of incorporating the implications of well-being research into public policy. All major parties have examined or are currently examining the question of how public policy can foster people’s well-being in a sustainable manner” (Kroll 2010). In doing so, we assist at the rediscovering the works of British economist Jeremy Bentham, and we totally agree with the idea that “developing policy measures based on the question of what makes people happy can produce more effective outcomes that voters can furthermore relate to” (Kroll 2010).

In the literature it is stated that “all government policy needs to weigh human happiness” (O’Donnell & Oswald 2017), in such a way that public policies are positively influenced by setting this goal.

In view of the above, especially in times of crisis, the question is whether or not the level of happiness and well-being is affected and if so, what possible measures



can be taken in the area of public policy to maintain or even increase the level of happiness and well-being? The attention paid to the analysis of these concepts reveals that perception is constantly changing, identifying and correlating measurement indicators contributes greatly to shaping the premises of public policy making, ranging from the analysis to the exclusive and independent interpretation of happiness, well-being and satisfaction and indicators add to the correlation, multilateral approach and finally insertion of the results of the analysis in the elaborated public policies. Obviously, public policies must be adapted to the national particularity of each state, but also regionally or internationally, in order to outline international policies focused precisely on increasing happiness, given that the ultimate goal of any policy should be to ensure the happiness of citizens. Health policies, anti-corruption policies are just a few examples of policies that can be directly correlated with the analysed concepts, which we find, in fact, addressed extensively in the reports on happiness, since 2012.

In regards to public policies at European Union level, they represent what the European Union itself represents for the Member States and their citizens, namely democracy, the rule of law, human rights, progress and democratic representation. The decision-making process for adopting these policies, its transparency and the participation of citizens in the life of the European Union make public policies visible, clear and intelligible, contributing to the happiness and well-being of European citizens. But, as always, there is room for improvement, and they can be subject to additions and updates necessary for our time.

The crises that society has had to endure over the years, especially the economic and health-related ones have attracted the attention of national states and international organizations, with initiatives transformed into measures and then inserted into public policies, including more and more aspects so as to ensure happiness and well-being. For example, the economic crisis of 2008 led the European Union to pay particular attention to economic policies in order to restore economic growth, and to a lesser extent to those related in particular to happiness or people's well-being, although it is noticeable that they can positively influence the latter.

As an example at European Union level, the European Commission has proposed The Beyond GDP initiative<sup>6</sup>, which “is about developing indicators that are as clear and appealing as GDP, but more inclusive of environmental and social aspects of progress. Economic indicators such as GDP were never designed to be comprehensive measures of prosperity and well-being. We need adequate indicators to address global challenges of the 21st century such as climate change, poverty, resource depletion, health and quality of life”<sup>7</sup>.

Recently, the European Commission (Zlătescu & Marinică 2020) published The Strategic Foresight Report (SFR) for 2020, providing the European Union's perspective on incorporating strategic foresight and resilience into European Union policy-making. “The report defines resilience as the ability not only to withstand and face challenges, but also to transition in a sustainable, equitable and democratic manner, establishing a clear link between the concept of resilience and ongoing societal transformations. [...] The report also presents four prototype dashboards to monitor four interrelated dimensions: social and economic, geopolitical, green, and digital”, providing a holistic assessment of countries' capacities and vulnerabilities, and at the end to contribute to the measurement of well-being beyond GDP, in a moment when the disruption of established lifestyles by the COVID crisis has intensified the debate around it. Through this tool, the Commission is also committed to contribute to a paradigm shift, adopting a 360-degree view that acknowledges the complex interaction between social, economic, and environmental systems, as well as the importance of resilience for well-being and sustainability” (Zlătescu & Marinică 2020). Taking into account the “gross European happiness”, similar to “gross national happiness” and not only GDP, according to Bhutan's model, could lead to the development of concepts, the efficiency of public policies and the securing of economic and social progress.

The current health crisis, triggered in 2020 and still persisting, has called into question many of the rights and freedoms gained by European Union citizens over time, beginning with the freedom of movement associated, in particular, with free movement within the European Union, one of the rights most valued by European

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<sup>6</sup> Started as an idea in 2007.

<sup>7</sup> For more information see *What is the 'Beyond GDP' initiative*, available at [https://ec.europa.eu/environment/beyond\\_gdp/index\\_en.html](https://ec.europa.eu/environment/beyond_gdp/index_en.html), accessed on 01.09.2021.

citizens, with an essential and significant value, “in terms of its quality as an individual right of each citizen, but also in terms of the common general interest of the EU to give its citizens the widest possible mobility and the crossing of borders in the simplest possible way” (Zlătescu & Marinică 2017). Since its inception, this health crisis has affected all states on multiple levels, both in the public and private sectors, with the widest and most diverse consequences affecting lives, as well as more and more rights and freedoms.

In view of the health crisis, the European Union has promoted solidarity and mutual respect between peoples, considering that “in the medium term, reflection is needed on how to strengthen mutual trust between Member States and ensure that Union legislative instruments provide governance. Schengen area, which would allow for an effective and coordinated European response to challenges such as the COVID-19 pandemic, while maintaining the right to free movement” (European Parliament resolution 2020).

Activation of the EU Civil Protection Mechanism, in support of facilitating the repatriation of citizens<sup>8</sup>, the design of the rescEU component, a component of disaster risk management, creating strategies to ensure citizens' protection against disasters and allowing for emerging risk management, is a measure taken in response to the COVID-19 pandemic, aiming to improve and simplify a number of long-term administrative procedures.

We believe that “as regards COVID-19 policy, the right strategy in 2020 was to suppress the virus. Countries that did this had fewer deaths and a better economy. There was no need to balance one against the other.

However, in 2021 we shall increasingly have the vaccine. So, for countries that have failed to suppress the virus so far, the best course now may involve accepting some cases of illness (while the vaccine is being distributed) in order to protect the economy, children’s education, and the mental health of the population. For such a balancing act, the WELLBY approach is helpful and is illustrated in Layard et al. (2020) (World Happiness Report 2021).

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<sup>8</sup> It can be activated by both states and international organizations.

## Conclusions

Considering the above, it can be inferred that most people truly pursue happiness and even more than happiness. In fact, the aim is happiness, well-being, but also personal and collective satisfaction, concepts that come from a well-lived life, completing and offering an almost perfect meaning to happiness. The analysis of these concepts and their position in the public policy-making process are even more evident in times of crisis, especially since the prioritization of economic growth could automatically imply well-being, which is a mistake that has been increasingly dismantled in recent years. Obviously, the European Union, an important player on the European and international scene, wants to contribute to the happiness of its citizens, which is why the clarification of issues related to concepts such as “happiness”, “satisfaction”, “well-being” and “fulfilment” taken into account by organizations emphasizes their importance in the drafting of public policies and in the daily life of European citizens.

We agree with the opinion that “happiness research itself does not offer an approach to public policy. [...] Citizens as ultimate decision-makers are disregarded, and governments are seen as benevolent maximizers of social welfare captured in terms of measured subjective well-being. This view neglects that people differ in what judgements they consider to reflect their normative preferences. The political process should be institutionally structured so that people’s common interests revealed behind the veil of uncertainty become the principal controlling force. Thereby, happiness (in its various forms) need not necessarily be people’s ultimate goal” (Stutzer & Bruno 2011).

Recent crises have challenged public policies all over the world to rapidly provide solutions for maintaining happiness, well-being and satisfaction. However, we consider that it is even more important to prioritize the well-being of all citizens facing these critical situations which they had to confront related to life, health, free movement etc. Whatever the future will look like, happiness, well-being and satisfaction are the key for making better public policies, for ensuring good governance in the post-pandemic transition.

In the last World Happiness Report (2021) it is shown that “confidence in public institutions supports the choice and successful application of the preferred

strategy because those living in such societies are more likely to accept the necessity of fast and sometimes painful policy measures, and are personally more likely to follow policy advice and to reach out to help others in their communities” (World Happiness Report 2021). We believe that states must continue to measure happiness, through the already diversified existing instruments at national and international level, and at the same time promote and strengthen public policies that advance the well-being and happiness of citizens.

The evolution of society, people's perception and expectations, crises and especially the last years should lead to the reflection of states on rethinking and improving public policies, considering the multiple approaches and interpretations given to the concepts of “happiness”, “well-being” and “satisfaction”. This entire period emphasizes the need to ensure public policies adapted to the crisis at European Union level, and the components of health and social policy “should be an absolute priority of the EU, in relation to the vulnerabilities of a community”, especially since “It can easily affect its general well-being” (Marinică 2020, 92-104). All this to ensure a sustainable and inclusive recovery that bears the imprint of happiness, well-being, solidarity and the protection of human rights.

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## Managing diversity in the Romanian educational public system

Manuela-Elena Concioiu<sup>1</sup>

### Introduction

Diversity is in human nature. It is our way to face the challenges from a continuously changing world, originated from work and study mobility, international migration and globalization. Biodiversity and societal diversity have created a suitable environment for education, leading to the concept of multicultural education, so necessary in the development of the current generations of students. This metamorphosis faced by European societies refined the education providers and policy-makers, coming to a paradigm shift, from “Teaching *about* diversity” to “Managing diversity, teaching *for* diversity, learning on diversity!”. The lack of knowledge base on the preparation of teacher educators, of coherence concerning teachers' training to approach classroom diversity in secondary education, lack of systemic policy approaches towards inclusion and diversity and diverse student teachers, established the framework of this study.

Can we answer these questions: Do educators understand the learners' need for integration in a multicultural environment, within a school context? Are teachers prepared for diversity in the classroom? What does it mean to teach for diversity and in diversity? Are there functional methodologies for teacher trainers? How do we address these challenges?

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<sup>1</sup> Phd. Candidate, Department of International Relations and European Integration, National University of Political Studies and Public Administration, manuela.concioiu@hotmail.com



The answers to these questions should provide an overview of a classroom diversity management in the Romanian public secondary education, regarding formal and non-formal activities and, like an added value, it would be helpful for other European Union member states. Raising awareness on the importance of well-prepared teacher trainers for diversity in Europe and harmonizing teacher intercultural competences within a European framework integrated into the curricula will point to societal diversity as an asset that applies to school-related diversity. EU states should prepare teachers for diversity and in diversity, not regarding diversity, by promoting multicultural education as a normal teaching-learning environment. Furthermore, insights on how the Romanian educational system not only should monitor how diversity is viewed through internationalization and non-formal educational activities, as these are specified in the methodologies, but also a real image of how it is perceived by teachers through the documents, are shown. This paper is addressed to the actors involved in the public secondary education, with the purpose to show the documents that enhance diversity and its cohesion between students and teachers. Romanian educational system not only should monitor how diversity is viewed through internationalization and non-formal educational activities, as they are specified in the methodologies, but also give a real image of how it is perceived by teachers through the documents.

How do methodologies and legislation regarding diversity approach this topic and how do students and teachers see this? A strong diversity and inclusion strategy can help organizations integrate diverse groups of students and teachers and can generate innovative results. Most of the educational institutions try to change the way they deliver the educational activities, through another type of approach, so they try to enhance diversity and inclusion initiatives. This poses challenges for many educational institutions, where the gap between educational legislation or methodologies and practical approach increases and intercultural diversity management is poorly understood at an organizational level, despite the presence of numerous international projects of good practice throughout European teaching or exchange programmes.

In the last years, work and study mobility and international migration and globalization led to the reshaping of European directives, rules and legislative measures. Societal diversity creates a suitable environment for education, be it a

formal, non-formal or informal one. The Lack of a knowledge base for the preparation of teacher educators, of coherence in relation to teachers training to approach classroom diversity in secondary education (i.e., paradigm of inclusive education predominantly), lack of systemic policy approaches towards inclusion and diversity and diverse student teachers, established the framework of these observations. How do Romanian Educational methodologies and legislation regarding diversity approach this topic and how do the students and teachers see it? A strong diversity and inclusion strategy can help organizations integrate diverse groups of students and teachers, and have innovative results. Most of the educational institutions try to change the way they deliver the educational activities using a different approach, so they try to enhance diversity and inclusion initiatives.

## Literature Review

Diversity is our way to face any challenges from a continuously changing world, originated from work and study mobility, international migration and globalization. It can be seen at the individual level, moving to the population one and then to global level, thus from a microsystem to a macro system, with a different impact-range. Europe can be described as diverse in multiple ways: diversity in geography, culture, language, national identity, political views, values, and demographics, in social and economic areas. Societal diversity creates the premises of education, leading to the concept of multicultural education, so much required in the development of the current generations of students. The ability to work with people from different cultures and countries has become a key factor for educational developments to succeed. This is driving both the internationalization and multicultural strands in curriculum developments (Johnstone, 2010). Regarding cultural diversity, types and the concept of a multicultural society are used to designate a society in which one or more types of cultural diversity are present. Multiculturalism identifies with “the promotion of minority cultures (ethnic, religious), especially at an institutional level, like schools, local communities, nations” (Parekh, 1998).

Education plays a major role in multicultural and intercultural European societies. Multicultural education aims to improve interpersonal relations between students

coming from different countries, which will help them to acquire knowledge, attitudes and skills needed to participate in cross-cultural interactions, personal, social and civic actions. Some of the authors who dealt with multicultural education or cross-cultural learning in their studies were: Banks (2001) and Irvine (2003), Harris, Moran et al. (2004). When defining the concept of multicultural education, in Banks's vision, there are more dimensions: content integration, the knowledge of construction process, an equity in pedagogy, an empowering school culture and social structure (Banks and Banks, 2001).

To designate the appropriate cultural diversity management activities, it is used the concept of *intercultural education*, explored from the descriptive and methodological perspective by: Nieto (1992), Cukoş (2000), Banks and Banks (2001), Ciolan (2010). Research has shown (Phillips et al. 2004) that institutions with more diverse teams outperform those with a more homogeneous workforce. According to Bennett (2014), the intercultural learning can be defined as "*acquiring increased awareness of subjective cultural context (worldview), including one's own, and developing greater transferable ability to interact sensitively and competently across cultural contexts as both an immediate and long-term effect of exchange*" and the concept of intercultural education is "*The intentional and systematic effort to foster intercultural learning through curriculum design, including pre-departure, on-site, and re-entry activities, and/or course content emphasizing subjective culture and intercultural interaction.*"

There are several available studies that show the effectiveness of learner-centered teaching, or good practices building in teaching, but, according to 2017 European Commission Report<sup>2</sup> and the Annexes 3-6 to the Final Report<sup>3</sup> there were conducted only limited empirical research in Europe that studied the various interconnections between competences that teachers should have to address the needs of all students and the challenges raised by an increasingly diverse Europe. Their observations were made based on different studies of Bennett (2012),

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<sup>2</sup> *Preparing Teachers for Diversity: The Role of Initial Teacher Education*. Final Report to DG Education, Youth, Sport and Culture of the European Commission Written by Public Policy and Management Institute (PPMI), Directorate-General for Education, Youth, Sport and Culture Education and Training, 2017, available online at: <https://op.europa.eu/en/publication-detail/-/publication/b347bf7d-1db1-11e7-aeb3-01aa75ed71a1>

<sup>3</sup> *Preparing Teachers for Diversity: The Role of Initial Teacher Education*. Annexes 3-6 to the Final Report to DG Education, Youth, Sport and Culture of the European Commission.

Deardorff (2009), Lindsey et al. (2005), UNESCO (2013)<sup>4</sup>, Council of Europe (2016)<sup>5</sup>. This paper is intended for the members of academic institutions and administration within the Romanian educational institutions, but not limited to them, in order to give a different view on the methods of diversity management, in terms of methodologies regarding internationalization and non-formal activities. Methodologies on internationalization and non-formal activities are the means to sustain diversity, to develop and produce secondary tools for future public educational diversity policies. Knight (2004) gives a definition of “internationalization”, referring to it as a “a process of integrating an international, intercultural or global dimension into the purpose, functions and delivery of post-secondary education”.

## Study Case: Intercultural education in Romania

### **Research methodology**

This case study is an introduction to the use of a document checklist as part of a qualitative research method of document review. Details are provided on the types of documents that can be utilized in the document review. The methodology is based on European and Romanian document review as a research data collection method. For the discussion of internationalization and the analysis of the evolution of multicultural integration at institutional level, the supporting documents where one can observe the encouragement of diversity and internationalization in public high schools in Romania are shown in Table 1. Therefore, an attempt is made to ensure internationalization at the curricular level, which can be seen from the investigation of the evolution of these institutional documents, which include all references to intra-curricular and extra-curricular activities, as well as teacher training in multicultural and intercultural environments.

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<sup>4</sup> UNESCO, *Intercultural Competences. Conceptual and Operational Framework*. Paris: UNESCO, 2013.

<sup>5</sup> Council of Europe, *Competences for democratic culture. Living together as equals in culturally diverse democratic societies*. Strasbourg: Council of Europe Publishing, 2016.

**Table 1. Official Educational and Curricular Documents**

Nr. crt.	Official Documents	Institution	Year	Where they can be found
1	The Courses within the Psychopedagogical module for the Initial Training of Teachers in early childhood and pre-university education	Ministry of Education, Department for Teacher Training (D.P.P.D.) within each university	Starting 2008	OMECT no. 4316/2008, University courses
2	Tenure Program – the movement of teaching staff in pre-university education	Romanian Ministry of Education, Institute for Educational Sciences	Starting 2016	OMECTS 3590/ 05.04.2016, available online at: <a href="http://programe.ise.ro/Portals/1/Curriculum/PI_cadruactuale/Gimnaziu/OMENCS%203590_5%20april%202016_Plan-cadru%20de%20C3%AEnvatamant%20pentru%20gimnaziu.pdf">http://programe.ise.ro/Portals/1/Curriculum/PI_cadruactuale/Gimnaziu/OMENCS%203590_5%20april%202016_Plan-cadru%20de%20C3%AEnvatamant%20pentru%20gimnaziu.pdf</a>
3	National Education Law 1/2011	Romanian Ministry of Education	2011 (updated on 15.10.2020)	Available online at: <a href="https://www.edu.ro/sites/default/files/_fi%C8%99iere/Legislatie/2020/LEN_actualizata_octombrie_2020.pdf">https://www.edu.ro/sites/default/files/_fi%C8%99iere/Legislatie/2020/LEN_actualizata_octombrie_2020.pdf</a>
4	School Curricula for Secondary and Highschool Education (Common Curriculum and School Based Curriculum)	Romanian Ministry of Education	Starting 2004	O.M.Ed.C. nr.5287/ 15.11.2004
5.	Course syllabus	Romanian Ministry of Education,	Starting 2009	<a href="http://programe.ise.ro">http://programe.ise.ro</a> .
6.	Institutional Development Plan	Each institution with the local school inspectorate supervision	2017-2020	Internal institutional document
7	Annual Internal Evaluation Report	Each institution with the local school inspectorate supervision	2017-2020	Document institutional intern, fiecare unitate școlară
8.	Job description (e.g. job description for a documentary teacher)	Romanian Ministry of Education	2017-2020	Internal institutional document
9.	Annual Teacher Self Evaluation Form.	Each institution with the local school inspectorate supervision	2017-2020	Internal institutional document

## Results and Discussions

The metamorphose faced by the European societies refined the education providers, such as public institutions or private organizations, and shaped the landscape that can generate opportunities and challenges in the system. Lack of knowledge base on the preparation of teacher educators, of coherence concerning teachers' training to approach classroom diversity in secondary education, lack of systemic policy approaches towards inclusion and diversity and diverse student teachers, established the framework of this study. Can we answer these questions: Do educators understand the learners' need for integration in a multicultural environment, within a school context? Are teachers prepared for diversity in the classroom? What does it mean to teach for diversity and in diversity? Are there functional methodologies for teacher trainers? How do we address these challenges? The answers to these questions should provide an overview of a classroom diversity management in the Romanian public secondary education, regarding formal and non-formal activities, and like an added value it would be of much help for other European Union state members.

From the Romanian curriculum documents released by the Romanian Ministry of Education in the last years we intend to see how educational institutions approach to ascertain and increase the level of internationalization in the curriculum.

Educational policies are the strategic directions for the development of the educational system and include legislative norms applied in practice through methodologies, controlled and monitored, and ultimately evaluated through impact studies. Looking at some European Educational Policies and programmes for Diversity and Integration it can be seen that somehow there is a less coherent framework for educational diversity. These are some referrals: *"The EU needs new methods and tools to produce teachers for diversity, and to lay the foundations for more inclusive societies through education"*<sup>6</sup> (Council of the European Union and European Commission, 2015) and *"Research analysing how teacher educators are*

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<sup>6</sup> Joint Report of the Council and the Commission on the implementation of the strategic framework for European cooperation in education and training (ET 2020) *New priorities for European cooperation in education and training* (2015/C 417/04), 2015. available online at: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52015XG1215\(02\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52015XG1215(02))

*prepared is scarce*<sup>7</sup> (European Commission, 2013). The EU programmes dedicated to secondary education, to address diversity and integration intra-European and international cooperation, implemented by the Commission during 2007-2013 were: *The Lifelong Learning Programme (LLP)*, *The Youth in Action Programme*, The Erasmus Mundus, Tempus, Alfa, Edulink, Programmes of cooperation with industrialized countries in the field of higher education. Within *Erasmus+* 2007-2013, there were several targeted actions, and those regarding teacher training and secondary educations were: *Erasmus+: Comenius*, in relation to the activities of the Programme exclusively related to the field of school education; *Erasmus+: Leonardo da Vinci*, in relation to the activities of the Programme exclusively related to the field of vocational education and training; *Erasmus+: Grundtvig*, in relation to the activities of the Programme exclusively related to the field of adult learning; *Erasmus+: Youth in Action*, in relation to the activities of the Programme exclusively related to the field of youth non-formal and informal learning. Since 2020, *Erasmus+* started in January 2014 as the single EU programme for education, training, youth and, for the first time, sport<sup>8</sup>.

Over the seven years, Erasmus+ 2014-2020 integrates the seven previous programmes into three Key Actions – Key Action 1 – Learning Mobility of individuals, Key Action 2 – Cooperation for innovation and the exchange of good practices, Key Action 3 – Support for policy reform. *eTwinning* is co-funded by the Erasmus+ and is the community for schools in Europe. All these subsequent versions of the European educational cooperation should continue efficiently to support EU collaborative activities, initiated by providers and educational institutions.

From the Romanian curriculum documents released by the Romanian Ministry of Education in the last years we intend to see how educational institutions approach to ascertain and increase the level of internationalization in the curriculum, respecting the European Educational Framework. In Romania, the Government

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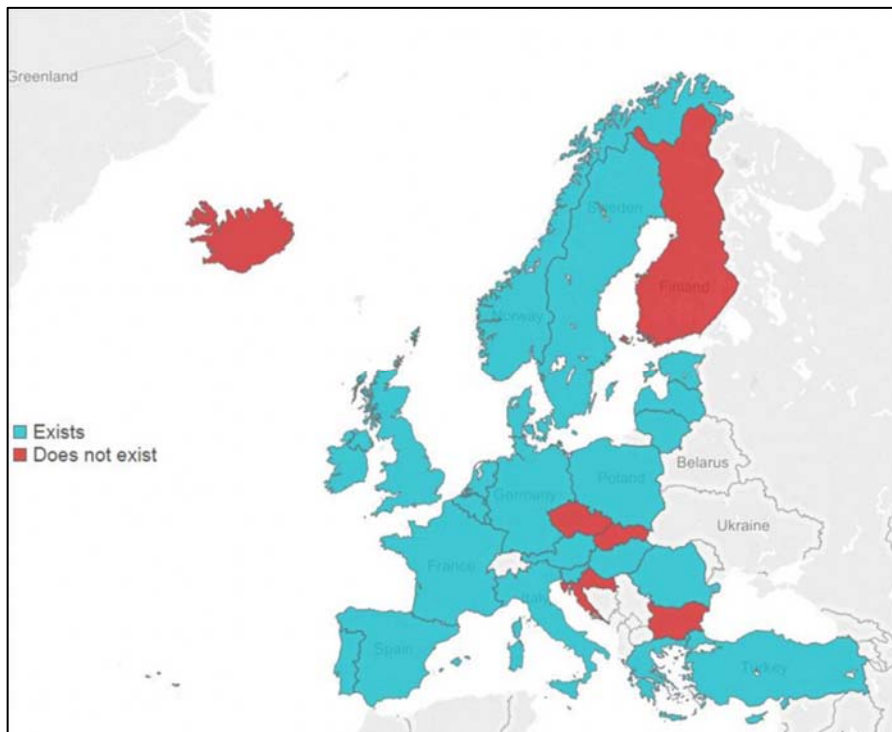
<sup>7</sup> European Commission, *Supporting Teacher Educators for better learning outcomes*. DG Education and Culture, Thematic Working Group 'Teacher Professional Development', 2013. Available online at: [http://ec.europa.eu/dgs/education\\_culture/repository/education/policy/school/doc/support-teacher-educators\\_en.pdf](http://ec.europa.eu/dgs/education_culture/repository/education/policy/school/doc/support-teacher-educators_en.pdf). Accessed 10.10.2016.

<sup>8</sup> Erasmus+ Programme Annual Report 2014, available online at: [file:///Users/macbook/Downloads/erasmus-plus-annual-report-2014\\_en\\_0.pdf](file:///Users/macbook/Downloads/erasmus-plus-annual-report-2014_en_0.pdf)

Ordinance (GO) 75/12.07.2005 and Law 87/2006 establish the principles of the national policy for Quality Assurance in Education for the entire national system. The quality assurance policy wants to provide a National Quality Assurance Framework (CNAC) for organizations providing education in Romania, a framework that meets European requirements and respects the best practices at European level.

### *Intercultural Education within Initial Teacher Training and Training Institutions*

The Romanian Initial Teacher Training (ITE) national framework respects the European Teacher Competences Framework (see Figure 1).



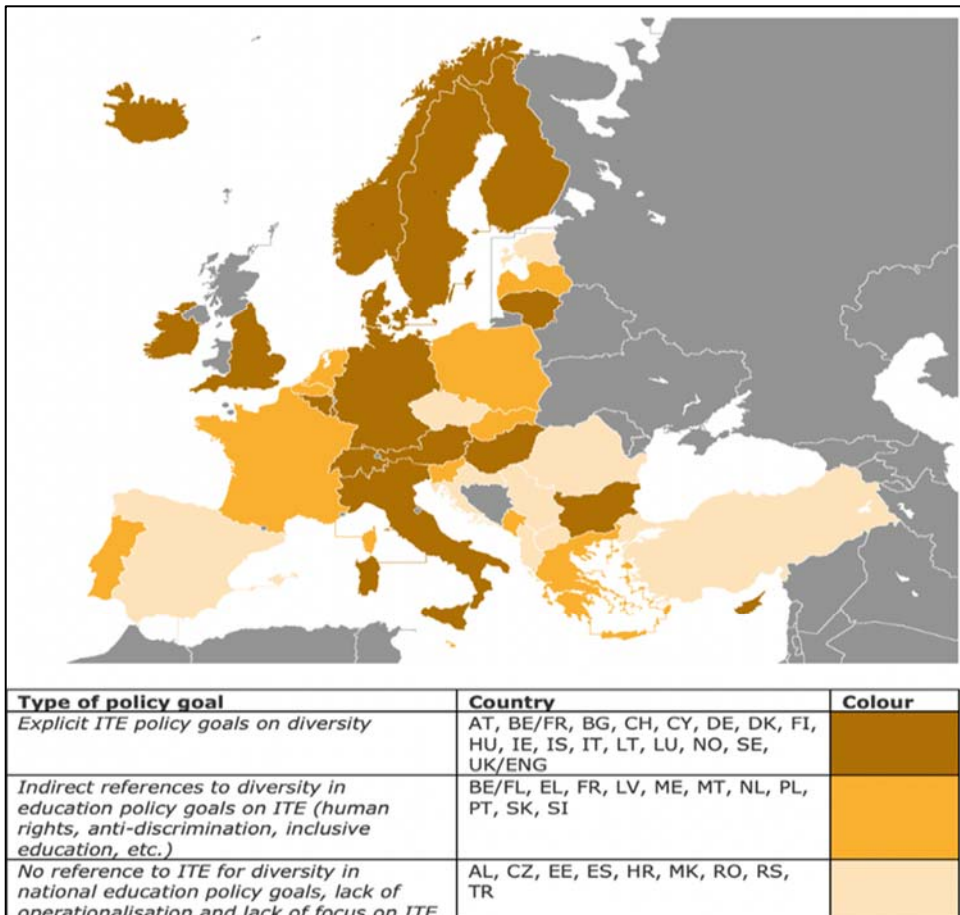
**Source:** European Commission/EACEA/Eurydice, 2013.

**Figure 1.** *Teacher Competence Frameworks in Europe (2011/12)*

However, the Romanian Initial Teacher Training (ITE) national framework focuses on mastering of professional skills and reaching the most important objectives of



the teaching profession (see Figure 2). In the ITE there are two and modules offered within teacher training and on the second one, besides the mandatory subjects, there are optional subjects where the cultural approach can be noticed: *Intercultural Education* (Lucian Blaga University, Sibiu), *Multicultural Education* (University of Bucharest). Romanian national curriculum for initial teacher training within different universities, but under specific department for teacher training, functions according to OMECT no. 4316/2008.



**Source:** Preparing Teachers for Diversity: the Role of Initial Teacher Education. Final Report to DG Education, Youth, Sport and Culture of the European Commission Written by Public Policy and Management Institute (PPMI), 2017, based on policy mapping data (2016).

**Figure 2.** Policy goals on ITE for diversity in Europe

Also regarding teacher training and teacher national exams programs in Romania, they address little to inclusion and diversity, in a continuous changing community, which includes concerns as study migration, labour migration or educating immigrant children, similar with those of Greece (Zervas, 2016). Unlike Greece, many European countries are already preparing teachers for a more technologically driven global community (Steiner, 1996). Countries like France, Germany, Great Britain and Italy have tied their teacher training programs to the labour market in order to assure that teachers find work after graduation (Zervas, 2016). One of the skills reached by young teachers after the initial teacher training is cultural awareness, as it is written in the curricula for national teacher's exams, regardless of their background<sup>9</sup> (e.g., English Language and Literature, Social Education).

### *School Curricula for Secondary Education*

According to Pickering (2004), who refers to Durkheim theory, national and local educational public systems have two main goals: 1. to ensure that children are prepared to fill a wide array of social roles needed for a complex modern society; 2. to ensure that children acquire the skills needed to function and contribute to their society. Romanian School Curricula for Secondary and Highschool Education have two components – Common Curriculum (from Romanian: T.C.) and School Based Curriculum (from Romanian – CDS). The national education system is most of the times associated with the initial preparation of teachers for teaching and evaluating at the primary or secondary school levels. The focus on diversity and intercultural education can be noticed at the methodological level, such as courses linked also to the school curriculum. In addition, on the secondary school, there are several optional courses linked to different cultures and civilizations, such as: *Modern Greek Language and Antic Greek Civilization, Latin Roots in Culture and Romanian Civilization, Greek-Roman Myths and Legends, Macedo-Romanian Culture and Traditions, Spanish Culture and Civilization, Latin Dictions*<sup>10</sup>. In the

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<sup>9</sup> Approved by O.M.Ed.C. nr.5287/ 15.11.2004.

<sup>10</sup> OMECTS 3590/ 05.04.2016 – Ordin privind aprobarea planurilor cadru de învățământ pentru învățământul preuniversitar, available online at: [http://programe.ise.ro/Portals/1/Curriculum/PI\\_cadruactuale/Gimnaziu/OMENCs%203590\\_5%20apr%202016\\_Plan-cadru%20de%20C3%AEnvatamant%20pentru%20gimnaziu.pdf](http://programe.ise.ro/Portals/1/Curriculum/PI_cadruactuale/Gimnaziu/OMENCs%203590_5%20apr%202016_Plan-cadru%20de%20C3%AEnvatamant%20pentru%20gimnaziu.pdf)

*National Education Law (1/2011)*<sup>11</sup>, article 10 refers to national teaching languages and minorities or foreign languages: in Romania, *education is a service of public interest and takes place in Romanian language, as well as in the languages of national minorities and in languages of international circulation.*

In 2014, at EU level, 59.7% of all students enrolled in secondary education were learning two or more languages, a higher number compared to 46.7% in 2005. This reflects a change in educational policies in many European countries, which have aimed to increase the number of students learning a second language, as well as to reduce the age at which they start studying it. In 11 countries, over 90% of high school students learn two or more foreign languages (Estonia, Greece, Italy, Luxembourg, Malta, Poland, Romania, Finland, Iceland, Liechtenstein and the Former Yugoslav Republic of Macedonia). In contrast, in five countries, the rate is below 20% (Hungary, Belgium – French side, Austria).

At present, in the Romanian public schools there are studied two mandatory foreign international languages studied, and the most frequent are: English, French, Italian, Spanish, German, and Russian. Regarding diversity and inclusion, interculturality and intercultural education, among the principles of Article 3 of the National Education Law (1/2011) that govern pre-university education, as well as lifelong learning in Romania are: a) the principle of equality-under which access to learning is accomplished without discrimination; b) principle of quality-based education activities which relate to the reference standards and the national and international best practices; g) the principle of guaranteeing the cultural identity of all Romanian citizens and intercultural dialogue.

Therefore, there are the same courses from initial teacher training programs that can also serve as subjects studied in the secondary public schools, namely *Intercultural Education* or *Multicultural Education*. These courses were included in the curricula from 2009 as optional courses<sup>12</sup> within the secondary national curricula.

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<sup>11</sup> Romanian original article – Art .10. (1) *În România, învățământul este serviciu de interes public și se desfășoară, în condițiile prezentei legi, în limba română, precum și în limbile minorităților naționale și în limbi de circulație internațională.* Available online at: [https://www.edu.ro/sites/default/files/\\_fi%C8%99iere/Legislatie/2020/LEN\\_actualizata\\_octombrie\\_2020.pdf](https://www.edu.ro/sites/default/files/_fi%C8%99iere/Legislatie/2020/LEN_actualizata_octombrie_2020.pdf)

<sup>12</sup> *Programă școlară pentru disciplina școlară Educație interculturală.* București, 2009. Anexa nr.1 la ordinul ministrului educației, cercetării și inovării nr. 5098/09.09.2009.

*Intercultural education through non-formal education, international projects and extracurricular activities*

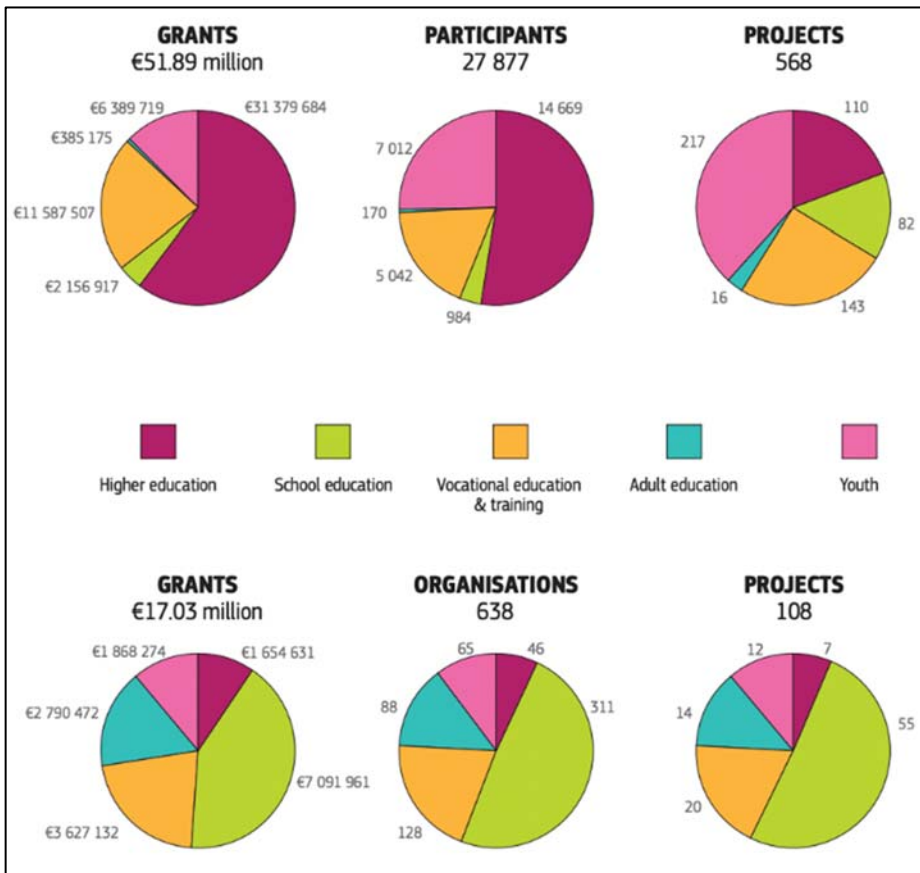
By analyzing the Institutional development plan, the teacher's job description and the Teacher's Self-assessment Form, it can be seen that participation in international projects in intercultural exchanges is a criterion of school performance. In the institutional development plan, in the chapter "Community and partnership relations – Educational projects and community programs – Specific objective V.2. refers to the development of educational projects by promoting formal and non-formal educational activities aimed at developing intercultural, entrepreneurial, and civic, health education and promoting desegregation and equal opportunities. This objective is correlated with the objective of the Annual Internal Evaluation of Quality Reports (from Romanian – *Raport Anual de Evaluare Internă* – RAEI). According to these specific objectives, there should be different departments and institutional commissions in a school, for the non-formal activities, cultural projects and international cooperation, but most of the times they overlap. Until 2020, there were different departments in each public secondary school, but since September 2020, the Romanian Ministry of Education changed the Framework Regulation for the organization and functioning of pre-university education units – ROFUIP and comprised all the intercultural events, regardless their level (local, national and international) into one official commission/department, namely School Committee for intercultural promotion and violence, corruption and discrimination prevention and obliteration in the school environment.

In the teacher's job description (e.g. documentary teacher), the teacher initiates and participates in cultural activities in order to promote Romanian and international culture, to recognize European values, to identify models and to accept and value cultural plurality<sup>13</sup>. While the literature and documents reviewed describe how individual educational institutions are approaching the issue of enhancing internationalization, it provided little information on how they deal with the process. Although the student acquires intercultural competences of social and cultural awareness, basically, the difficulty falls on the teachers' shoulders, who have the duty to choose the approach of the respective subject or

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<sup>13</sup> Job description for Documentarist teacher, available online at: <https://www.edu.ro>.

to sensitize the students regarding the respect of diversity, tolerance and solidarity, regardless of the type of culture, language, nationality and gender. Most of the time, this transposition of interculturality and multiculturalism is seen from the participation in international programs and projects, so a transversal approach of culture is tried, by promoting it through the existing cooperation frameworks, such as the Erasmus + program.

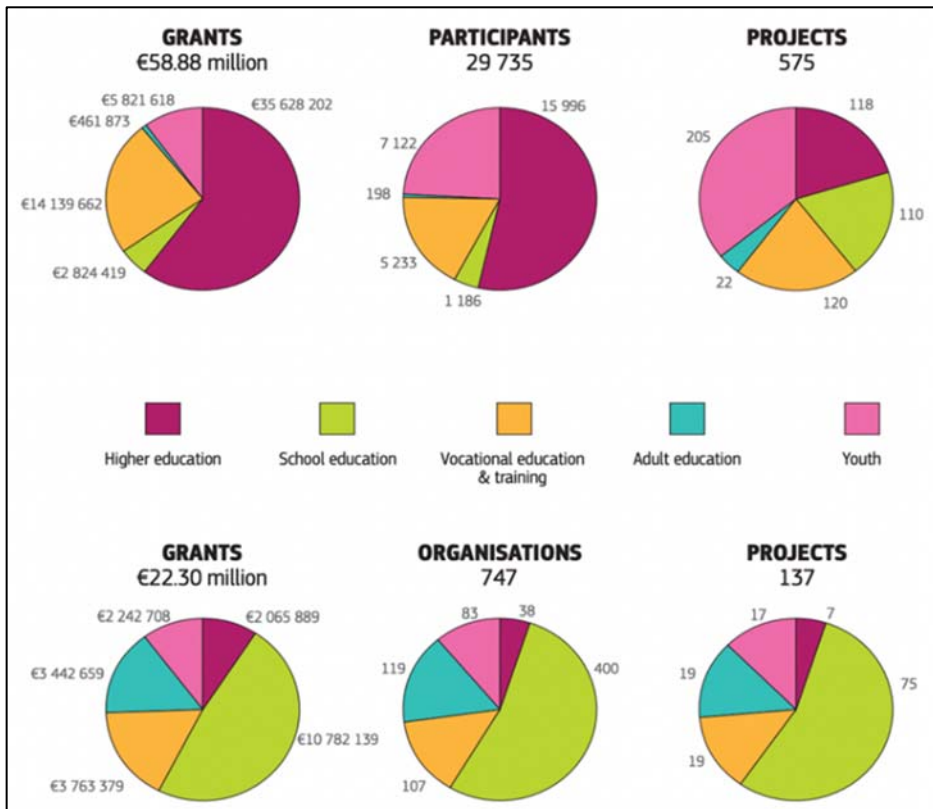


Source: [https://ec.europa.eu/programmes/erasmus-plus/sites/default/files/erasmus-plus-factsheet-2017-romania\\_en.pdf](https://ec.europa.eu/programmes/erasmus-plus/sites/default/files/erasmus-plus-factsheet-2017-romania_en.pdf)

Figure 3. Erasmus+ 2017 in numbers – Romania

Looking at the numbers from the European Commission, in 2017<sup>14</sup>, 27877 participants in 568 Romanian projects benefited from mobility in higher education, vocational education and training, school education, adult learning and youth for a total grant amount of 51.89 million Euro (see diagram in Figure 3).

In the year 2018<sup>15</sup>, 29735 participants in 575 Romanian projects benefited from mobility in higher education, vocational education and training, school education, adult learning and youth for a total grant amount of 58.88 million Euro (see diagram in Figure 4).



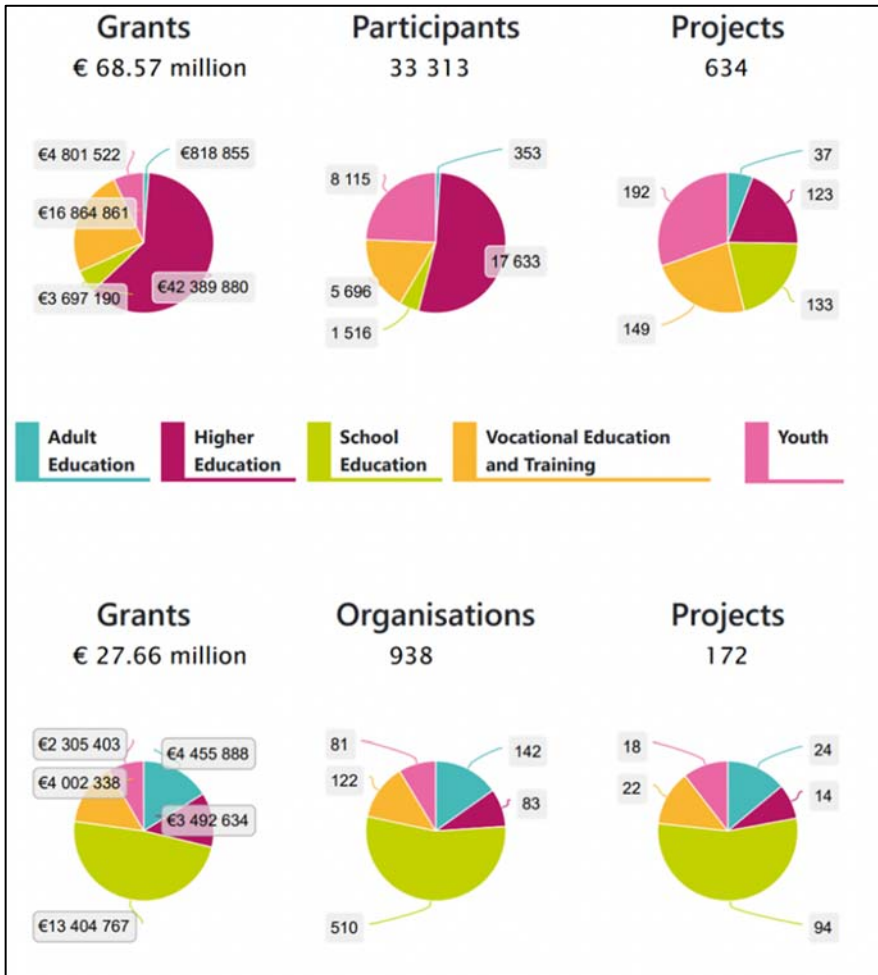
**Source:** Erasmus+ 2018 in numbers, [https://ec.europa.eu/programmes/erasmus-plus/sites/default/files/erasmusplus-factsheet-ro\\_en.pdf](https://ec.europa.eu/programmes/erasmus-plus/sites/default/files/erasmusplus-factsheet-ro_en.pdf)

**Figure 4.** Erasmus+ 2018 in numbers – Romania

<sup>14</sup> Erasmus+ Factsheet, 2017 – available online at: [https://ec.europa.eu/programmes/erasmus-plus/sites/default/files/erasmus-plus-factsheet-2017-romania\\_en.pdf](https://ec.europa.eu/programmes/erasmus-plus/sites/default/files/erasmus-plus-factsheet-2017-romania_en.pdf)

<sup>15</sup> Erasmus+ Factsheet, 2018 - available online at: [https://ec.europa.eu/programmes/erasmus-plus/sites/default/files/erasmusplus-factsheet-ro\\_en.pdf](https://ec.europa.eu/programmes/erasmus-plus/sites/default/files/erasmusplus-factsheet-ro_en.pdf)

In the year 2019<sup>16</sup>, 33313 participants in 634 Romanian projects benefited from mobility in higher education, vocational education and training, school education, adult learning and youth for a total grant amount of 68.57 million Euro (see diagram in Figure 5), meaning 5436 more participants in 2019 than in 2017, and it is visible that the numbers are growing every year.



Source: <https://ec.europa.eu/assets/eac/factsheets/pdf/ro-erasmus-plus-2019-in-numbers.pdf>

Figure 5. Erasmus+ 2019 in numbers – Romania

<sup>16</sup> Erasmus+ Factsheet, 2019 - available online at: <https://ec.europa.eu/assets/eac/factsheets/pdf/ro-erasmus-plus-2019-in-numbers.pdf>

It is noted that teachers organize and participate together with students in intercultural activities, international projects, involving cultural diversity, exchanging good practices, that will enhance cultural awareness and shift the paradigm from “Teaching about diversity” to “Managing diversity, teaching for diversity, learning on diversity!”

In the Romanian school system, intercultural education is found mainly at the ideological level, as a philosophy of cultural pluralism (Plugaru and Pavalache, 2007), but also as a result of political visions for integration into the European community.

Often, it turns into a discourse of acceptance of diversity, an aspect that transpires from school methodologies and documents, but also from the principles of educational reform. However, they lack adequate and sustained methodological support. Why is this happening? The hardship of the approach and the marginalization of intercultural education is also reflected in the fact that it is transposed into optional or voluntary subjects, in pre-university and university education.

## Conclusions

By examining the EU diversity management on education, for formal, non-formal or informal education, viewed by different actors in the field, some recommendations about the harmonization of educational policies and measures could be given. Based on the documents that were analyzed, it can be seen that the emphasis was on assimilating international students into the Romanian public educational system, rather than developing intercultural approaches. We can see internationalization from different points of view, such as: conducted surveys, workshops, cultural site visits, intercultural activities, conferences, multicultural collaborations, Erasmus+ projects, institutional collaboration.

The school socializes children to adopt cultural norms and to adapt to a multicultural environment, in order to enhance inclusion and diversity awareness. Beyond normative issues (legislation, rules, regulations and internal procedures), it is imperative to have a high level of awareness of the importance and benefits of adopting a culture of diversity. All these small changes reflect a shift of the educational curricular policies, towards an open society to European citizenship and multiculturalism. There is more a vertical approach of diversity and



multiculturality and less one transversal, which is required in order to ascertain and increase the level of internationalization in the curriculum.

Raising awareness on the importance of well-prepared teacher trainers for diversity in Europe and harmonizing Romanian teachers' intercultural competences within the European framework and integrating competences into the curricula will point to a societal diversity as an asset that applies to school-related diversity. All EU states should prepare teachers for diversity and in diversity, not regarding diversity, by promoting multicultural education as a normal teaching-learning environment.

### Acknowledgments

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## Between Protests and Reforms: Building a new justice system in Greater Romania (1918-1926)

Francesco Magno<sup>1</sup>

### Introduction

After World War I, Romania doubled its national territory by annexing Transylvania, Bessarabia, and Bucovina, stirring high hopes for the country's future. Romania had doubled its surface and the number of inhabitants, gaining control over regions that were economically much more developed than the Old Kingdom. The enthusiasm provoked by the Union hit even the legal world. For a group of jurists in the capital, Greater Romania's birth represented a perfect occasion for a comprehensive reform of the justice system – until then, characterized by corruption and political meddling. By integrating the best elements of the imperial system that controlled Transylvania, Bessarabia, and Bukovina until 1918, Romanian justice could have been re-founded on a stronger basis. For other actors, unifying the justice system presented an occasion to improve their social and economic conditions, navigating among the legal diversities of the early twenties.

The story of the first justice system reforms in Greater Romania represents a good “litmus test” of early 1920s Romania, where the desire for drastic change often collided with the individual and party's interest, and tradition clashed with modernizing projects. Shifting the focus on the administration of justice, the article aims at identifying nuances in some of the traditional topoi about Greater Romania (i.e., the inevitable opposition between Bucharest and peripheries or the

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<sup>1</sup> Adjunct professor of History of Eastern Europe at the University of Messina and holds a Ph.D. in Contemporary History at the University of Trento

equation between nationalization and centralization). In the first years after the unification, the analysis of the first attempts at reforming and unifying the justice system brings to light a complex framework, where professional allegiance was often stronger than the political, and the traditional oppositions were subverted.

Throughout the post-communist era, the relationship between judicial and political powers has been one of the most controversial Romanian public-opinion topics discussed. Since the foundation of the National Anti-Corruption Direction (Direcția Națională Anticorupție, DNA) in 2002, several criminal inquiries have been directed against prominent political figures accused of corruption and abuse of office. In response, various politicians have called for a comprehensive justice system reform to limit what they consider judges' and prosecutors' arbitrariness.

Given the topic's importance in the current socio-political arena, it is somehow surprising that Romanian historiography did not thoroughly address the historical experience of the Romanian judiciary. Besides a few exceptions, which mainly focused on the communist period (Crăcană 2015) historians have neglected the history of judges and prosecutors in the modern period. The recent centenary of the Great Union of 1918 did not stimulate new lines of inquiry in this regard: a conference on Romanian legislative unification after 1918 took place in Bucharest, producing a volume of studies (Vv 2018). However, the book's articles focused primarily on legal technicalities, neglecting the legal world's relationship with society and political power. In recent years, a growing number of historians have proposed a new approach to the study of law and legal professionals in Romania, leaving aside the formal aspect of norms and regulations and focusing more extensively on the law as a social institution. This lens places the law in the larger context of cultural, political, and social interactions.<sup>2</sup> Despite these initial efforts to attract scholars' attention, the history of the Romanian judiciary in the interwar period still must be written, leaving an essential gap in Romanian historiography. Indeed, judges' and prosecutors' experiences between the wars can tell much about both the legal world and interwar Romania as a whole. Moreover, it can cast new light on specific issues still affecting the country, showing that their origins date well before 1989.

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<sup>2</sup> On new approaches to the study of law and its place in Romanian history, see the special issue of the *Journal of Romanian Studies*, 2 (2020).

The present piece, born out of doctoral research on legislative unification in interwar Romania, aims to be an embryonal step in filling this historiographical gap. It focuses on the immediate aftermath of the Great Union, analyzing the first attempts to reform the justice system incorporating the new provinces' different historical and legal backgrounds. The article is based on extensive archival research conducted in the Romanian National Archives in Bucharest between 2018 and 2019.

### The Great Union and the Strive for Reforms

The atmosphere of enthusiasm that followed the Great Union (*Marea Unire*) of 1918 hit even the legal world. Jurists, judges, and lawyers felt that the birth of the enlarged Romanian states (soon renamed Greater Romania, *România Mare*) could bring a profound reform of the justice system affected by endemic shortcomings, such as judges' low salaries, political meddling in judicial affairs<sup>3</sup> and corruption. The Old Kingdom of Romania (*Vechiul Regat*) had gained control over regions with a peculiar legal background. Transylvania and Bukovina had been part of the Habsburg empire for centuries, whereas Bessarabia had represented the southwestern border of the tsarist empire for more than a hundred years. Consequently, Austrian, Hungarian, and Russian laws had to harmonize with the Romanian ones, creating a homogeneous outcome. For many observers in the Old Kingdom, the Great Union was the perfect occasion to engage in comprehensive reform that would have incorporated the good elements of the new provinces' legislation, thus improving the whole system. The former Habsburg regions' laws and institutions, in particular, were considered more modern and efficient than the Romanian ones. Therefore, the integration of Transylvania and Bukovina within Romania could have prompted the country's modernization.

Romanian jurists expressed their optimism in several articles that appeared in legal magazines following the war. In the first postwar issue of the magazine *Dreptul* (Disseescu 1919, 3) the editorial board interpreted the Great Union as "the beginning of a new judicial life", which would be characterized by "new tendencies

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<sup>3</sup> In 1918, just like in contemporary Romania, the Romanian public opinion stigmatized in the national press the excessive meddling of political logics in any aspect of the country's social and economic life. The term used to describe this phenomenon was *politicianism*.

and concepts which need to be discussed". Another prestigious legal journal, *Curierul Judiciar*, set three fundamental challenges for the new justice system: a more robust separation of powers, decentralization, and women's integration within the legal professions (Vv, 1919, 1). Soon *Curierul Judiciar*, founded in 1893, became the megaphone of the judiciary's reformist wing that tried to turn the abstract postwar optimism into concrete proposals of radical change. The journal often took a provocative stance toward the political establishment, accusing it of all the judicial world's problems. The journal director was Nicolae C. Schina, president of the second section of Bucharest's Court of Appeal. His grandfather Eustatie had been an eminent jurist in the second half of the 19<sup>th</sup> century, whereas the father, Constantin, had been the first prosecutor of Bucharest's Court of Appeal. Schina became the undisputed leader of the judiciary's most radical wing. In 1919, through his articles in *Curierul Judiciar*, he lashed out at the political elite, guilty of using judges and prosecutors to pursue the party's interests. During a conference held on September 29, 1919, at the Bucharest commercial court, Schina lodged severe accusations against the National Liberal Party (*Partidul Național Liberal*; PNL) and its governments (Schina 1919). According to Schina, the liberals prevented the increase of judge's salaries to keep them subjugated. Only those who made an open display of loyalty could hope to obtain more money, although fraudulently. Parts of Schina's speech are worth quoting:

Let's look at the numbers [...]. The overall national budget amounts to 645.719.300 lei. 14.965.806 lei have been devoted to Justice. Of these, 11.053.132 were reserved for personnel's salary [...] However, it has been proved that some judges are able to obtain a large amount of money fraudulently through refunds and other means, thus doubling their salary [...]. In Romania, judges are not paid normally, but through obscure means, thanks to which the government strengthens its control over the judiciary, despite the Constitution. Even some member of the Supreme Court takes advantage of this system (Schina, 1919, 66). Schina's words provoked a massive scandal. He was suspended for fifteen days by the Supreme Council of the Judiciary (*Consiliul Superior al Magistraturii*; CSM), but he continued his battle. On October 26, 1919, in his Bucharest house on Strada Sălciiilor 7, he founded the Association of Greater Romania's jurists (*Asociația generală a juriștilor din România Mare*). As written in the official records of the first meeting, the association had the goal "to strengthen the relationships among

Greater Romania's jurists, organizing them in a single body built upon common interests, regardless of political allegiance"<sup>4</sup>.

Schina's strive for reform intertwined with the effects of the Great Union. In an anonymous op-ed that appeared in *Curierul Judiciar* in January 1920, the appreciation toward specific norms and institutions of the new provinces is evident: "many Old Kingdom's judicial institutions are not adequate for this age. At the same time, we do not possess other good institutions active in other countries and the recently acquired provinces"<sup>5</sup>.

Schina's stance caused acute dismay in the judiciary's conservative wing, which often accused him of displaying revolutionary ideas even though his family had belonged to the legal establishment for decades. Undoubtedly, Schina was a controversial figure, characterized by excessive self-promotion and exuberance. Suffice it to say that in July 1920, the CSM removed him from his post after organizing a meeting with the civil servants' unions. He tried to revolutionize the judiciary from within, following the desire for change that characterized the war's immediate aftermath. He understood that the Great Union represented a watershed in the country's history, and new spaces of social and professional action could be created.

One of Schina's allies in his strive for reform was the Bucharest lawyer, Dem. I. Dobrescu. Like Schina, Dobrescu often displayed his will for change in several articles appearing in *Curierul Judiciar*. According to Dobrescu, Romania should undertake a process of "socialization of justice," erasing "judicial individualism," and aiming to build what he called "fraternity law." (Dobrescu 1920, 1). In concrete terms, that meant cutting the costs of justice for the ordinary citizen and creating a more fertile dialogue between lawyers and judges. He often claimed to favor reorganizing taxation on a progressive base, expropriating landowners, and redistributing land to peasants. Politically, he stood close to the newly born Peasant Party (*Partidul Țărănesc*), headed by Ion Mihalache. Many of Dobrescu's ideas found a place in the party's program, which Virgil Madgearu wrote in 1921.<sup>6</sup>

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<sup>4</sup> *Proces verbal al prime ședinței de la 26 Oct. 1919 al Asociației generale a juriștilor din România Mare*, 'Curierul Judiciar', 19 (1919), pp. 202–204.

<sup>5</sup> *Anul 1920*, 'Curierul Judiciar', 1 (1920), p. 3.

<sup>6</sup> Not surprisingly, Dobrescu soon entered the political arena. In 1929 he ran for mayor in Bucharest for the National-Peasant Party, a formation born in 1926 out of the union between the Peasant



First, the hostility toward the National Liberal Party and then the will to pursue a political project offered simultaneous alternatives to both the ruling oligarchy and the far-left. The debate between “reformer” judges and status quo defenders was the litmus paper of a chaotic socio-political universe. The judiciary’s events symbolized the troubled postwar period, characterized by deep uncertainty, fear of political extremism, and challenging economic conditions.

The profound connection that existed between the political and the judicial elite turned the discussion about the judiciary’s reform into a veritable political confrontation. Schina’s and Dobrescu’s fight was directed first and foremost against those power groups that had dominated the Romanian political spectrum since the second half of the 19th century. In the renewed climate that followed the war, these groups could have finally been overthrown. Nevertheless, worth underlining is that both Schina and Dobrescu were part of that world against which they were fighting. Schina came from a family of eminent jurists, and Dobrescu was a prestigious lawyer. Neither had personally experienced the economic crisis of the postwar years, unlike low-instances judges. On the contrary, judges of small tribunals throughout the country enormously suffered from the economic troubles the conflict caused. Their salaries were further cut by inflation, prompting many to abandon the judiciary and seek greater profit in other professions. In the fall of 1919, the judicial personnel (including tribunals’ archivists and clerks) went on strike, paralyzing the courts’ activity. The goal of the strike’s promoters was to urge the government to increase salaries and undertake a comprehensive reform of the system. Surprisingly, in most of the historiographical accounts about interwar Romania, no trace of the judicial strike of 1919 is found. However, by reading legal journals of those weeks, the concern about the financial condition of judges and judicial clerks evidently emerges. The strike ended before the year’s end, but the debate continued throughout 1920. In October, even the first president of the Romanian Supreme Court, Victor Romniceanu, denounced the judges’ precarious financial conditions, asking the government for more incisive measures (Romniceanu 1920, 532).

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Party and the National Party of Transylvania led by Iuliu Maniu. Dobrescu won the election, serving as mayor between 1929 and 1934.

## The Judiciary's Requests

The immediate consequence of salaries' exiguity was the judges' subjugation to political power. Because the Minister of Justice granted appointments and promotions, many judges hoped that by showing loyalty to the government or the ruling party, they could advance their careers (with consequent wage increases) or transfers to places with a lower cost of living. Therefore, the appointment methods were the first object of criticism. According to many observers, changing the appointment procedures was essential to eliminating the minister's arbitrariness toward nominees and promotions. This represented the preliminary step, which had to be followed by a neat improvement in economic treatment and comprised the main issues discussed during the Romanian judges' general congress in Turnu Severin in June 1921. Most of the participants came from medium- and small-sized cities. Representatives of Bucharest's judiciary did not participate in the meeting. Consequently, the congress expressed the position of the judiciary's lowest sectors, the ones most affected by the system's shortcomings. Not surprisingly, the first target of their accusations was the CSM, an organ introduced in 1909, formed exclusively by representatives of Bucharest's judiciary.<sup>7</sup> One of CSM's tasks was to advise the minister when deciding over promotions, giving him the necessary information about judges' preparations and activities. However, the appointments often were based on political loyalty criteria and personal acquaintances. Furthermore, being formed exclusively by Bucharest-based judges, the CSM was alien to the everyday problems of judicial judges, who lacked the social power to exercise any influence in the capital. Consequently, in Turnu Severin, the congress' participants asked for the CSM's dismissal. They proposed to replace it with several smaller councils, disseminated in the cities where a Court of Appeal was active (Vv 1921, 4).

By asking for the dissolution of the CSM, the judges gathering in Turnu Severin expressed hostility toward Bucharest's judicial elite – who were spread all over the country, but especially in Transylvania. Transylvanian judges had already set their own association in March 1920, and in May, they sent a long memorandum to the

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<sup>7</sup> The CSM had been established in 1909 with the aim to endow the judiciary as a self-rule body. It was formed by three members of the Supreme Court, two of the Bucharest's Court of Appeal, a judicial inspector chosen by the minister and by the minister himself. The CSM's composition clearly indicates the dominance of the capital over the peripheries.

minister in Bucharest expressing their grievances. The CSM was the first target. Transylvanians asked for its abolition and proposed introducing the old Habsburg system, which gave the task of deciding over promotions to the tribunals and the Courts of Appeals. Moreover, they stigmatized the financial management of the justice system, lamenting about the constantly delayed payments.<sup>8</sup>

A few months later, in September, following the requests of the general congress and with the judicial year's inauguration, the first president of the Supreme Court, Victor Romniceanu, formulated new solutions to make the appointment procedures more transparent. We can draw promotion rankings [...]. Presidents of tribunals and Courts of Appeal could communicate to the CSM which judges deserved promotions by virtue of their knowledge, efficiency, particular merits. Building upon this we can draw a ranking promotion, immutable for two years, so that in this time span all the career advancement would respect the ranking order (Romniceanu 1921, 205).

The ranking system would have diminished the minister's influence over the CSM, conferring greater transparency to the entire process and decentralizing important decisions. In the same speech, Romniceanu argued that a good judge did not need "the protection of influent people"; indeed, this sort of patronage threatened the "judiciary's prestige and, consequently, the public trust in justice"<sup>9</sup>. Romniceanu's speech was a sensation, primarily because of the formal context during which he delivered it. The judicial year's inauguration represented a solemn moment in which even political leaders would participate.

The judges' grievances and their demands for reform had become too numerous to ignore. In November 1922, the liberal Minister of Justice Ioan Theodor Florescu sent a first reform draft to national tribunals and Courts of Appeal presidents. The law project modified the CSM's composition by admitting representatives from the new provinces. Moreover, it gave the single Courts of Appeal the faculty to draw promotion rankings – to be submitted to the CSM as suggested by Romniceanu one year before. Theoretically, the CSM should have decided over promotions, basing the decision upon the provincial rankings. This proposal was a

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<sup>8</sup> Arhivele Naționale Istorice Centrale (ANIC), Ministerul Justiției, Corespondența vol. II, dosar 1/1922 vol. 1, ff. 246–54.

<sup>9</sup> *Ivi*, p. 202.

considerable change, even if not for what the judges had expected and hoped. Nevertheless, the project never turned into a veritable law. The new Constitution's promulgation monopolized the first months of 1923. Florescu's draft remained closed in the Ministry of Justice's archives, and the debate around the justice system reforms stopped until October when Gheorghe Mârzescu replaced Florescu as Minister of Justice.

### Mârzescu's Reforms

Born in Iași in 1876, Mârzescu had distinguished himself during the war years. As Iași's mayor, he had perfectly managed the refugee crisis of 1916, when hundreds of people fled southern Romania, occupied by the German troops. Extremely close to Ion I. C. Brătianu, Mârzescu had been Minister of Internal affairs and Agriculture in various liberal governments before replacing Florescu. His name is linked to famous laws, such as one outlawing the Communist Party from Romanian and another on citizenship.

Less than a month after taking office, Mârzescu appointed a commission of jurists, led by the first president of the Supreme Court, Victor Romniceanu, and formed by judges Alexandru Marta, on behalf of Transylvania, and Pavel Crăciunescu, on behalf of Bessarabia. The commission had the task of drawing a new law project on the justice system reorganization.<sup>10</sup> Worth emphasizing is that the commission, although put under the aegis of the minister, was formed by three judges who were traditionally hostile to the liberal party and the *status quo*. With this choice, Mârzescu hoped to extend consensus on his project and defuse the tension caused by the controversial promulgation of the new Constitution between 1922 and 1923. Nevertheless, the criticism toward the liberals did not cease. In an article appearing in *Curierul Judiciar* at the beginning of 1924, Dem. I. Dobrescu accused the government of delegating the drawing of important laws to technical commissions, whose work methods were unknown to the public (Dobrescu 1924, 50-51).

Despite Dobrescu's allegations, the commission work was anything but mysterious. In February 1924, the new projects' main points had already leaked to

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<sup>10</sup> ANIC, Ministerul Justiției. Corespondența vol. II, dosar 1/1923, f. 2.

the national press. Among them, the irrevocability of the new provinces' judges and the introduction of the public notary throughout the country stood out. The Transylvanian judicial universe welcomed this last point, interpreting it as an opening to the regional legal tradition because the public notary was active in Transylvania for decades. Indeed, Mârzescu regarded the institution of the public notary highly, deeming its introduction the Old Kingdom fundamental for the system's general efficiency. The public notary would have carried out tasks that previously had been the prerogative of judges and lawyers. Indeed, in the Old Kingdom, until then, lawyers prepared contracts and legal acts against payment of an expensive fee, whereas judges verified their formal correctness. First, liberating judges from the task of ascertaining contracts' formal correctness would have allowed them to work more efficiently on court cases, making the whole system faster. Second, introducing a figure dedicated exclusively to verifying contracts' validity would have avoided dozens of civil lawsuits about irregularities in the preparation of acts among private citizens. Moreover, the introduction of the public notary would have deprived lawyers of the monopoly to draw contracts and legal actions.

Threatened by the possibility of losing an important source of income, lawyers rose up. Dem. I. Dobrescu (who, on other occasions, vigorously endorsed the idea of a comprehensive reform) expressed fierce opposition to public notaries. In 1923, Dobrescu had been chosen as dean of the Romanian Bar and, therefore, firmly opposed any measure that could threaten lawyers' profits. In 1924, in a lengthy article published in *Curierul Judiciar*, he suggested the government was cautious in introducing laws that were against the legal spirit of the Romanian people. The article was filled with metaphors, and no explicit reference was made to the public notary, but the timing of the publication raised suspicions (Dobrescu 1924, 161-163). Another eminent lawyer, Sigmund Rosenthal, harshly criticized Mârzescu's project because the public notary was an institution lacking tradition in Romania.<sup>11</sup> For the jurist Dimitrie Ionaițescu, the notary was even alien to the Romanian people's nature.<sup>12</sup>

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<sup>11</sup> *Anchetele noastre. Judecătorul unic. Contrasemnarea actelor judecătorești. Notarii publici*, 'Universul', February 17, 1924.

<sup>12</sup> *Anchetele noastre. Judecătorul unic. Contrasemnarea actelor judecătorești. Notarii publici*, 'Universul', February 21, 1924.

Old Kingdom lawyers were not the only ones opposing the introduction of the public notary. Even some Transylvanian lawyers stood against Mârzescu's project. During the Romanian Bar national congress held in Chişinău in May 1924, the lawyer from Cluj Ion Giurgiu defined the notary as a useless institution, which did not benefit the population. Eventually, the congress voted for a resolution, which stressed the formal opposition of the bar.<sup>13</sup> Giurgiu's stance showed that regionalist feelings dissolved when it came to defending corporate interests. Despite the notary being a historical Transylvanian institution, several Transylvanians hoped to abolish it. Even in the former Habsburg region, lawyers were fully aware of the income advantages the Old Kingdom's system could have provided.

Most likely, the bar's strong opposition, which manifested in the press, turned into veritable political lobbying aiming to dissuade Mârzescu from his project. So far, no sources have been found confirming or denying this assumption. What is certain is that in the first law project that Mârzescu officially presented to the Parliament, no trace of the public notary and its introduction in the *Regat* emerges. The project focused mostly on the judges' appointment procedures, standardizing them throughout the country. Specifically, it stipulated the CSM's reorganization, changing its composition and its work methods. For the first time, Mârzescu allowed all the national Courts of Appeal to be represented in the council, guaranteeing a fair representation of both the new provinces and the Old Kingdom's peripheries. This move represented unquestionable progress, which accommodated the judiciary's requests. Furthermore, Mârzescu tried to limit the minister's arbitrariness when deciding on career advancement. The project gave the single Courts of Appeal the possibility to draft a promotion ranking at the end of each year, listing the judges of the provinces who deserved promotion. The ranking would have then been submitted to the CSM, which would consult it when deciding over promotions. Worth underlining is that the new system would have been valid only for the judges of the lowest instances, whereas the appointment of Court of Appeal's and Supreme Court's counselors remained a ministerial prerogative.

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<sup>13</sup> The congress proceedings were published on 'Curierul Judiciar', 17 (1924), pp. 264-65.

The parliamentary debate about the project was often harsh. The Peasant Party accused Mârzescu of ignoring the salary issue. The confrontation soon overcame the law project's issue to turn into a veritable duel between Mârzescu and his political adversaries. The opposition accused Mârzescu of meddling in judicial affairs by favoring the promotion of judges close to the liberals. The minister responded by accusing his opponents of legal ignorance.

Despite the harsh confrontation, the project was approved in June 1924 and enacted on January 1, 1925. Mârzescu's last achievement was introducing the Legislative Council, an institution formed by eminent jurists supervising the lawmaking process, guaranteeing laws' formal correctness. Moreover, the Legislative Council should have supported the government in the complicated task of legally unifying the new provinces with the Old Kingdom, harmonizing the various legislations in force in the country. Even the 1923 Constitution envisaged the future creation of such an organ. The council was divided into three sections: criminal, private, and financial law. The minister appointed its members.

Nevertheless, the Legislative Council never worked as expected. The government often ignored its remarks, turning the council into a useless gathering of jurists lacking effective power.

## Conclusion

Gheorghe Mârzescu died in May 1926 at 49, one year before Ion I. C. Brătianu and King Ferdinand. The death of these last two figures usually marks a watershed in Romanian interwar history. The hegemony of the National Liberal Party came to an end, and new men and parties were ready to take the country's leadership. The historiographical evaluation of the time span 1918-1927 is essentially an evaluation of the country's ruling class in these years.

Figures like Gheorghe Mârzescu and his legislative activity suggest different interpretations of the first years of Greater Romania. First, the article illustrated the institutional confrontation's complexity. Far from being a mere debate between the government and the opposition, it included many social actors who tried in many ways to pursue their agendas. Personal and corporate interests often transcended regional affiliation, as showed by the public notary controversy.

Some Transylvanians opposed the introduction of the notary because it could affect their income. Simultaneously, many Bukovinian or Transylvanian MPs endorsed Mârzescu's law projects, thus weaving a narrative that tended to emphasize the opposition between the Bucharest-based liberals and the representatives of the new provinces. Mârzescu himself overturned this narrative. Despite being an Old Kingdom liberal, he appreciated many aspects of the Transylvanian legal system. Eventually, the notary was not introduced – not because of the government's hostility toward Transylvanian institutions, but plausibly, because of the bar's opposition.

Through modern eyes, Mârzescu's laws could undoubtedly appear weak in protecting the judiciary from political meddling. However, considering the Romanian situation in 1918, his norms represented a step forward toward modernizing the Romanian legal system.



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# The future is digital. Italy and the Next Generation EU between challenges and opportunities

Emanuela Macri , Gessica Fulciniti and Mariella Meli <sup>1</sup>

## Introduction

The European Union, to support Member States in their recovery during the post-COVID-19 Pandemic period, sent out a proposal called Next Generation EU, aiming to support economic growth and build a more digital and sustainable Europe. Each Member State had to draw up a plan for transposing funding and in Italy we have the National Recovery and Resilience Plan (NRRP). It represents the law device with which Italy has identified investments, reforms, and specific objectives to be pursued through with European funds. The NRRP is based on six missions, and the first one is digitalization, innovation and competitiveness, aiming to support the country's digital transition. As widely recognized, digitalization has represented a great opportunity for the public sector in times of a pandemic crisis, and Italy has made extensive use of digital technologies in many sectors. Among the many advantages of digital transformation, we see greater agility and increasing innovation, qualities that are essential today to survive in this highly competitive world. Despite the benefits there are still many risks related to the use of digital technologies, due to weakness of shared theoretical frameworks and political guidelines for the empowerment of digital

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<sup>1</sup> Emanuela Macri, Ph.D. is a post-doc Research Fellow at the Department of Law, Economics and Sociology of the “Magna Graecia” University of Catanzaro (Italy) where she also teaches Political Economy and Cultural Economics, emanuela.macri@unicz.it; Gessica Fulciniti is a Ph.D. student in European Economic and Legal System at the “Magna Graecia” University of Catanzaro; Mariella Meli is a Ph.D. student in European Economic and Legal System at the “Magna Graecia” University of Catanzaro.

skills by both users and suppliers. Efforts must be aimed at completing the digitalization process that began decades before Covid, which then, under the pressure of the emergency, received more attention to quickly attain full effectiveness and efficiency.

The COVID-19 pandemic has represented an epochal event that will generate great economic and social repercussions for many years to come. The fear of the COVID-19 pandemic and the change in habits, brought about by containment measures introduced by national governments, have had a serious impact on all aspects of daily life, creating a shock of supply and demand (Ozili & Arun, 2020).

Many member states have adopted quarantine measures that have limited or ceased the people's mobility. In the initial phase, in which there were still no pharmacological measures or vaccines available, one of the most effective methods of prevention were tracing, quarantine and isolation (Lalmuanawma et al., 2020). Many sectors were involved: from local transport to long-distance travel; from education to cultural and entertainment events; from sports to restaurants and so on, leading to a weakening of spending power and a stagnant economy. Political leaders in many countries, having to choose, felt it was right to save people rather than the economy, which was thus destined to suffer (Shen et al., 2020). With the advent of the pandemic, which began in March 2020 in Italy, everything stopped, so we quickly had to adapt to the changes in our surrounding environments by resorting to digitalization.

Digitalization is also called digital transformation. This process that allows us to integrate digital technologies into every economic field it is used in both the public and private sectors and at a practical and organizational level.

In Italy, as in all other countries, tangibles have been translated into digital items, to modify processes, production, the way we work, provide public and private services, as well as teach. All public authorities, with a desire to continue offering their services and required by the Government's decrees, had to review the models offered and create simple and flexible methods for using goods and services. Indeed, the future of digitalization is not only arriving sooner but also taking on a different shape than many expected; in fact, the COVID-19 crisis is accelerating the states' digital transformation plans.

Italy has invested and is still investing a lot in this direction. Digitalization represents one of the fundamental pillars of the National Recovery and Resilience Plan (PNRR)<sup>2</sup>, that is, the program that Italy presented to the European Union to participate in the funds of the Next Generation EU better known in Italy with the informal names of Recovery Fund or Recovery Plan.

## Institutional background

### ***The Next Generation EU***

The European Union, to support Member States in their recovery during the post-COVID-19 Pandemic period, sent out<sup>3</sup> a proposal called Next Generation EU<sup>4</sup> (NGEU) on May 27, 2020. This tool provides for the allocation of 2,018 billion euros at current prices (€1,800 billion at 2018 prices). Its aim is to support economic growth and build a more digital and sustainable Europe. This fund will be financed with new European Union (EU) debt and will be added to its budget (Alcidi & Gros, 2020). The NGEU fund shows that, with funding help, the member States can agree together on a policy to face this crisis on a large scale (European Council, 2020). As a result, in a final agreement between Parliament and the European Council on 18 December 2020, the NGEU recovery package was integrated with the Multi-annual Financial Framework<sup>5</sup> (MFF), whose aim is to *“ensure the recovery is sustainable, even, inclusive and fair for all Member States”* (European Commission, 2020).

The MFF will implement the EU's long-term budget for the period 2021-2027 for an amount of 1, 074.3 billion euros<sup>6</sup> while 750 billion euros, capital raised on financial markets, for COVID-19 recovery package front-loaded over the first years (Figure 1) will be divided into:

- 390 billion euros to be paid out in the form of subsidies,
- 360 billion euros in long-term loans, will have to be repaid by 2058

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<sup>2</sup> From this point PNRR.

<sup>3</sup> Through the European Commission.

<sup>4</sup> From this point NGEU.

<sup>5</sup> From this point MFF

<sup>6</sup> It also includes the integration of the European Development Fund.

**MFF 2021-2027 total allocations per heading**

	MFF	NEXT GENERATION EU	TOTAL
1. Single Market, Innovation and Digital	132.8	10.6	143.4
2. Cohesion, Resilience and Values	377.8	721.9	1 099.7
3. Natural Resources and Environment	356.4	17.5	373.9
4. Migration and Border Management	22.7	-	22.7
5. Security and Defence	13.2	-	13.2
6. Neighbourhood and the World	98.4	-	98.4
7. European Public Administration	73.1	-	73.1
<b>TOTAL MFF</b>	<b>1 074.3</b>	<b>750.0</b>	<b>1 824.3</b>

**Source:** web site of Senate of the Italian Republic.

**Figure 1.** *Multi-annual Financial Framework total allocation for heading period 2021-2027*

“The rest of the plan will be devoted to flexible cohesion policy grants to respond to the coronavirus crisis and support the green transition to a climate-neutral economy” (Alcidi & Gros, 2020). Each Member State will have to draw up a National Recovery and Resilience Plan (PNRR) for investment management, considering the guidelines developed by the International Committee for European Affairs (CIAE). The Plan is developed around 3 strategic axes shared at the European level: digitalization and innovation, ecological transition, social inclusion. The PNRR will greatly contribute to reducing territorial, generational and gender gaps, thus repairing economic and social damage.

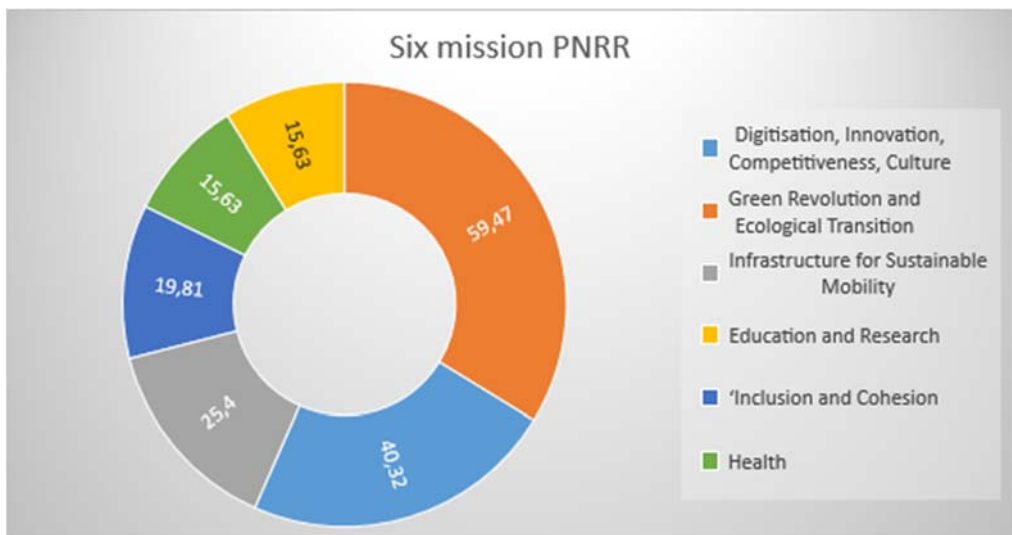
### The Italian National Recovery and Resilience Plan

In Italy, the NRRP was approved by the EU Council Execution’s Decision on 13 July 2021<sup>7</sup>. It represents the law device with which Italy has identified investments, reforms, and specific objectives to be pursued using European funds. It represents effective, significant, and direct financial support to accelerate the concrete implementation of investments aimed at overcoming the period of crisis due to

<sup>7</sup> Outcome of the Council meeting 3808th Council meeting, Economic and Financial Affairs Brussels, 13 July 2021.

the pandemic emergency (Centurelli, 2021). More precisely, investments of approximately 191.5 billion euros have been planned. They have been funded thanks to the “Device for Recovery and Resilience”, which is the key element of the NGEU. In addition, the complementary fund<sup>8</sup> represents an additional National Fund composed of another 30.6 billion euros of resources and the React EU<sup>9</sup>, including 13 billion, together will integrate the basis of the NRRP (Guida, 2021).

The NRRP is based on six missions (Figure 2):



**Source:** web site of Italian Ministry of Economy and Finance. Draft by The National Recovery and Resilience Plan (PNRR).

**Figure 2.** Six Italian missions PRNN

The first objective is to carry out digitalization, innovation, and competitiveness, aiming to support the country's digital transition. The investments will be directed to the modernization of the public administration, the coverage of the whole territory with ultra-broadband networks, the improvement of the industrial supply

<sup>8</sup> Italian Decree Law (D.L. n. 59 del 6 maggio 2021).

<sup>9</sup> RECT-EU: recovery assistance for cohesion and the territories of Europe financing package aimed at overcoming the effects of the crisis.

chains and in particular the relaunch of the tourism and culture sectors. According to the forecasts of the PNRR, these measures will have a strong impact on economic growth. This will result in an increase of +3.9 percentage points in real PIL compared to the base perspective of the entire period 2021-26 (Meliciani & Pini, 2021). A total of approximately 40.32 billion has been allocated to this mission. Although the Italian Public Administration had been moving towards a digital transition for four years, it had to accelerate this process by absorbing the principles current inside the European Union. The six missions expected in the NRRP are different but the first concerns “Digitalisation, Innovation, Competitiveness and Culture”. Within this, the main actions concern, for example, the creation of a single dataset containing all information on citizens. From this, all public administrations can obtain information so that citizens do not have to provide the same information more than once. The introduction of a Single Digital Gateway will ensure that European citizens also have access to the services provided by the Italian Public Administration. The use of digital identity, electronic payment tools and digital signature in the use of public services will also be encouraged. Ensuring digital security through the National Cyber Security Perimeter (NCSP) and finally strengthening citizens' digital skills by starting, among other measures, a digital civil service made up of young people who assist citizens who have difficulties in using digital tools (Pasqui, 2021) will also be carried out.

The other missions of the NRRP consist of ecological, economic, and social objectives, such as: Green Revolution and Ecological Transition; Infrastructures for Sustainable Mobility; Education and Research; Inclusion and Cohesion; Health.

### Digitalization as a new paradigm for a post-pandemic society

Nowadays, digitalization and digital transformation are described as a “global megatrend that is radically changing existing value chains across industries and public sectors” (Collin et al. 2015) or as “the catalyst, enabler and driver of society’s development over previous decades” (Bengtsson et al., 2014). In fact, the digitalization process is how many areas of social life are restructured around digital media and communication infrastructures, not only the material action of converting analogue information flows into digital bits Brennen and Kreiss (2016). Today, the world's leaders in the digital economy are countries that invest heavily

in digital assets wisely and use digital technologies to benefit from the increasingly multiplicative effect of digitalization.

As widely recognized, digitalization has represented a great opportunity for the public sector in times of a pandemic crisis, and Italy has made extensive use of digital technologies in many sectors. There have been rapid changes and adaptations in healthcare, working methods in the public and private sectors, culture, and education.

*Healthcare.* The health sector has had to review its priorities by adapting and redesigning the COVID-19 areas, leaving less room for the areas used for ordinary services, which have been drastically reduced. Digitalization involved the use of smartphone apps for tracking the infected (in the case of Italy, the IMMUNI APP), in addition to strengthening home care with integration of social and health services, such as telemedicine for local health care.

*Working methods in the public and private sectors.* “Smart working” represents “a mode of execution of the employment relationship characterized by the absence of hourly or spatial constraints and an organization for phases, cycles and objectives, established by an agreement between the employee and employer; a method that helps the worker to reconcile their work and home-life and, simultaneously, promote increased productivity”. This working method had already been contemplated in the Italian legislation, but it is only with the advent of COVID-19 that it has begun to represent the best solution to guarantee the continuity of work and limitation of movement.

*Culture.* The cultural sector has been one of the most affected by the COVID-19 pandemic. Live shows have left space for reproducible, shareable, and freely accessible cultural content on the web and social media, while the exhibitions and online consultations of libraries and museums have been strengthened (Carpentieri, 2020). The use and fruition of cultural heritage through digital means was already a possibility offered by many cultural institutions before the health crisis, but later most of them offered support to access telematics. In fact, the digitalization of cultural heritage has further paved the way for future scenarios, giving rise to an increase in public and private investments to improve infrastructure, increase connectivity and reduce the digital gap, to increase accessibility.



The cultural sector has received more attention, and this has led to the conclusion, as well as for the education and business sectors, that the weaknesses demonstrated by digital systems during the crisis must be exploited to change them on future occasions (Causi, 2021).

*Education.* The education sector also had to find alternative solutions to continue to guarantee teaching for its students. During the pandemic, the Italian Ministry for University and Research implemented an extraordinary allocation of 30 million euros for distance learning equipment in schools and universities (Rapporto Anitec-Assinform 52° edizione, 2021). From the point of view of the social function, distance learning did not increase inequalities but simply highlighted them. This type of emergency teaching has left out some categories: immigrants, foreigners, poor people and children residing in peripheral areas without internet connection and digital devices, but also students who live in overcrowded houses (Crescenza & Rossiello, 2021).

### The current state of digitalization in Italy and Europe

Assessing the position of European countries in the digitalization arena is an essential and crucial issue in the context of cultural digitalization, where strategic and political plans must be based on the existence of solid and adequate infrastructures, especially when European cultural resources can be transformed into an important pillar of the digital and real economy. These aspects can be emphasized with the help of the Digital Economy and Society Index (DESI), an indicator that measures the performance of European countries regarding digital performance. The exploration and analysis of the components of DESI is necessary because it allows us to understand if Europe has a solid basis to undergo a radical digital change. There are five components, and they are shown in Table 1.

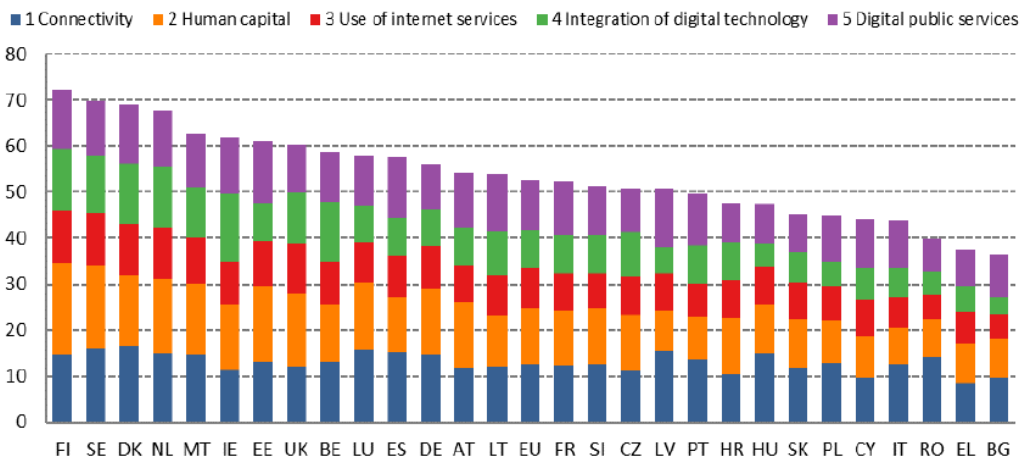
**Table 1.** Five components of DESI

Connectivity: deployment of a broadband infrastructure and its quality
Human capital: skills needed to take advantage of the possibilities offered by digitalization
Use of the Internet: consumption of online content video calls as well as online shopping and banking
Integration of Digital Technology: digitalization of businesses and e-commerce
Digital Public Services: digitalization of public services, focusing on e-Government and e-Health

**Source:** Elaboration of the authors.

The indicators measured in the DESI are particularly important for monitoring and ensuring a stronger and more resilient digital transformation and economic recovery.

Regarding the results of the last report, we can see that Finland, Sweden, Denmark and the Netherlands have the most advanced digital economies in the EU followed by Malta, Ireland and Estonia. Bulgaria, Greece, Romania and Italy have the lowest scores on the index. Compared to the results of DESI 2019 there is not a relevant change from the first position, and not even in the last. The movements are slight and concern only one or two positions in general; Italy, in fact, drops by a position reaching fourth to last. The results of DESI 2020 (based on 2019 data) are shown in Figure 3 below.



Source: DESI 2020, European Commission.

Figure 3. Digital Economy and Society Index (DESI) 2020

Over the past year, all EU countries have improved their digital performance, but they still have a long way to go, and the EU needs improvements to compete on the global stage. As Europe progressively exits from the pandemic, there is a need to plan the recovery, considering the lessons learnt from this crisis.

## Concluding Remarks

Digital technologies and therefore digitalization have a great impact on everyday life and are indispensable to keep up not only with current needs but even with future ones. Digital transformation aims to be in line with the times we are experiencing and responsive to change (whether it is sudden or the result of a slower process), turning the crisis into opportunity. This can be achieved through the review of both supply and demand processes, making them adaptable to user needs, and by streamlining and speeding up the parts that make up the digital process.

Indeed, among the many advantages of digital transformation, we see greater agility and increasing innovation, qualities that are essential today to survive in this highly competitive world.

Especially in the public sector, digitalization has affected both the organization of activities and the regulation of individual access procedures.

In addition, it has led to significant changes in relations with users, streamlining procedures, simplifying processes, resulting in greater flexibility, and halving processing and waiting times for services. The OECD collected data on the benefits and risks of digitalization, primarily by creating a morphology of risks and benefits. Among the benefits, free access to information, the availability of a wider choice of consumer goods and efficiency gains and productivity have been underlined.

However, the risks include a digital divide, different possibilities of access and abilities to use technologies and poor digital literacy, i.e., certain indications on how to safely use the digital space that requires a mix of technical knowledge and a critical spirit to filter and select quality information.

Above all, mental health issues (for example, not being able to resist online bullying) that may have occurred due to the misuse of digital devices and finally the theft of private data and cyber-hacking have been pointed out.

Furthermore, the absence of shared theoretical frameworks and political guidelines for the empowerment of digital skills by both users and suppliers has limited the opportunities to implement even more functional digital initiatives. There are many causes, starting with the weak digital infrastructure that does not provide the necessary coverage for these services. Another delicate and crucial

aspect is represented by the lack of suitable digital skills, which are essential for informed access to information and essential services for the entire population.

Currently, these are particularly relevant for health care staff, public employees, teachers, and students at every level. Basic and advanced digital skills need to be strengthened in school curricula and the education provided by European countries. For this reason, the first mission of the PNNR relating to digitalization, innovation and competitiveness will have the fundamental task of supporting and guiding the country's digital transition and represents the crucial challenge of the next decade. So that crises are concretely transformed into opportunities, the public sector will have to face an epochal change. Efforts must be aimed at completing the digitalization process that began decades before Covid, which then, under the pressure of the emergency, received more attention to quickly attain full effectiveness and efficiency.

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Although crises shake the systems and are usually analysed in relation to their negative effects, they also open a window for opportunities and learning. Since, based on the system theory state, the public sector can be seen as a system with the property to adapt itself to the environmental changes, this volume explores an intuitive assumption, meaning *"Public sector developments are driven by crises"*. In this regard, the studies from this volume took the challenge to explore the public sector's agility in various contexts determined by different types of crises (e.g. economic, social, political, sanitary), analysing certain administrative, political, legal and policy responses.

Therefore, since crises challenge the capacities of organizations and the competencies of actors, the attention has been focused on how the public sector was able to adapt in time to face certain types of crises. This has materialized in attempt to determine whether these phenomena are a true threat to the restructuring process through which the public sector plans to achieve swift functionality in its implementation of strategies or whether the crises create an opportunity for incremental change and convergence within an already existing organisational structure.



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