

# The Relationship Between Institutions and Trade, Empirical Analysis from the Republic of Moldova Case

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## **Abstract**

*Starting from the fact that the Republic of Moldova has signed the Association Agreement with the European Union and moreover creates a Deep and Comprehensive Free Trade Area, the current paper aims to analyse the relationship between institutions and trade. The existing theory of institutionalism pointed out that country with the same level of institutions tend to trade more and also trade might produce institutional change. Based on a mix of methods analyses like reports, data and survey, this paper concludes that the correlation between institution and trade in this case is law. This is relevant because in this way we can change, enrich or enhance the strategy of the EU towards Eastern countries especially the Republic of Moldova.*

*Keywords: Formal institutions, Trade, the European Union, Republic of Moldova.*

JEL Code: D02, C33, F53, O43, P33

## **1. Introduction**

The current bilateral relationship between the Republic of Moldova (RM) and the European Union (EU) is based on the Association Agreement (AA) which pursues two essential elements: political association and gradual integration into the single European market. The economic integration of the Republic of Moldova into the European market is foreseen to be achieved through the Deep and Comprehensive Free Trade Area (DCFTA). Thus, DCFTA offers to the Republic of Moldova the necessary framework for the modernization of its commercial relations and a solid basis for the economic development through the progressive

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elimination of customs tariffs and quotas, through an extended harmonization of laws, norms and regulations in various commercial sectors. DCFTA implies a gradual liberalization of trade (up to 10 years from the moment of signing), but the liberalization will not be complete, Moldova limits the import without taxes for meat and meat products, dairy products and sugar, quantitative quotas being established. *De Jure* has been 5 years of signing and the establishment of the DCFTA, a sufficient time to draw some preliminary conclusions regarding the impact of AA. Expectations were high but the results were not tailored, however, some areas performed and recorded very good results. Such a field is trade, which is the subject of the present study. The AA expressly sets out objectives to be achieved in areas such as: *Political Dialogue and Reforms, Cooperation in the field of Foreign and Security policy, Freedom, Security and Justice, Economic Cooperation and other types of Sectorial Cooperation*, however, trade remains the main purpose of AA and is actually the basis of the Moldovan-EU relationship. This is one of the first reasons why I choose the trade as a field of analysis. The entry into force of the AA produced significant changes in the trade profile of the Republic of Moldova, especially among the trading partners. Currently about 70% of the total commercial flows is oriented towards EU member states, however, only 48% of the total population has a positive perception about the EU (ECORYS, 2018). In this context this article aims to find out to what extent the implementation of the European norms and institutions provided in the AA have boosted trade flows. Thus, this article aims to establish a correlation between the institutions envisaged in the AA and the trade between the two actors and to test the hypothesis that the institutions influence the trade. The relationship between institutions and trade has been analysed by theorists belonging to the international economic theory of institutionalism. And the general hypothesis accepted is that the states with the same institutions tend to intensify their trade flows. For this reason, the development of a qualitative institutional framework will have a significant effect on the indicator of trade openness. To test this hypothesis, and to achieve the proposed goal, we set the following objectives:

O.1 To analyse the evolution and dynamics of Moldovan institutions;

O.2 To analyse the intensity of trade flows between Moldova and the EU;

O.3 To make a comparative analysis of the institutional framework in the Republic of Moldova with the institutional framework in the EU but also in the Commonwealth of Independent States (CIS)

So that in the end there is a conclusive and relevant answer to the following questions of the present research:

1. How much it matters the institutions in trade relations between the EU and Moldova?
2. Which institutions most influence the commercial relations?
3. Is the relationship of trade institutions unified or bidirectional?

The article is structured into several sections and subsections. The first part of the article will frame the chosen subject in an international economic theory, named institutionalist theory. Also, this part will include an exposition on the main hypotheses of this theory and a brief analysis into the specialized literature on the concepts of institutions and especially the relationship between institutions and trade, as well as the main experts who have studied and developed this theory. The following section entitled the methodology of research, describes the indicators and variables I have chosen as well as the analysis method by which I propose to test the research hypotheses. This approach will also be useful to interpret the results obtained and to have relevant and well-argued answers to the questions proposed by this paper. The research involved in this article is useful and relevant in order to understand better how it works and how effective the EU action tools are in the Eastern Neighbourhood, especially in Moldova and how much the institutional framework influences bilateral trade. The article is also important for the small contribution to the institutionalist theory, and the results obtained can be used for decision-making factors for the elaboration of future strategies.

## **2. Theory and literature review**

The AA represents a set of well-defined European norms and institutions, the community institutions not only have the role of arbiter or mediator, but they are also key actors, who offer solutions, set the working agenda, draw the strategic guidelines. The configuration of the community institutions and the atypical range of political instruments used, constrains the EU to certain types of actions, but limits the extent of others because of the communautaire budget and the limited possibilities of financial transfers. The national state is not excluded, more than this, it is the key actor, being a negotiator, co-regulator, implementer but also financier. Its merits are when it manages to coagulate the resources needed to fulfill these functions, especially the financial ones (Prisecaru, 2008, p. 17). James March and Johan Olsen, representatives of neo-institutionalism, have emphasized the importance of the specific norms and associated values of the institutions and which models the actions and behaviour of institutional officials. Conceptually, the implementation of the AA can be associated with the Europeanization process, in

the sense of defining the latter as a transposition of the *acquis communautaire* and of the European institutional structures at the level of the national structures of the Republic of Moldova. However, we can point out that the process refers to the impact that community governance and its methods have on national governance, which implies, interactive relationships or relationships between community and national institutions within the multilevel governance system. Thus, on an institutional level, the implementation of the AA implies the construction, dissemination and institutionalization of rules, norms, procedures, styles, modalities, values, all being the creation of the community level and being subsequently incorporated in the national structures and policies. But this does not mean the uniformity or replacement of national cultural values with European ones. The relationship between institutions and economic growth is a topic of major interest to economists starting point in this approach. Although the specialized studies that analyze the effect of institutions on trade are not quite generous, however, there are a significant number of studies that are a good starting point in this approach.

The prevailing general assumption is that states with the same quality of institutions tend to trade more. For example, Marion Jansen and Hilegum Kyvik Nordas (2004) concluded that a qualitative institutional framework has a significant positive effect especially on the indicator of openness of trade. National tariffs on productivity are not statistically significant but combined with bad institutions have a major impact on trade flows. Subramanian, Linders, Rietveld, De Groot, (2005) using the gravitational model calculated whether the quality of institutions and their homogeneity have an independent effect on trade. Following this study, they concluded that the states with the same institutional framework can increase their trade flows by an average of 13%, the correlation between institutions and trade being validated and highly significant. Another important feature of the study is that the authors say that the states with inefficient formal institutions are avoided by the states with efficient institutions, due to the insecurity and especially the high transaction costs. For this reason, these states with inefficient institutions tend to trade with states with the same level of institutions, giving up the benefits that the more developed states would have brought. David Dollar and Aart Kraay (2003) also have an important contribution to the specialized literature in this field. Their studies are based on three main assumptions, the states with higher quality institutions and the trading states tend to develop better and faster than it follows that states with better institutions tend to have larger trade flows. Therefore, between growth and economic development, high trade and institutions have a very

strong correlation. His studies (Linders Slangen, de Groot, Beugelsdijk, 2005) applied on 92 countries between 1999 and 2000 conclude that better quality of institutions increases trade flows for both importing and exporting states.

Other studies that aimed to analyze the relationship of trade institutions have gone further and, after demonstrating the positive link between trade and institutions, they have come to the conclusion that one of the institutions that affects trade the most in a negative way is very high corruption. (Zelekha, Sharabi, 2012). There are also some articles by Knack and Keefer (1995), concerned with the relations of trade institutions, they concluded that the institutions that have the greatest impact on trade in a positive sense are: private property and contract compliance. The same opinion can also be found in the studies of Andrei Levchenko and Olivier Jeanne (2004), with the mention that a very important institution, namely the protection and security of the shareholders, appears alongside the private property and the observance of the contract. Analyses of another study (Gylfason, Martinez-Zarzoso, Wijkman, 2015) conducted in the Eastern Partnership countries show a clear evidence of the commercial benefits of these states, especially after the Association Agreement was signed, and the institutional framework improved (the analysed institutions were the democracy and corruption) have played an important role in promoting trade.

Moreover, the analyses made by (Alvarez, Barbero, Rodriguez-Pose, Zofio, 2017) in addition to the fact that institutions are relevant in bilateral trade, they say that over time the states tend to trade with those states that have the same quality of the institutions and not necessarily with the states that have the highest level of quality of the institutions, except for other factors that influence the trade such as: infrastructure, distance, culture, language and diplomatic conflicts.

### **3. Research methodology**

#### **3.1 The choice of the institutions**

The institutions do not have a clear and precise definition, they are rules of the game, it is almost impossible to give a clear definition of institutions. The objectives of the analysis of the heterogeneity of the environment to which they refer (economic, political, social) as well as the philosophical direction from which the defining attempts occur explain the multitude of acceptations in which the term was received and used. Over time, the definition of institutions has been influenced by the paradigms of the respective period. In order to avoid any form of confusion as there was a tendency in the past, we must note that institutions are not the same

as organizations, institutions are not organizations. The distinction between institutions and organizations is major, and it must always be made to understand things in the right way. While the institutions define the rules of the game, the organizations designate the players. While the institutions set the framework for conducting the action, the organizations are agents of institutional change. But the connection between institutions and organizations is symbiotic: it is difficult to conceive the meaning of players without rules or rules without players. Clearly, organizations appear and develop within a certain institutional framework whose footprint is a gateway. (Pohoățã, 2009)

In Douglass North's conception, *institutions represent the constraints (formal or informal) created by people to shape human relations*. The rules of the game are the ones that determine the structure of the incentives, they, the institutions define and limit the set of individual choices. *Institutions represent laws, rules, which reflect codes of behaviour that most individuals impose and by their own will* (Sugden, 1986) *Institutions are formal rules, compliance procedures and standard operating modes that structure the relationship between individuals on a political and economic level* (Hall, 1986) *or Institutions are a set of persistent and connected rules (formal and informal) that prescribe behavioural roles, constrain statutes and shape expectations.*(Keohane, 1989) More recently contemporary of our time Daron Acemoglu defines institutions *as a broad grouping of arrangements that influence diverse economic interactions between individuals, including economic, political and social relationships between households, individuals and firms, state actors or actors. international. Institutions are still the rules, regulations, laws and policies that influence economic incentives, so the incentives to invest in technology, physical and human capital.* (Acemoglu, 2008) Another definition that outlines institutionalism as well is given by Masahiko Aoki, whose vision is *that institutions represent a self-sustaining system of shared beliefs that is in a state of Nash-type play.* (Aoki, 2001) What is common to all definitions and interpretations, and which also sets the boundaries of the concept of institutions are: laws, rules, behaviour, constraints and cooperation. Due to its complexity, most of the institutions are classified according to three criteria: the degree of formalization, the hierarchical level and the area of analysis. Depending on the degree of formalization, the institutions can be: formal, informal and their implementation mode. The formal institutions that I will focus on in this study, refer to written rules, usually the rules adopted by the state, the legislative framework, laws. From this point of view, AA represents a set of rules and rules characteristic of formal institutions. These include written behavioural rules, such as laws adopted by the

authorities, to which are added rules codified and adopted by private institutions and organizations. (Baciu, 2009) It is impossible to choose and subject all the existing institutions to the analysis, however, in order to cover the widest spectrum of the institutional framework, I have chosen to use the database entitled World Governance Indicators formulated by Daniel Kaufmann Aart Kraay and Massumo Mastruzzi. In the methodology used by these theorists, governance is defined as a series of institutions through which the state exercises its authority. This series of institutions is divided into six indicators, namely: *participation and accountability, political stability and absence of violence, government effectiveness, and quality of regulation, rule of law and control of corruption*. The resulting indicators add up to 30 different sources of data collection both nationally and internationally.

In addition to the fact that these indicators comprise a wide range of institutions, these indicators have been used in numerous specialized studies, in different reports of the World Bank (Jansen and Nordas, 2004) (Dollar and Kraay, 2002) or the International Monetary Fund, but also by a large number of experts (De Groot et al., 2003) (Mauro, 1995) (Gylfason et al., 2015) (Subramanian et al., 2004) (Bergh et al., 2014) (Alvarez et al. (2017) (Linders et al., 2005) (Slangen et al., 2005) (Zelekha and Sharabi, 2010) (Rietveld et al., 2005) I would like to mention these issues because when a study is based on the analysis of the institutions is very difficult to choose the right institutions due to the complexity and the general character. This is especially noted in an article by Stefan Voight (2013) entitled “*How to (not) measure institutions*” The article is valuable through criticism of those trying to quantify and measure institutions. Although the database prepared by Daniel Kaufmann, Aart Kraay and Massumo Mastruzzi that I will use in the analysis does not escape the criticism of the author, however this database is recommended for those who want to undertake analyses that have their institutions. For these reasons listed above I have chosen to use this database.

### **3.2 Quantification**

As mentioned above, the method I have chosen to calculate and measure the effect of institutions on trade flows is the method of multiple linear regressions, I will use panel data for each country, for each year, the value of the institutional indicator as well as the value of trade flows. The comments cover all EU Member States and as well CIS states. I included in the analysis also the states of CIS due to the fact that Moldova was part of the USSR and nowadays it is also part of the CIS even though it has signed an AA, from this point of view the quality of the

institutions tends to be closer to this organization than to the EU. This will allow to make a comparative analysis of the quality of the institutional framework between the two blocks. In total, the quality of the institutions from 39 states plus the commercial flows that Moldova has with each state are analysed. The time period runs over the years 2002-2017, largely due to the fact that before 2002 some data do not exist but also because of this way I can have a symmetry taking as a reference point the year 2009 when it was Eastern Partnership launched. Even if the AA was signed in 2014, its effects can be calculated from 2009 at least at the political level.

### **3.3 Description of institutions**

The Global Governance indicators are aggregate indicators and are defined as a series of institutions; in the present case these indicators represent independent variables.

1. Participation and responsibility / accountability (Voice and Accountability) - concerns the perception of the extent to which the citizens of a state have the opportunity to participate in the election of the government, as well as the freedom of expression, the freedom of association or the freedom of the press and human rights.

2. Political Stability and Absence of Violence - aims to measure the perception of the possibility of a government being destabilized or overthrown by violent or unconstitutional means (including politically motivated violence or acts of terrorism)

3. Government Effectiveness - measures the quality of public services, the quality of the civil servants' body and its independence from political pressures, as well as the quality of the formulation and implementation of public policies or the government's credibility regarding its commitment to these policies. This indicator also refers to the level of bureaucracy, in other words the government's ability to formulate and implement good policies, in this case the government's ability to implement in the national legislation the Community acquis.

4. Regulatory Quality - measures the government's ability to formulate and implement viable policies and regulations that allow but also promote the development of the private sector. The ability to ensure fair competition, facilitate the opening of a new business and deregulate policies that inhibit the free market mechanism but also the excessive regulation of foreign trade and the business environment.

5. Rule of Law - refers to the quality and independence of the legal system, it concerns the perception regarding the extent to which the state agents respect the norms of the company, especially regarding the quality of the execution of contracts, property rights, police and courts as well as the likelihood of crime and violence.

6. Control of Corruption - represents the absence of the law, the unfair behaviour in the public-private relationship. It targets the indicators regarding the quality of regulation, the rule of law, with reference to the impact of bad governance on the economy. Corruption as the regulation of intrusion, the involvement of a third actor usually the state, which leads to increased transaction costs. Selective justice pursues the perception regarding the extent to which public power is exercised for personal gain (both small and high corruption) as well as the "capture" of the state by elites and private interests.

Each of the above indicator has a numerical value between -2.5, which is the most negative value and +2.5, the value associated with the quality of the best institution.

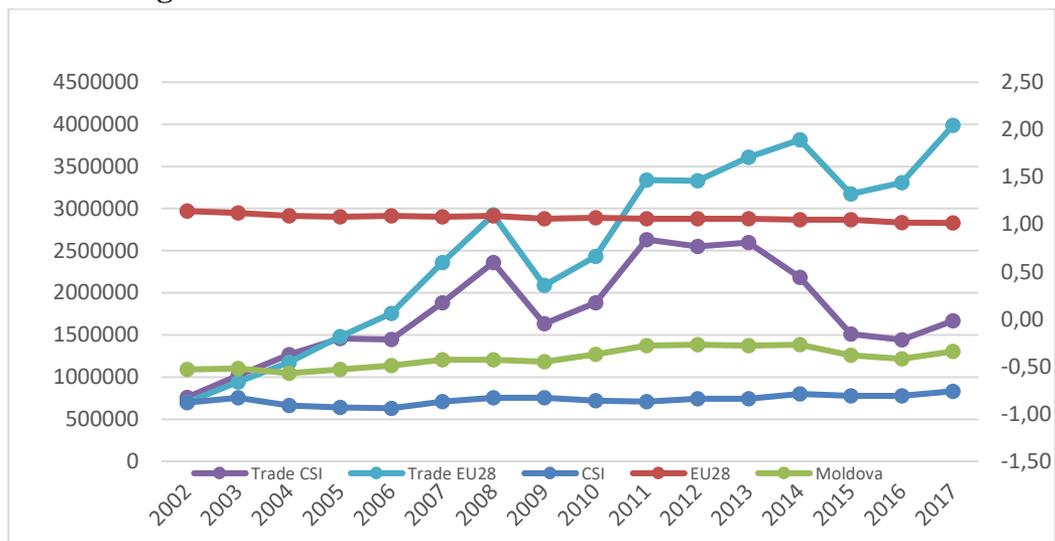
In terms of trade, it is evaluated by import plus export, and represents the total value of bilateral trade between the RM and each state partly calculated in the amount of money (the reference currency being US dollars, thousands USD). In this case, trade is a dependent variable because the objective of this chapter is to analyse the impact of institutions on trade. Data for the value of trade flows were obtained from the Statistical Database of Moldova. For validation of the results we used robustness tests and as variables chosen for testing were: GDP growth%, Inflation and Foreign Direct Investment (FDI) data being collected from the World Bank and the International Monetary Fund's website.

## **5. Results and interpretation**

Although the implementation of the AA with the EU is declared a national priority, the results are not as expected. If we talk about the totality of AA then the AA institutions were transposed in a proportion of 34% and if we talk about the Association Agenda and the Action Plan on the Implementation of AA in the 2014-2016 period it was implemented in a proportion of 70% with large overdrafts, especially in the field of justice. There are more pronounced delays especially in the government apparatus, following the reform of the government some ministries lost qualitative human resources that participated in the negotiation of AA but also of the Free Trade Agreement and at this moment the civil servants are not able to

implement the provisions of AA. According to the Alternative Report No.4 Year 2018, regarding the Implementation of the AA in the 2016-2018 period elaborated by the Institute for European Policies and Reforms, the total degree of implementation of PNAIAA II towards the end of 2018 is 31.9%. Accordingly, by the end of 2019, the authorities must significantly increase their implementation effort to successfully complete the remaining 969 measures out of a total of 1459 (Groza, Rusu, & Ghilețchi, 2019) before analysing each institution separately, in Figure 1. we portrayed a general evolution of the institutional framework in the Republic of Moldova, the EU and the CIS as well as the evolution of trade. From this graph we can see several aspects relevant to the present study.

First of all, the quality of the institutions in the EU member states is clearly superior to those of the Republic of Moldova and especially those of the CIS. The values of the institutions of the EU register positive values between 1.14 in 2002 and 1.02 in 2017, with a slightly negative evolution. The evolution of the quality of the institutions in the Republic of Moldova registered negative values from -0.53 units in 2002 to -0.34 units in 2017, a modest progress of the quality of the institutions of 0.19 units, insignificant, however the quality of the institutions of the Republic of Moldova is 0.42 units higher than those in the CIS. An explanation for the fact that the quality of the institutions was not considerably improved can be found in the passivity with which RM transposed the provisions of AA. Regarding the quality of the institutions in the CIS, the values are also negative, from -0.88 in 2002 to -0.76 in 2017. From this point of view the quality of the institutions in the Republic of Moldova is much closer to the quality of the institutions of the CIS. By referring to these data we can draw several conclusions. First of all, there is no significant progress in the quality of institutions in the Republic of Moldova. Second, total trade flows have grown dramatically from 1.4 billion in 2002 to 5.653 billion in 2017. Moreover, the worsening of the institutional framework in 2014 with -0.10 units coincided with a decrease in trade from 6 billion to 4.6 billion with a growth trend in the coming years. But it is obvious that after signing AA, the total commercial flows of the Republic of Moldova did not increase in nominal terms, rather they reoriented from the market of the Russian Federation to the European market, phenomenon known as reorientation of trade.

**Figure 1. The evolution of institutions and commercial flows**

**Source:** Elaborated by author based on Statistical database Moldova.

Statistical analysis confirms that institutions influence trade. In this case, the quality of the institutional framework influenced the trade variation in the proportion of  $R^2 - 0.53\%$  on a scale from 0 to 1. However, no statistically significant correlations were established between all institutions and trade. The most significant institutions that have influenced the trade are: Political Stability, Quality of Regulations and the Rule of Law.

There is a strong connection between the rule of law and trade flows, but in a negative sense that is, the more the institutional quality of the rule of law registers negative values, the less the trade flows diminish.

Of all the institutions analysed, the indicator Political Stability and Absence of Terrorism influences trade the most, it is the most statistically representative result. A strong correlation can be observed between these variables. Although the quality of this indicator only exceeded once a positive value in 2012, the evolution of this indicator coincides with the evolution of trade. And if we describe the political context of the Republic of Moldova from 2006 to 2016, we will realize that Moldova has faced political instability. The crisis began in 2009 when, through a revolt, the youths removed the Communist Party from the government by the so-called "twitter revolution". The early elections of that year bring to the fore the so-called pro-European parties which, in order to have the majority, form a pro-Western alliance called the Alliance for European Integration.

**Table 1. Linear multiple regression**

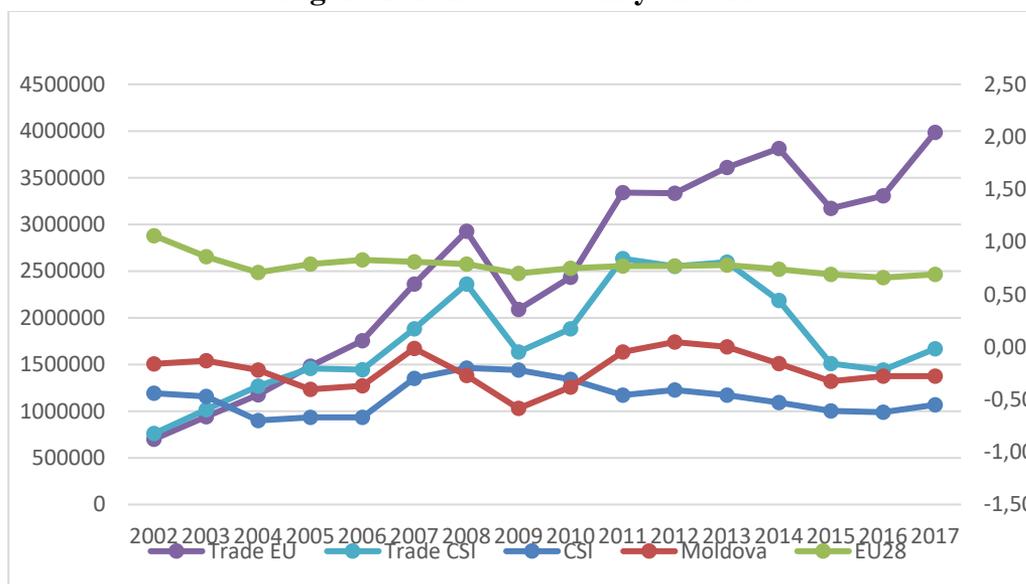
	(1) ltrade	(2) ltrade	(3) ltrade	(4) ltrade
VARIABLES	Winsorized fraction .01	Winsorized fraction .01	Winsorized fraction .01	Winsorized fraction .01
<b>Voice and Accountability</b>	-0.439	-0.453	-0.487*	-0.417*
	(0.295)	(0.283)	(0.271)	(0.242)
<b>Political Stability</b>	0.329***	0.261*	0.230	0.215
	(0.121)	(0.133)	(0.137)	(0.128)
<b>Government Effectiveness</b>	-0.222	-0.171	-0.120	-0.136
	(0.249)	(0.252)	(0.267)	(0.272)
<b>Regulatory Quality</b>	0.901*	0.866*	0.972**	0.989**
	(0.461)	(0.457)	(0.464)	(0.460)
<b>Rule of Law</b>	-0.966*	-0.870	-0.789	-0.836
	(0.571)	(0.550)	(0.579)	(0.574)
<b>Control of Corruption</b>	0.059	0.059	-0.115	-0.120
	(0.407)	(0.409)	(0.397)	(0.398)
<b>GDP ANNUAL %</b>		0.021*	0.024*	0.024**
		(0.012)	(0.012)	(0.012)
<b>FDI</b>			-0.009	-0.010
			(0.039)	(0.039)
<b>INFLATION</b>				-0.008
				(0.007)
<b>Constant</b>	8.944***	8.852***	9.012***	9.096***
	(0.200)	(0.218)	(0.816)	(0.817)
<b>Observations</b>	570	570	532	532
<b>R-squared</b>	0.533	0.539	0.556	0.559
<b>Number of countries</b>	38	38	38	38
<b>Year FE</b>	YES	YES	YES	YES
<b>Country FE</b>	NO	NO	NO	NO
<b>Cluster</b>	country	country	country	country
<b>Robust standard errors in parentheses</b>				
<b>*** p&lt;0.01, ** p&lt;0.05, * p&lt;0.1</b>				

*Source: Elaborated by author*

But the political crisis continued in 2010 when elections were held again for the election of the president, the third legislative election in less than a year, also in the same year a referendum is held on changing the way the president is elected fails due to the poor presence of Moldovans, it took another 2 years to elect a

president, which actually resulted in the dissolution of Parliament in two rows and triggered early elections. The political crisis continued with the dismissal of Vlad Filat's pro-European government through a censorship motion, a crisis that lasted 3 months because the parliamentary parties could not agree on the appointment of a joint prime minister. President Nicolae Timofte twice denying the appointment of Vladimir Plahotniuc as prime minister because of the integrity of the person. This year AA was initialled at the Vilnius Summit. The political crisis blossomed in 2014 when, due to political causes, an economic crisis was built by the disappearance of one billion dollars, the Chisinau press calling this disappearance the "theft of the century" because all these transactions happened even with the help of the government and the Central Bank of Moldova. Also, this year a Russian businessman, Renato Usatâi, and Ilan Shor appear as the main suspect in the theft of the billion. The crisis culminated in the arrest of former prime minister Vlad Filat and the dismissal by censure motion of the third prime minister of that year, namely Valeriu Streleț. After 4 months of intense negotiations Moldova had a new prime minister in the person of Chiril Gaburici but since the prosecutor's office started an investigation in the case of his baccalaureate diploma, this government did not last more than 4 months. The political crisis ended with the establishment of the government of Paul Philip. Throughout this period, the indicator of political stability has experienced an intense fluctuation, reaching even positive values. Even under these conditions, trade followed the course of this indicator.

**Figure 2. Political Stability and Trade**



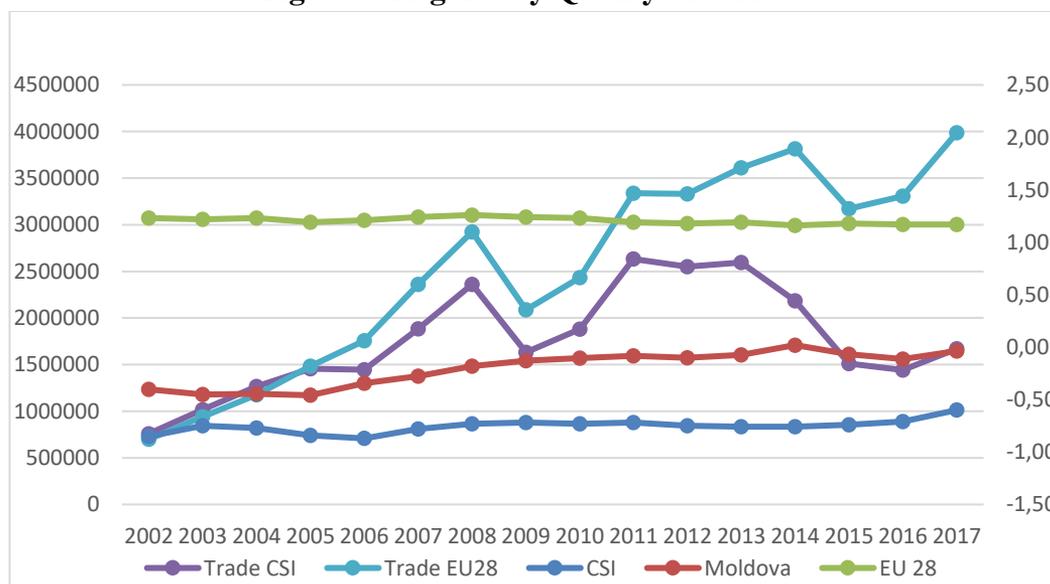
**Source:** Elaborated by author based on Statistical database Moldova.

The correlation between political stability and trade flows can be seen below in Figure 2. All these events characteristic of political stability have negatively influenced trade flows.

Another institution that has significantly influenced the trade from a statistical point of view is the Quality of the regulation. This validates the institutionalist hypothesis that states that have a qualitative institutional framework tend to trade more, visible in Figure no. 3. This indicator has an upward trend and a positive trend, this indicator measures the effectiveness of the institutions envisaged in the AA because the Moldovan government did not come with its own policies and regulations that allow the development of the private sector. They just transposed acquired community that tries to ensure a fair competition to encourage the business environment and entrepreneurship but also to create a legal framework that facilitates trade. We hypothesize that the states with qualitative institutions tend to trade at the level of 2013 when the quality of this institution increased and trade flows with the EU increased while trade flows with the CIS countries decreased.

The law rule is a very important institution for the functioning of the state itself, therefore it is equally important for the size of the commercial flows. The relationship between this institution and trade has a strong correlation, only this time and with an adverse effect. If this institution has a negative value, then immediately and the commercial flows undergo changes.

**Figure 3. Regulatory Quality and Trade**

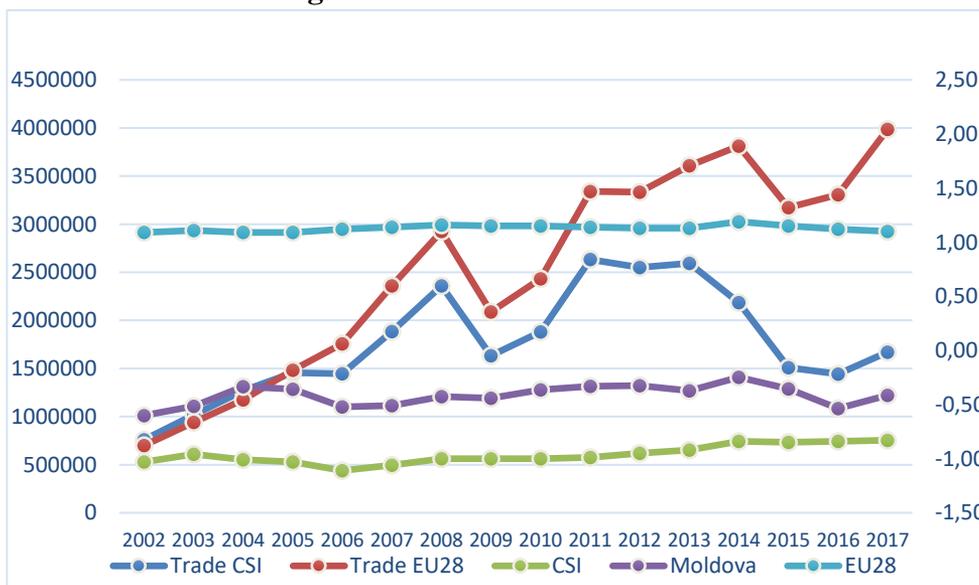


**Source:** Elaborated by author based on Statistical database Moldova.

In fact, in the specialty literature, the observance of the contract and the private property are considered the most important institutions of the development of a state / companies. If the state cannot guarantee the private property and the observance of the contract then the producers are not encouraged, being less producers the quantity destined for the export or even the domestic consumption will be smaller. As for the other institutions such as Government Effectiveness, Corruption Control or Participation and Accountability in the case of trade relations between the Republic of Moldova and the EU or the CIS, they do not have a statistically significant influence.

Although in the specialized literature (Mauro, 1995) (Yaron and Sharabi, 2010) through their studies they have clearly demonstrated the effect of these institutions on trade, with negative effects. The increase of the quality of these institutions cannot guarantee the increase of the commercial flows but a negative value affects the trade. In this case the situation is explained by his theory (Bo Rothstein, 2017), which says that formal institutions are too much discussed and consequently overestimated especially when it comes to corruption for this reason, they can no longer explain the cause of things.

**Figure 4. Rule of law and Trade**



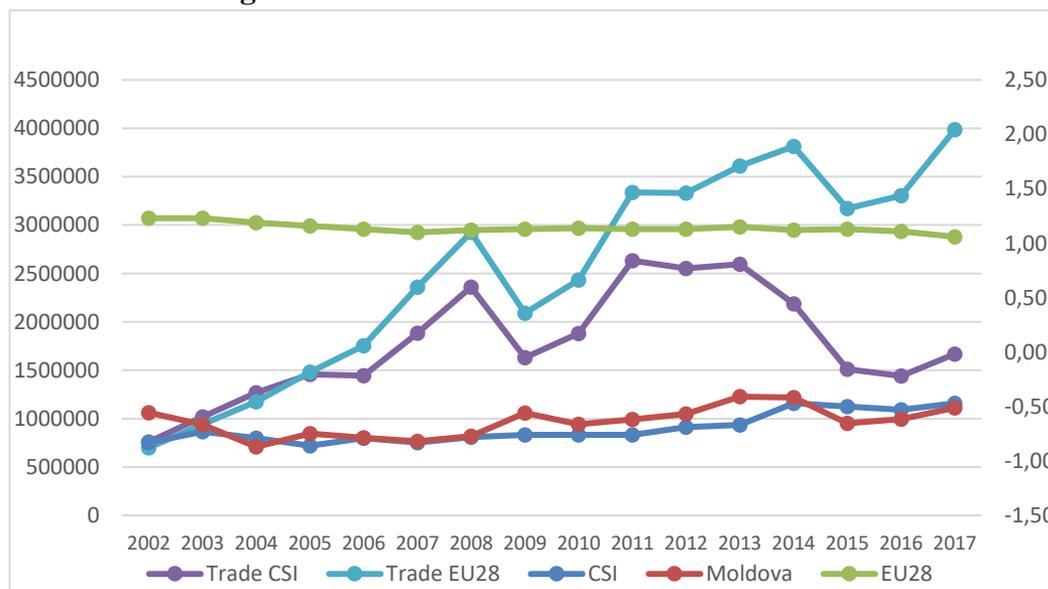
**Source:** Elaborated by author based on Statistical database Moldova.

When it comes to corruption, informal institutions play a decisive role, and to be convincing, Bo Rothstein gives the example of Uganda, which has a score of 99

out of 100 in anti-corruption laws, good anti-corruption measures implemented with the help of foreign partners and with external funds, however, when it comes to the level of corruption this is one of the largest in the world, Uganda being listed as one of the most corrupt states in the world. We extrapolated this example to the case of the Republic of Moldova and according to the Global Integrity Report, Moldova has the highest score in terms of anti-corruption law, the score being 100 out of 100, agencies that implement anti-corruption laws or equivalent mechanisms 83 and at the same time if we analyse the level of corruption in Moldova according to the Transparency International Report, Moldova ranks 122 out of 180 (being the most corrupt country) with a score of 31 out of 100.

The law rule is a very important institution for the functioning of the state itself, therefore it is equally important for the size of the commercial flows. The relationship between this institution and trade has a strong correlation only this time and with an adverse effect. If this institution has a negative value then immediately the commercial flows undergo changes. In fact, in the specialty literature, the observance of the contract and the private property are considered the most important institutions of the development of a state / companies.

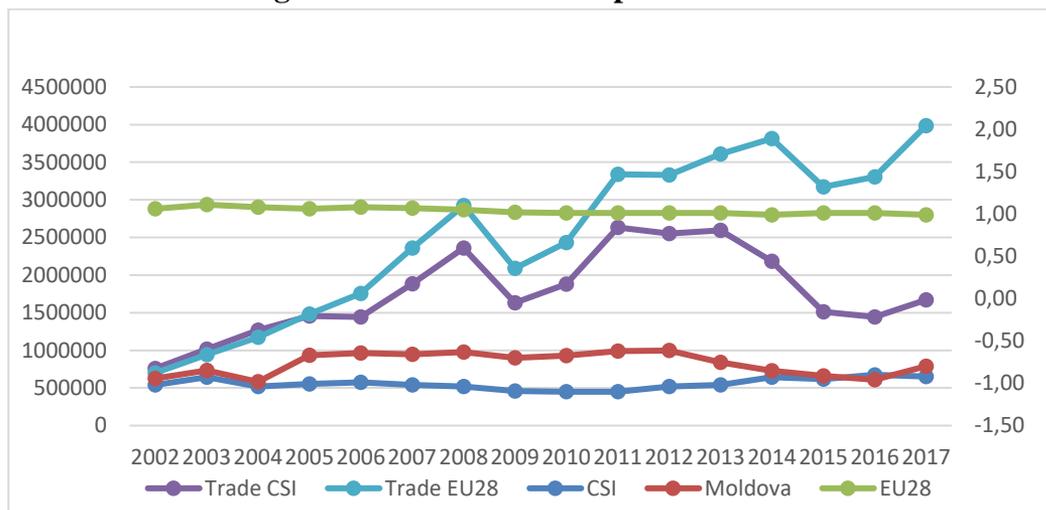
**Figure 5. Government Effectiveness and Trade**



**Source:** Elaborated by author based on Statistical database Moldova.

If the state cannot guarantee the private property and the observance of the contract then in this way do not encourage the producers, being less producers the quantity destined for the export or even the domestic consumption will be smaller.

**Figure 6. Control of Corruption and Trade**



**Source:** Elaborated by author based on Statistical database Moldova.

Thus, between the institutions of Corruption Control, the Effectiveness of Government and Trade, a correlation could not be established, as these indicators did not have a significant fluctuation in order to calculate to what extent these independent variables influence the dependent variable, respectively the trade.

Therefore, I would like to mention that these institutions are and remain important, but in the present case, through the data used, they do not statistically significantly influence bilateral trade.

In Moldova, institutions are sometimes replaced with people. Strong people become institutions and laws, to paraphrase Napoleon Bonaparte.

## 6. Conclusions

Trade flows are influenced by many factors, institutions included. It is certain that after the AA signing, the institutional framework did not develop positively although a large part of the community acquis was implemented. It may take more time for the implementation to take effect on the ground and not just within the legislative framework. The study started from the hypothesis that

institutions influence trade flows. Thus, the main objective was to establish how the institutions influence the trade between the EU-Moldova and the CIS. And a second objective was to establish which institutions are most influential in trade. Therefore, we can say that in the current trade exchange between the Republic of Moldova and the EU the institutions have little influence. Of the 6 institutional indicators, only 3 statistically significantly influence trade. The most influential institutions in this case are: Political Stability, Quality of Regulation and Rule of Law. There is no correlation between Corruption Control, Government Efficiency and Trade, since in Moldova there is a paradox in this area, being the country with the highest quality anti-corruption laws and at the same time being one of the most corrupt states in the world.

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<https://www.weforum.org/agenda/2017/12/four-myths-about-corruption>

# The Aftermath of the “Velvet Revolution”: Armenia Between Domestic Change and Foreign Policy Continuity

*Aram TERZYAN\**

## Abstract

*This article focuses on the aftermath of the 2018 “Velvet Revolution” in Armenia by investigating the relationship between domestic change and foreign policy. It highlights the challenges of foreign policy breakthroughs, leading to a Russian-European balance, as well as to breaking the logjam in the troubled neighborhood. It contends that domestic change in Armenia has not produced trickle-down effects on its broader foreign policy landscape. Yet, the study does not fall prey to the reductionism of structural constraints and offers a more dynamic structure - agency interplay approach to accounting for change - continuity relationship in post-revolution Armenian politics. The case study of Armenia contributes to a better understanding of the interplay between domestic politics and foreign policy in small states in the contested neighbourhood between assertive Russia and constrained European Union (EU).*

*Keywords: “Velvet Revolution,” Armenia, Russia, Eurasian Integration, authoritarian resistance, European Union, CEPA, Nagorno Karabakh conflict.*

*JEL Code: F50*

## 1. Introduction

The 2018 “Velvet Revolution” in Armenia has renewed scientific interest in post-soviet revolution studies and raised a series of questions regarding both its domestic and foreign policy implications.

One of the intriguing questions is whether the domestic change in Armenia will produce trickle-down effects on its broader foreign policy landscape, by

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leading to a Russian-European balance, as well as to moving the needle on the troubled the neighbourhood.

Essentially, a set of questions goes into the heart of the European Union – Russia competition in the shared neighbourhood. While the EU would seek greater engagement with the region to transform it into an area of prosperity, democracy and stability, Russia would fiercely resist to the Europeanization in its “near neighbourhood” (Ademmer, Delcour and Wolczuk, 2016; Terzyan, 2017). Delcour and Wolczuk argue that while the EU promotes soft and indirect region building, Russia pursues regional integration as well as region-spoiling with a view to securing regional hegemony (Delcour and Wolczuk, 2017).

Notably, there has been a strong tendency to regard the “colour revolutions” in Ukraine, Georgia and Kyrgyzstan as major international setbacks to Putin's Russia (Finkel and Brudny, 2012). According to widely held beliefs, in response to “democratic diffusion,” Russia resorted to “authoritarian resistance,” including a political, administrative and intellectual assault on the opposition and Western ideas of democracy promotion, integral part of which was the attempt to delegitimize the idea of liberal democracy itself (Ambrosio, 2007; Finkel and Brudny, 2012; Bouchet, 2016). Meanwhile, Russia’s “indifference” to the 2018 “Velvet Revolution” in Armenia has led to perplexing conclusions. The simplest explanation is that in contrast to neighbouring Georgia, the post-revolution Armenia’s political leadership, has committed itself to further deepen ties with Russia, with no indication or ability to revise relations with Russia.

This provokes an inquiry into the economic and political rationale behind Armenia’s heavy dependence on Russia.

The conventional logic posits that the Kremlin has a strong interest in ensuring that regional and global democratic trends do not affect its hold over the Russian political system and that the legitimacy of democracy promotion and regime change are subverted (Roberts and Ziemer, 2018). Yet, this article departs from the assumption of inevitability of “authoritarian diffusion” in the sphere of the Russian influence. Rather, it argues that there is a significant potential for Armenian leadership’s political will to lead to better responsiveness towards the EU’s policies with its positive effects on the democracy consolidation and country’s significant rapprochement with the Union. That said, “despite the increasing external competition over the post-Soviet space, domestic actors remain the key agents to account for the pattern of change in the contested neighbourhood” (Ademmer, Delcour and Wolczuk, 2016).

Based upon an analysis of official documents and elite's narratives, as well as interviews conducted in Armenia between 2015 and 2018, the article seeks to account for the foreign implications of the domestic political change in Armenia. It focuses specifically on the challenges of achieving a Russian-European balance, as well as on breaking the logjam in the troubled neighbourhood.

The article will proceed as follows: First, the main rationale behind the continuity in Armenia's foreign policy will briefly be discussed focusing on the determining factors in country's centrality in the Russia-led socio-political order. The contention about the inevitability of the "authoritarian diffusion" in the sphere of Russian influence will be questioned. In the second section the core challenges and opportunities of the rapprochement with the EU will be examined. The final section addresses the challenges of moving the needle on the troubled neighbourhood. The conclusions discuss the main findings.

## **2. Path dependency: the "Russian Constraint" of post -velvet revolution Armenia**

The political landscape of Armenia has been subjected to major ups and downs since country's independence in 1991, ranging from post-soviet authoritarian malpractices to the severe consequences of troubled relations with neighbouring Azerbaijan and Turkey. Evidently, Serzh Sargsyan's stint in power from 2008 to 2018 did not deliver the promised economic and political turnaround. Quite the opposite, the country found itself in complete political and economic disarray and irreversibly plunged into the orbit of the Russian influence, especially following the perplexing decision to join the Russia-led Eurasian Economic Union (EAEU).

Given post-revolution Armenia's Prime Minister Nikol Pashinyan's critical stances on country's plight in Russia-led unions, it would be tempting to leap to far-reaching conclusions about possible foreign policy u-turns. Notably, in the fall of 2017 Pashinyan-led "Yelk" parliamentary faction submitted a bill proposing Armenia's withdrawal from the Russia-led Eurasian Economic Union – framed as a dormant union detrimental to country's interests (Azatutyun, 2017). Furthermore, Pashinyan would denounce the Russian policy towards Armenia on all sides, stressing particularly the 'cynical interventions in Armenia's domestic affairs'. Therefore, "the fear that joining the EAEU will result in serious threats to the sovereignty of Armenia, has become stronger" (Aravot, 2017a). Yet, from the very

beginning of his prime ministership Pashinyan fundamentally changed his stances on the EAEU and the Armenian-Russian partnership.

During the first meeting with the Russian President Pashinyan particularly noted: *“We have things to discuss, but there are also things that do not need any discussion. That is the strategic relationship of allies between Armenia and Russia ... I can assure you that in Armenia there is a consensus and nobody has ever doubted the importance of the strategic nature of Armenian Russian relations”* (Reuters, 2018). Moreover, he confirmed Armenia’s commitment to deepening further integration in the Eurasian Economic Union, framing it as beneficial to the country: *“Armenia is eager to see the furtherance of integration processes in the Eurasian Economic Union. We are ready to do our best to further develop the integration-targeted institutions and find new ways and mechanisms for cooperation”* (Prime Minister, 2018).

The dramatic changes of Pashinyan’s discourse suggest that the domestic political change in Armenia has not led to revising immensely asymmetric Armenian-Russian relations. This provokes an inquiry into the economic and political rationale behind the continuity in Armenia’s foreign policy.

The first major factor behind Armenia’s further adherence to the Russia-led path is heavy economic and energy dependence on Russia. It is noteworthy, that the Russian policy towards restoring its economic and political influence in post-Soviet countries marked significant accomplishments in Armenia. Consistent with Putin’s philosophy of using energy dependency and Russia’s state-controlled energy companies as foreign policy instruments against neighbouring countries, over last two decades Russia took over around 90 percent of Armenia’s power generating capacities (Nygren, 2008; Terzyan, 2019a). Furthermore, in 2013 Armenia ceded control over all its natural gas infrastructure to the Russian energy firm Gazprom, in payment for a \$300 million debt to Gazprom, which it incurred as a result of secretly subsidizing the Russian gas price from 2011-2013 (Asbarez, 2017). In return for writing off the debt, Gazprom was also granted 30-year exclusive rights in the Armenian energy market (Ibid).

Clearly, the absorption of Armenia’s energy sector goes into the policies, narratives, and discourses that accompany the attempt to represent Russia as a global “energy superpower” leading to the restoration of its global status as a “Great Power” (Bouzarovski and Bassin, 2011).

The gas price manipulation - as a part of Gazprom’s “energy weapon” has been consistently used to exert political influence over the Armenian government. Gazprom increased gas prices for Armenia by 50 percent and threatened to further

increase it in case Armenia refused to join the Russia-dominated Eurasian Economic Union (Asbarez, 2013).

Remarkably, former President Serzh Sargsyan would candidly admit that energy dependence on Russia significantly influenced Armenia's decision to join the Eurasian Economic Union instead of signing the Association Agreement with the European Union: "our choice is not civilizational. It corresponds to the economic interests of our nation. We cannot sign the Association Agreement and increase gas price and electricity fee three times?" (Terzyan, 2017, p. 191).

Ironically, Gazprom decreased gas prices as Armenia decided to join the EAEU. Notably, in an attempt to fight against Gazprom's monopoly and malpractices, the new Armenian government launched an investigation in Gazprom Armenia and which led to finding a series of irregularities and even to accusing it of tax evasion and corruption. The State Revenue Committee claimed that the company inflated its expenditures and under-reported its earnings in 2016 and 2017. "Gazprom Armenia incorporated obviously false data on value-added tax and profit tax calculations presented to the tax authorities during 2016 and 2017. As a result, they calculated several billion drams less than their actual tax liabilities," the committee statement said (Radio Liberty, 2018). Yet, in response to Armenian government's bold attempt to hold Gazprom Armenia accountable, Gazprom determined to increase the gas prices for Armenia in 2019. The price increase is "symptomatic of how the Kremlin is exploiting Armenia's acute dependence on Russian hydrocarbons, using gas supply as a political instrument to put pressure on the Pashinyan-led government," Eduard Abrahamyan, a London-based analyst of Armenia (Eurasianet, 2019). Clearly, by using Gazprom's energy weapon and increasing gas prices for Armenia, Russia strives to tighten its grip on new Armenian government and further keep the country in the orbit of its influence.

In terms of broader economic rationale behind Armenia's dependence on Russia it is worth to note that as a single country, Russia is the main external trade partner of Armenia, being the destination for 20 per cent of Armenian exports and source of 70 per cent of remittances (Terzyan, 2019a, p. 128). Russia also maintains lead in the realm of foreign investments in Armenia. According to official information, there are around two thousand enterprises with Russian capital, which is over one fourth of all economic entities with involvement of foreign capital (Terzyan, 2019a, p. 128).

Another major factor, that comprises a significant aspect of the Armenia-Russia relationship is the security linkage.

The turbulent landscape of the South Caucasus region, fraught with Armenia's troubled relations with neighbouring Azerbaijan and Turkey has significantly contributed to Russia's treatment as a strategic security ally in Armenian political thinking. This goes into the anatomy of Armenia's smallness and the tendency of the small states to put heavy reliance on alliances. The latter are call for the commitment of the "big" allies to take effective and coercive measures, in particular the use of military force, against an aggressor (Gartner, 2001, p. 2).

The Russian 102nd Military Base is located in the Armenian city of Gyumri, while the Russian 3624th airbase is located at Erebuni Airport, near Yerevan. Russian troops also patrol both the Armenia-Iran and Armenia-Turkey borders (Roberts and Ziemer, 2018, pp. 155-156).

Remarkably, the core argument dominating the Armenian discourse over the EAEU membership has centred on the irreplaceability of the Armenian-Russian security alliance as a critical bulwark against security threats stemming from neighbouring Azerbaijan and Turkey (Terzyan, 2018a, pp. 158-160). There has been a broad consensus among the Armenian political leadership on the vital importance of Armenia-Russia security partnership and the fact that Russian troops located across the Armenian-Turkish border significantly shield Armenia from Turkish-Azerbaijani hostilities and thus lead to treat Russia as 'security provider' (Terzyan, 2018b, p. 242).

To describe Armenia's plight in the hostile neighborhood with Turkey, the former Chairman of the permanent commission on external relations of the Armenian Parliament Armen Ashotyan referred to the quote "Poor Mexico, so far from God, and so close to the United States" and added that this image of the US could be completely projected to Turkey. In doing so he justified the choice of the Russia-led Eurasian Economic Union and framed it as indispensable to Armenia's security in the face of the Turkish menace (Aravot, 2017b).

Pashinyan's discourse suggests that "small" Armenia's heavy security reliance on its "big brother" Russia is bound to continue. First, he denied the possibility of foreign policy u-turns by framing Russia as Armenia's biggest ally and confirming commitment to further deepening Armenian-Russian strategic partnership (Pashinyan, 2018).

Second, consistent with his predecessor, Pashinyan has tended to express solidarity Russian controversial foreign policy choices. Notably, at his very first meeting with Pashinyan, Putin stressed the necessity of keeping up the cooperation in the international arena, focusing particularly on UN, where the two nations "have always supported each other" (Kremlin, 2018). No wonder, post-revolution

Armenia voted against another UN resolution on the de-occupation of Crimea in December, 2018 (Moderndiplomacy, 2019).

A major factor leading to Armenia's tremendous dependence on Russia is the latter's being home to the largest diasporic Armenian community of over two million Armenians. No wonder, the discourse on Armenia's membership in the EAEU – has been characterized by a strong emphasis on the large Armenian community in Russia as a major factor for Armenia's decision to join the EAEU (Terzyan, 2019a, pp. 131-132).

It is noteworthy that seasonal labor migration to particularly Russia has constituted a crucial survival strategy for many Armenian households to this day. Russia is most popular destination for Armenian migrants and according to the official data, more than 95 per cent of seasonal and 75 per cent of long-term migrants work in Russia (Emerging-Europe, 2018). Annually, more than 200,000 Armenians go to Russia for seasonal employment (Ibid). Remittances sent to Armenia from Russia by individuals increased by 14.6% in 2017 (Intellinews, 2017). Meanwhile, the 2016 World Bank data suggests that Armenia was in 21st place worldwide among the most remittance-dependent countries, with personal remittances received making up 13.1% of GDP (World Bank, 2017).

There are concerns that Armenian migrants will be subject to harsh mistreatment in case of Armenia's 'disobedience' i.e. deviation from the Russian-led foreign policy trajectory. This assumption is based on the Russian authorities' massive crackdown on the Georgian population in Russia, following Georgia's determination to advance profoundly towards the EU and NATO (Terzyan, 2019a, p. 133). It is perhaps for this reason that Ara Abrahamyan, the President of the Unions of Armenians in Russia, gave credit Armenia's decision to join the EAEU, emphasizing its security implications for the Armenian community in Russia (Ibid).

Overall, along with other issues, the mistreatment of Georgian population in Russia sent ripples of apprehension into Armenia and alarmed the repercussions of 'angering' Russia. No wonder, the Armenian leadership framed the decision to join the EAEU as inevitable, repeatedly citing its positive implications for the Armenian community. There has been broad consensus among the representatives of Armenia's political leadership\* that despite the resentment that Russian policy may generate, Armenia should avoid 'provoking' Russia. Otherwise, the latter would severely punish Armenia's 'disobedience', by arming Armenia's fiercest enemy

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\*Note: Several officials provided valuable insights, but asked not to be cited in an attributable way.

Azerbaijan, increasing gas prices or even cracking down on the Armenian community in Russia (Aberg and Terzyan, 2018, p. 168).

## **2.1. Bound to authoritarian resistance?**

Clearly, the above-mentioned economic and security factors have significantly tightened Russia's political grip on Armenia. A series of studies point to Russia's strong tendency of "democracy prevention" and authoritarian diffusion in the sphere of its influence (Von Soest, 2015; Finkel and Brudny, 2012).

Yet, the alarmist claims of the severe consequences Russian autocracy production, have been greeted with scepticism by well-informed observers pointing to the limited reach of authoritarian governments (Brownlee, 2017; Way, 2016). Analysing the efficacy of autocracy promotion through examining Russian efforts to shape regime outcomes in the former Soviet Union, Way (2015) notes that while Russian actions have periodically promoted instability and secessionist conflict, there is little evidence that such intervention has made post-Soviet countries less democratic than they would have been otherwise (Way, 2016). The reasons range from Russia's inconsistency in its support for autocracy to the fact that post-Soviet countries already have weak democratic prerequisites (Way, 2016).

One of the vivid manifestations of the Russian authoritarian diffusion in Armenia was the Russian government's transfer of its own particularly NGO legislation in Armenia (Roberts and Ziemer, 2018). This came down to the attempts of tightening Russian control over Armenia's NGO sector amidst Eurasian integration. More specifically, in May 2014 the Russian ambassador Ivan Volynkin framed Western-funded NGOs as threats to Armenian-Russian relations and called for them to be 'neutralised' through information campaigns and other methods (Armeniahow, 2015). These methods included legal moves to regulate the activities of NGOs, in what was widely interpreted as a call for Armenia to adopt Russian-style legislation (Roberts and Ziemer, 2018, pp. 157-158). Consistent with this rhetoric in February 2015 the Head of the Russian Federation Council's International Committee, Konstantin Kosachev subjected the Armenian NGOs to fierce criticism and claimed that around 350 Armenian NGOs were actively agitating against Eurasian integration in favour of the EU (Eurasianet, 2015).

Russian mounting pressure led to amendments to existing NGO legislation (2017) in Armenia. Along with other amendments, the updated NGO law allows the government to rescind the registration of any non-profit that twice failed to comply with the requirements. The most disputable provision of the legislation

gives Justice Ministry officials the right to attend non-profits' board meetings (Euractiv, 2015). Human Right observer Armine Sahakyan notes that Russia's push for Armenia to adopt anti-NGO legislation is just the latest sign of its determination to mold Armenia into a loyal vassal that does its bidding with no questions asked: "Russia sees Armenian anti-NGO legislation as a way to ensure that its neighbor toes the Kremlin line" (Ibid).

Nevertheless, drawing on a combination of original elite and expert interviews, Roberts and Ziemer argue that although there is evidence of Russian authoritarian diffusion, there is limited evidence of policy convergence (Roberts and Ziemer, 2018). Moreover, contrary to the conventional logic of Russia's consistent prevention of the "colour revolutions" in its "near neighborhood," the Kremlin did not overreact to mass anti-government protests in April 2018 predating the Armenian "Velvet Revolution".

Notably, there has been a strong tendency to regard the "colour revolutions" in Ukraine, Georgia and Kyrgyzstan as major international setbacks to Putin's Russia (Finkel and Brudny, 2012). According to widely held beliefs, in response to "democratic diffusion," Russia resorted to "authoritarian resistance," including a political, administrative and intellectual assault on the opposition and Western ideas of democracy promotion, integral part of which was the attempt to delegitimize the idea of liberal democracy itself (Ambrosio, 2007; Finkel and Brudny, 2012). Meanwhile, Russia's "indifference" to the 2018 "Velvet Revolution" in Armenia has led to perplexing conclusions. The simplest explanation is that in contrast to neighbouring Georgia, the post-revolution Armenia's political leadership, has committed itself to further deepen ties with Russia, with no indication or ability to revise relations with Russia. According to some reports, the Minister of Foreign Affairs of Armenia Zohrab Mnatsakanian, announced during a visit to Moscow that the change of power in Armenia was "a deeply internal political process with no geopolitical aspects whatsoever" (Themoscowntimes, 2018).

Moreover, as mentioned above, during his first meeting with Russian President, the Armenian Prime Minister Nikol Pashinyan confirmed Armenia's commitment to further deepening ties with Russia.

Overall, even though the "Velvet Revolution" has not diminished Armenia's dependence on Russia, there is insufficient evidence to contend that Armenia is bound to Russian "authoritarian diffusion." Further research is essential to exploring the patterns Russian authoritarian resistance to the democratic state-building in post-revolution Armenia. This has much to do with the Armenian

leadership's responsiveness towards the European Union's development policies, as well as its ability to balance EAEU membership with the EU rapprochement.

### **3. Armenia between Eurasian Economic Union and European Union**

While Armenia remains heavily dependent on Russia, the possibility of fundamental democratic reforms across the country is clearly contingent on effective implementation of the European Union's policies and practices.

In 2017, the Republic of Armenia and the European Union set out to deepen their relationship by adopting the Comprehensive and Enhanced Partnership Agreement (CEPA). This was the first major undertaking following Armenia's U-turn – the arbitrary decision to join the EAEU. The CEPA which is essentially the edited version of the Association Agreement, provides outstanding opportunities to boost the EU-Armenia partnership. It includes several priorities, such as (1) strengthening institutions and good governance; (2) economic development and market opportunities; (3) connectivity, energy efficiency, environment and climate action; and (4) mobility and people to-people contacts (CEPA, 2017).

Yet, there is a series of challenges to be addressed to be able to seize the opportunities provided by the CEPA. The biggest question is whether Armenia leadership would be able to achieve a Russian-European balance amid country's membership in the EAEU. The assumption that Armenia should not be responding to EU demands for reform (Delcour and Wolczuk, 2015, p. 493) has been taken for granted for the following reasons:

First, in contrast to neighbouring Georgia, as well as Eastern Partnership countries Moldova and Ukraine, Armenia has not pursued EU membership and limited its agenda to deep and comprehensive partnership.

Second, Armenia's non-democratic incumbents and powerful oligarchic clans would not have considerable incentives in full-scale Europeanization of country's political and economic systems, given its repercussions for the stability of their authoritarian regime. Last but not least, Armenia's huge political and economic dependence on 'competing governance provider' Russia, vividly manifested in country's membership Russia-led Collective Security Treaty Organisation (CSTO) and Eurasian Economic Union, would inevitably interfere with consistent compliance with the EU policies - the path to deeper partnership.

While the Europeanization literature emphasizes the transformative and democratizing power of the EU (Schimmelfennig and Sedelmeier, 2004; Vachudova, 2005; Grabbe, 2006), its economic and political conditionality is

considered critical to effective external governance. Arguably, the limited potential of the EU's conditionality would considerably hinder the effective transfer of European rules in Armenia. This specifically applies to economic partnership, given Armenia's compliance with the policies and practices of the EAEU.

Previous studies, would greet these provisions with scepticism, contending that "the EU has proved incapable to convey its liberal market economy spirit to Armenia and to improve the business climate so as to make it conducive to economic modernisation and entrepreneurship, small and medium business advancement" (Terzyan, 2019b, p. 104).

Meanwhile, the 'Velvet Revolution' in Armenia engenders a glimmer of hope the new government will break with the malpractices of the former one and most importantly, will take considerable strides towards promised economic turnaround and fundamental democratic reforms. This specifically applies to the fight against corruption, the improvement of business climate and implementation of good governance principles. The EU would frequently cite the lack of competition and business monopolies in Armenia as major impediments to country's economic and social development (Terzyan, 2019b, p. 104).

Yet, despite Pashinyan's proclaimed commitment to the "economic revolution" in Armenia, there has not been much to reinforce and reassure government's promises and pledges of fundamental reforms. The Armenian economy remains extremely vulnerable with huge dependence on the remittances sent particularly from Russia.

Indeed, the EU's support for economic reforms would have yielded more tangible results in Armenia, had not the latter been bound by constraints determined by the Russia-led EAEU. Notably, articles 4 and of the treaty on the EAEU obligates member states to create common market of goods, labour and services and have their economic policies complied with the goals and principles of the EAEU (Treaty on the EEU 2014, art. 4, 5). According to article 25, there is a common regime of trade of goods with third parties (Treaty on the EEU 2014, art. 25). All these stipulations suggest, that Armenia is considerably constrained to boost trade and broader economic cooperation with the EU.

Not surprisingly, the EU officials from the External Action Service, would express doubts about tangible outcomes in the EU-Armenia economic partnership following the country's U-turn, noting that mostly non-preferential access to the EU

market would make the latter's economic tools impracticable vis-à-vis EAEU member Armenia<sup>2</sup>.

Nevertheless, against this backdrop, the post-revolution Armenia's consistent compliance with the CEPA provisions may produce considerable positive effects on the consolidation of democracy and country's significant rapprochement with the EU.

Delcour (2018) aptly notes that Armenia's "Velvet Revolution" took place at a time when the EU seemed prepared to support democratisation and political reform more actively (Delcour, 2018, p. 19). More specifically, the launch of a visa dialogue with Armenia may give a strong impetus to reforms in the country owing to the increased conditionality as part of the Visa Liberalisation Action Plan (Ibid).

Notably, in recognition of the post-revolution Armenian government's reform efforts, the EU almost doubled its support to Armenia in 2019 (EEAS, 2019). The EU has emphasized the necessity of reforms that would lead to the rule of law, fight against corruption and respect for human rights, along with independent and accountable judicial system (EEAS, 2019).

The question remains whether and to what extent the Armenian leadership will consistently comply with the EU requirements, amidst limited EU conditionality and deepening Eurasian integration. This goes into determining whether Armenian leadership will prove powerful enough to defy marginality and gain centrality in the EU-led socio-political order (Delcour, 2019).

#### **4. "New" Armenia vs. "Old" Neighbors**

One of the biggest hindrances to large-scale reforms in Armenia is the long-standing logjam on Armenia's troubled relations with neighbouring Azerbaijan and Turkey. As a matter of fact, Armenia is the sole European country subjected to double blockade by its neighbouring Azerbaijan and Turkey. The arms race with Azerbaijan has rendered Armenia one of the most militarized countries in Europe and led to the securitization in the military sector (Terzyan, 2018b, p. 159). Notwithstanding the crippling constraints confronting the country, the Armenian leadership has ruled out the possibility of concessions regarding fiercely contested status of Nagorno-Karabakh. Besides, given the fatal scar that the Genocide has left on Armenian population, Turkey has been unequivocally perceived as a perpetrator and historical foe in Armenian collective memory.

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<sup>2</sup> Interviews with EEAS – related officials from September 2015 to February 2016.

In theory the ‘Velvet revolution’ prepare a ground for breaking the impasse in Nagorno Karabakh conflict, as well as normalize the Armenian-Turkish relations. Yet the reality is way more complex.

The failed attempts of normalizing particularly the Armenian-Turkish relations have further incited animosity towards Turkey in Armenian political thinking and public consciousness. Remarkably, over time the former Armenian President Serzh Sargsyan resorted to substantial othering of Turkey and the latter's treatment as inherently aggressive. His discourse has been characterized by the tendency to blame Turkey for the troubled relations and Armenia's blockade. Despite all the ordeals and crucibles inflicted on the country by Turkish bellicosity, Armenia would seek to coexist peacefully with its neighbors, whereas Turkey's “New Ottomanism” could not bring anything but ‘massacres, oppression, and tyranny as the Ottomanism did’ (Sargsyan, 2011).

Sargsyan framed Turkey as irremediably imperialistic and coercive, always trying to invade. ‘Unfortunately, in this most civilized era of human history, there are still forces and statesmen that have not abandoned the archaic way of thinking and the invader psychology, confident that even today “the strongest will dictate” (Terzyan 2018b, p. 166). Thus, Armenia would further victimized and endure Turkish hostile policy – largely regarded as the biggest impediment to country's peaceful and free development (Sargsyan, 2013a).

Similarly, given Azerbaijan's strong cultural, economic, political ties with Turkey, coupled with their ‘coordinated’ blockade imposed on Armenia, there has been a tendency in the Armenian discourse to regard them as identical entities: ‘The Turkish-Azeri tandem formed under the “One nation, two states” slogan, for over twenty years through the blockade, deepening of the lines of division and rejection of cooperation has been trying to compel Armenia to make unilateral concessions’ (Sargsyan, 2013a).

Moreover, over time Sargsyan resorted to civilizational and cultural othering of Turkey's ‘little brother’ Azerbaijan. He particularly questioned the Europeaness of Azerbaijan as ‘the only country on the European continent that boasts the manifold increase in its military spending’ (Terzyan, 2018, p. 169).

The Sargsyan-led discourse suggests that in effect there could be no common ground between ‘European’, ‘peaceful’ Armenia and ‘non-European’, ‘dictatorial’ Azerbaijan. “Coercion, violence, terror, war; these are our opponent's notions of reality. They are trying to impose upon us the same notions they force on their own people (Sargsyan, 2013b).

The above-mentioned statements and notions are indicative of the huge gaps between conflicting societies, fraught with mounting arms race and hostilities.

Clearly, it would be unrealistic to expect major breakthroughs following the “Velvet Revolution.” From the outset of his prime ministership Nikol Pashinyan brought up the issue of Nagorno Karabakh’s inclusion in the negotiations over its status as a prerequisite for conflict resolution: “To prepare the people of the region for a peaceful solution to the conflict, I have announced that the settlement should take into consideration the interests of all three parties; namely, Armenia, Nagorno-Karabakh and Azerbaijan... It is absolutely necessary to get Nagorno-Karabakh involved in the negotiations, in a process that ultimately will determine the status of Nagorno-Karabakh and ensure the security guarantees for the people who live there” (Euractiv, 2019).

In response, the President of Azerbaijan Ilham Aliyev affirmatively rejected the Armenian proposal on a change to the talks format on the settlement of the Nagorno Karabakh conflict, asserting that “it is unacceptable, and it is an attempt to block the negotiations process” (Radio Liberty, 2019).

Moreover, the Defence Minister of Armenia Davit Tonoyan has ruled out any unilateral concessions and said that Armenia is in the process of expanding and improving its defence capabilities. He put forth the new Armenian approach formulated as “new territories in the event of a new war:” “I, as the Defence Minister (of Armenia), say that the option of return of ‘territories for peace’ will no longer exist, and I have re-formulated it into “new territories in the event of a new war” (Asbarez, 2019).

While the Armenian leadership strives to build country’s resilience against mounting assertiveness and pressure emanating from Azerbaijan, the latter sticks to its guns and brushes off new suggestions. As a result, there is not much to address mounting concerns over further escalation of the Nagorno Karabakh conflict. That said, there is no sign of a breakthrough on the long-standing confrontation.

Meanwhile, the lessons of failed Armenian-Turkish rapprochements suggest that there can be no significant development in Armenia-Turkish relations until at least the de-escalation of the Nagorno Karabakh conflict. This assumption is based on Azerbaijan’s vast opposition to Armenian-Turkish rapprochement, which proved instrumental in thwarting it (Mikhelidze, 2009, pp. 1-9). Turkey is well aware of Azerbaijan’s approach to the “Armenian issue” and is highly unlikely to take any measure that would upset bilateral strategic ties.

Meanwhile, the persistence of the troubled neighborhood will inevitably impair the Armenian government’s ability to implement reforms. It is

excruciatingly difficult to build democracy amid mounting hostilities and the necessity of catching up with Azerbaijan's military build-up.

## 5. Conclusions

This article contributes to existing literature on the relationship between domestic change and foreign policy in post-soviet small states. Based on the previous discussion, there are three concluding observations to make regarding the interplay between domestic change and foreign policy continuity in post-revolution Armenia.

First, in terms of foreign policy implications of the revolution, a series of factors ranging from Armenia's heavy economic and energy dependence on Russia, to security alliance and large Armenian community in Russia, have determined continuity in country's "Russia first" foreign policy trajectory. The domestic change has not produced trickle down effects on Armenia's foreign policy landscape and major shifts or u-turns cannot be expected anytime soon.

Second, the limited potential of the EU's economic and political conditionality is a considerable challenge to the effective transfer of European rules in the EAEU member Armenia. The latter is constrained to boost economic partnership with the EU, and fully expose itself to full-hearted compliance with the EU policies in the fields of energy, transport, connectivity and beyond. Nevertheless, even though the "Velvet Revolution" has not led to reverse Armenia's membership in the EAEU, there is insufficient evidence of a negative correlation between Armenia's Eurasian integration and compliance with the EU policies. Thus, Armenia is not bound to Russian "authoritarian resistance." Rather, there is a significant potential for Armenian leadership's political will to lead to consistent compliance with the CEPA provisions with its positive effects on the democracy consolidation and country's significant rapprochement with the EU.

Third, in terms of Armenia's troubled relations with neighbouring Azerbaijan and Turkey, there has been no sign of a breakthrough in long-standing Nagorno Karabakh conflict. Meanwhile, the lessons of failed Armenian-Turkish rapprochements suggest that there can be no significant development in Armenia-Turkish relations until at least the de-escalation of the Nagorno Karabakh conflict. The enemy images of Azerbaijan and Turkey have largely remained unchanged in Armenian political discourse, thus further heightening the perception of Russia as irreplaceable security ally in Armenia's "dog-eat-dog" neighbourhood.

Further research is essential to explore the Armenian leadership's responsiveness towards the European Union's development policies, as well as its ability to balance EAEU membership with the EU rapprochement.

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## EU's Trade Policy Developments and Economic Dimension of EU-Georgia Association Agreement

*Emir ETERIA\**

### Abstract

*EU-Georgia Association Agreement (AA), with its integral part on Deep and Comprehensive Free Trade Area (DCFTA), has been regarded as the best opportunity for Georgia to promote exports to the EU and increase investment attractiveness of the country. Georgia's benefits from AA/DCFTA directly depend on consistency of reforms as well as on the speed and degree of legal approximation and regulatory convergence with the EU, which would support growth of Georgia's exports to the EU as well as attractiveness of Georgia for investments from the EU member states. However, after 5 years since the provisional application positive effects of the Association Agreement on trade and investment performance are not significant. As conducted study demonstrates, despite some encouraging developments in the EU-Georgia trade relations after enactment of the Association Agreement, in 2015-2018 (post-AA/DCFTA period) annual average growth rates of Georgia's exports to the EU and investments from the EU countries to Georgia compared to 2011-2014 (pre-AA/DCFTA period) decreased. It is clear, that already achieved progress in implementation of the Association Agreement is not sufficient for export and investment promotion and Georgia should continue reforms in all areas, envisaged by the Association Agreement. Moreover, it is high time to grant Georgia the EU membership perspective and/or advance Georgia towards membership of the European Economic Area (EEA), which will be additional incentive for the effective implementation of the European Integration related reforms.*

*Keywords: Association Agreement, Deep and Comprehensive Free Trade Area, EU, Georgia, Trade, Investments.*

*JEL Code: F13, F14, F15*

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## 1. Introduction

The European Union-Georgia Association Agreement (AA) came into force from July 1, 2016. However, many titles as well as annexes of the agreement, including Title IV (Trade and Trade-related Matters) have been provisionally applied since September 1, 2014. Therefore, after 5 years since provisional application of the agreement initial impacts of the AA on Georgia's investment and trade performance could be observed.

Noteworthy, that the EU alongside with Commonwealth of Independent States (CIS) is Georgia's one of the major trade partners and therefore, Georgia attempts to develop closer political and economic relations with the European Union. Accordingly, achieving political association and gradual economic integration with the EU, envisaged by the EU-Georgia Association Agreement are among the key priorities of Georgia's foreign as well as domestic policy agenda. It should be noted that the content of economic dimension of the Association Agreement with Georgia and other "Eastern Partnership" countries (Ukraine, Moldova) was largely influenced by recent transformation of the EU's trade policy, which became more focused on bilateral dimension of trade relations.

The aim of this article is to observe the EU's recent trade policy transformation and economic dimension of the EU-Georgia Association Agreement, as well as analyze recent key developments in Georgia's economic relations with the EU (trade and investments) in the light of the EU-Georgia Association Agreement. Therefore, the article is focused on economic dimension of the Association Agreement, namely on DCFTA part of the agreement as well as other parts related to the economic performance in general. Next part of this paper is devoted to review of the EU's trade policy transformation, especially the bilateral dimension of this policy. In the third part of the article, major peculiarities of the EU-Georgia Association Agreement are examined. In the final part, the EU-Georgia trade relations as well as movement of Foreign Direct Investments (FDI) from the EU countries to Georgia are analyzed. It should be noted that to evaluate initial impacts of AA/DCFTA on economic performance of Georgia trade and investment data for the period of 2011-2018 is analyzed. A study period is divided into two parts. The first period includes 2011-2014 or pre-AA/DCFTA period and the second, 2015-2018 or post-AA/DCFTA period. This division allows revealing new developments in Georgia's trade and investment performance during recent years.

## 2. A bilateral Dimension of the EU's Trade Policy

Noteworthy, that until 2006 the EU alongside with the USA and Japan was active supporter of multilateral trade liberalization. As Woolcock (2014) noted, "During the period 1999 to the mid-2000s, the EU focused on promoting a comprehensive, multilateral trade round" (p. 719). However, at the "Doha Development Round" achieving of genuine results matching with the EU's global trade interests were complicated. Besides, "There was also growing pressure from some EU businesses concerned that EU competitors were gaining preferential access to Asian markets in particular while the EU failed to act" (ibid, p. 722). Both above-mentioned developments on the global as well as the domestic level pushed the EU significantly modify trade policy priorities towards developing mutually beneficial bilateral trade relations. Moreover, it is worth noting that major economic powers (USA, Japan) also focused on developing bilateral trade relations and since 2000s world economy has been characterized by competitive liberalization among key players. As a result, in 2006 the EU ended moratorium on bilateral trade relations and designed the new trade strategy focused on developing bilateral dimension.

The EU's new trade strategy could be described as multidimensional trade strategy aimed at realization of the EU's commercial interests using various types of bilateral trade agreements. The EU's trade policy transformation towards the increased bilateral dimension was declared in the European Commission communication "Global Europe: competing in the world" (Commission of the European Communities, 2006). This communication could be seen as foundation of the EU's new trade strategy focused on challenges imposed by globalizing world economy, where competition and cooperation have been driving forces of economic development. In this regard, the abovementioned communication highlighted the EU's further commitment to multilateral trade liberalization. The EU's strategy of bilateral trade liberalization was based on belief, as it was declared later, that "bilateral is not the enemy of the multilateral. The opposite may hold truer: liberalization fuels liberalization" (European Commission, 2010, p. 3). However, it should also be noted that "Bilateral trade agreements offer the EU an easier and speedier way to advance European goals and project its values onto the global stage than multilateral forums" (Bongardt and Torres, 2018, p. 248). Moreover, the EU's new trade policy, according to the communication "Global Europe: competing in the world" is a main instrument to increase the EU competitiveness in the world economy. This communication underlines two major issues. The first, it

emphasized importance of open markets around the world and the second, it highlighted an increased role of reducing barriers to trade behind the border to the economic growth and job creation in the EU countries. Therefore, the EU admits the positive aspects of openness and economic globalization in general as well as major challenges created by global economic integration, where is no central government in order to regulate international economy.

In addition, Communication on “Global Europe: competing in the world” envisaged an extension of bilateral trade relations based on two considerations. First, according to communication the EU was willing to start negotiations with some countries based on the economic criteria, which was determined as the market potential (economic size and growth) and the level of protection against the EU export (tariffs and non-tariff barriers). As Woolcock (2014) noted, “The EU’s first preference was to negotiate a region-to-region agreement...Region-to-region agreements can be seen as an effort to exercise EU normative or soft power in shaping the international system (p. 722). Second, as stated in the communication, new free trade agreements in order to have positive impact on competitiveness, jobs creation and economic growth “must be comprehensive in scope, provide for liberalization of substantially all trade and go beyond WTO disciplines” (Commission of the European Communities, 2006, p. 8). Consequently, the EU’s new trade strategy incorporated two interrelated objectives. First, to expand free trade agreements on the bilateral level and the second, to broaden scope of free trade agreements via including issues, which were not agreed in the framework of WTO. Therefore, the new trade strategy envisaged the geographical expansion as wells as the broadening scope of FTA’s. Both objectives were not contradictory to multilateral trade liberalization as the bilateral liberalization and the expansion of scope of trade agreements, including issues “behind the border” is a major supporting factor for further multilateral liberalization. Accordingly, increased bilateral trade relations were seen as reinforcing instrument of multilateral trade liberalization. As it was stated in the communication “The EU's priority will be to ensure that any new FTAs, including our own, serve as a stepping stone, not a stumbling block for multilateral liberalization” (Commission of the European Communities, 2006, p. 8). As a result, the EU’s new trade strategy was oriented towards more open trade, which would be based on the agreed rules not only directly related to the trade, but also to other economic areas, which have impact on trade relations. Thus, recent changes in the EU’s trade policy and growing importance of bilateral trade relations was result of the less effective global trade system on the one hand and the increased competition in the world economy on the

other. As Gstöhl and Hanf (2014) pointed out “...the EU has increasingly come under pressure to reconcile the requirements of free trade with requests for guarding non-trade concerns related to public health, labour and environmental issues or intellectual property rights” (p. 747). Consequently, rising economic globalization based on the increased competition was major cause for changes in trade policy.

Noteworthy, that the EU’s neighbouring countries, especially “small” ones, were not priority countries to start negotiations on the new agreements. However, in 2007 the Commission of the European Communities elaborated Communication on “A Strong European Neighborhood Policy” (Commission of the European Communities, 2007), which was focused on neighbouring countries and along many areas of cooperation it also included trade related issues. Regarding the trade related issues, this communication replicated the EU’s general approach underlined in the EU’s global trade strategy and at the same time, was focused on conditionality and differentiation as the foundation for the development of trade relations with different countries in the region concerned.

It is clear, that the EU’s trade policy towards European Neighborhood Policy (ENP) countries, especially eastern neighbors, mostly was based on political considerations, rather than economic criteria underlined in the communication “Global Europe: competing in the world”. According to the communication on “A Strong European Neighborhood Policy”, “Spreading peace and prosperity across the borders of the EU prevents artificial divisions and creates benefits for the ENP partners and the EU alike” (Commission of the European Communities, 2007, p. 1). In addition to that, political considerations also incorporated some eastern neighbor countries’ (Ukraine, Moldova and Georgia) aspirations to achieve a deeper political and economic integration with the EU. These countries also expressed readiness to implement far-reaching reforms in many trade-related areas envisaged by the new agreements. As a result, priorities of the EU’s transformed trade policy coincided with eastern partner’s political and economic interests. Accordingly, despite that some eastern neighbor countries share in the EU’s total trade were not significant (less than 1%), the EU offered to these countries to conclude DC FTAs in order to promote their gradual economic integration with the EU. As a result, DCFTAs “... developed along with the European Neighbourhood Policy (ENP) and enhanced following the Eastern Partnership (launched in 2009), is indicative of the political considerations underlying the EU’s trade policy in its neighbourhood” (Manoli, 2013, p.52). In addition, the EU was willing to support an increased economic integration among partner countries. This approach “... of promoting regional integration in partner regions is reflected in the use of diagonal

cumulation (Woolcock, 2014, p. 724). Therefore, Deep and Comprehensive Free Trade Agreements (DCFTAs) in contrast to the EU's other trade agreements were driven mostly by geography and politics (geographical proximity and stable neighborhood), rather than economic considerations. Nevertheless, it is clear, that the EU's Association Agreements with the eastern neighbouring countries will provide favorable conditions for the EU countries investments and exports. In general, "The EU thus aims to combine economic interests, political values and other norms in its external relations, yet without indicating any prioritization among these objectives" (Gstöhl and Hanf, 2014, p. 736). Moreover, Association Agreements will promote eastern partners gradual economic integration with the EU as well as facilitate integration among neighbouring countries and their economic development. In this regard an idea of "Wider European Economic Area" (WEER), which should include EU, European Economic Area/European Free Trade Area, Balkan non-EU states and East European countries with Association Agreements with the EU, deserves special attention (Emerson, 2018).

Noteworthy that "...multilateralism and the idea of international trade as a win-win situation received another severe blow when the current US administration shifted to an "America First" stance with a bilateral, zero-sum perspective on and approach to extracting benefits from trade (Bongardt and Torres, 2018, p. 245). However, this could be seen as the possibility to increase the EU's role in the international trade in general and namely, in multilateral trade negotiations. Accordingly, the gradual evolution of the EU's bilateral trade policy priorities from simple FTAs to the comprehensive FTAs, which include many economic areas, clearly demonstrates the EU's effort to achieve its global economic goals by expansion of different types of bilateral trade agreements.

### **3. Major peculiarities of economic dimension of the EU-Georgia Association Agreement**

The EU-Georgia Association Agreement includes many provisions, which have direct or indirect impact on EU-Georgia economic relations and economic development of Georgia in general. As Gstöhl and Hanf (2014) pointed out "Association agreements typically include preferential market access, various types of economic, financial or technical cooperation, and a political dialogue"(p. 738). It should be noted that the economic dimension of the Association Agreement is associated with Title IV - Trade and Trade Related Matters. However, other parts of the agreement, especially Title V- Economic Cooperation and Part VI - Other

Cooperation Policies also include provisions that have impact on economic performance of Georgia as well as further development of economic relations between the EU and Georgia.

As mentioned before, the part of Association Agreement, which is directly related to economic relations between the EU and Georgia, is DCFTA. In general, DCFTA is a new type of the EU trade agreement and, in contrast to a Free Trade Agreement (FTA), goes beyond the reduction/elimination of tariffs and covers a broad range of economic issues. Moreover, DCFTA includes so-called “Singapore issues” (trade and investment, trade and competition policy, transparency in government procurement, and trade facilitation). As Woolcock (2014) pointed out “the EU has generally succeeded in including the Singapore issues in the PTAs it negotiates with middle-income and developed economies” (p.727). Noteworthy, that “Singapore issues” were one of the main reasons of a disagreement at “Doha Development Round”. It is obvious, that insertion of these issues in AA adds difficulties to the implementation process of the agreement. As a result, DCFTA part of EU-Georgia Association Agreement could be seen as a reflection of the EU’s trade policy transformation during past several years.

An economic dimension of the Association Agreement based on conditionality is comprehensive and multipart. In general, economic dimension of the Association Agreement could be divided into two parts. First part is directly related to export-import of goods and access to the market. In Addition, agreement envisages adding of an Agreement on Conformity Assessment and Acceptance of Industrial Products (ACAA) as a protocol to this Agreement (Association Agreement, article 48) after Georgia’s relevant sectoral legislation will be fully approximated with the EU legislation. This part reflects external aspects of economic dimension of the AA. The second part of the economic dimension of the AA could be described as not directly related to the export of Georgia’s products to the EU market, but which envisages regulatory convergence in many areas and has an impact on trade relations as well. Therefore, this is the internal aspects of the economic dimension of the AA. It should be noted that the external and internal aspects of the economic dimension of the AA are closely interrelated influencing each other.

Noteworthy, that the DCFTA part of the AA envisages the regulatory convergence and legal approximation in many areas of the economy, such as intellectual property rights, sanitary and phytosanitary measures, customs legislation, trade in services and electronic commerce, public procurement, technical barriers to trade, standardization, metrology, accreditation and conformity

assessment, competition policy, etc. In addition to that other parts of Association Agreement (Title V- Economic Cooperation and Part VI - Other Cooperation Policies) also foresee regulatory convergence and legal approximation in areas such as taxation, public finances and financial control, financial services, environment, transport, energy, company law, industrial and enterprise policy, accounting and auditing, consumer policy, employment, social policy, etc. As a result, “Altogether the regulations are also aimed at liberalisation, approximation to the standards of the EU under monitoring of the joint committees with the final objective to arrive at a more Europe-like regulatory environment in the DCFTA countries” (Adarov and Havlik, 2016, p. 23). Moreover, the AA also envisages dynamic approximation of legislation of Georgia with those of the EU (Association Agreement, article 418) and therefore, Georgia should “... undertake any action needed to reflect the developments in EU law in its domestic legislation ...” (European Commission, 2017a, p.3). The concept of dynamic approximation makes implementation of the EU-Georgia Association Agreement even more complicated and challenging process.

Taking into account all abovementioned peculiarities of the EU-Georgia Association Agreement and difficulties related to the legal approximation and regulatory convergence, there are various analysis on impact of the Association Agreement on economic performance of Georgia. Several studies conducted before signing the Association Agreement envisaged DCFTA’s positive impact on economic growth in Georgia, especially in the long run (UNDP, 2007; Case/Global Insight, 2008; Ecorys/CASE, 2012). According to the abovementioned studies, Georgia will benefit from the increased trade opportunities and investment attractiveness and therefore, the AA would support economic growth in Georgia. While external aspects of the economic dimension (increased trade and investment opportunities) of the Association Agreement are positively assessed, there are studies (Messerlin, Emerson, Jandieri, and Le Vernoy, 2011; Dreyer, 2012) criticizing internal aspects of the economic dimension of the AA, because of Association Agreement and namely, DCFTA envisaged regulatory convergence and legal approximation in many areas. Therefore, according to the above-mentioned studies impact of AA/DCFTA foreseen legal approximation and regulatory convergence on the Georgia’s export promotion and investment attractiveness of the country is vague, especially in short run.

Noteworthy that according to Association Implementation Reports on Georgia, prepared by European Commission, in 2015-2018 Georgia’s efforts to implement respective AA/DCFTA commitments, had been positively assessed

(European Commission, 2016; European Commission, 2017b, European Commission, 2019).

#### **4. Recent developments in the EU-Georgia economic Relations: trade and investments**

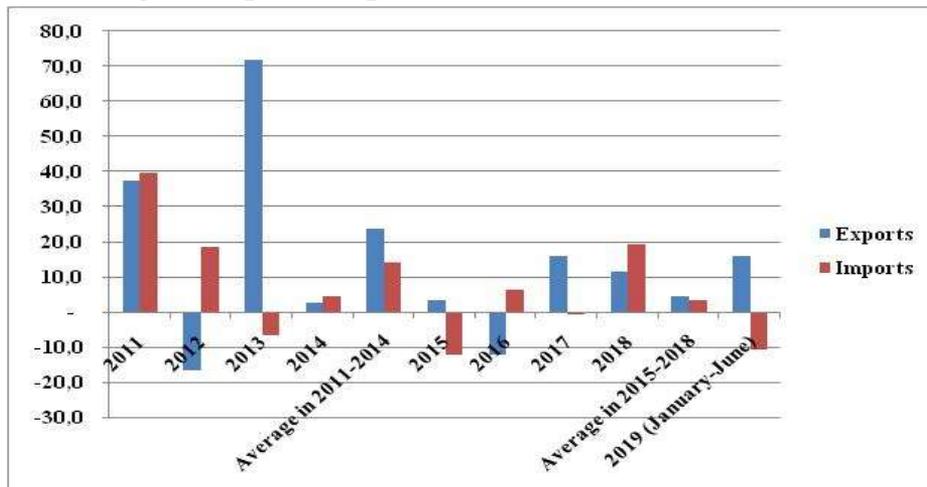
The EU-Georgia Association Agreement based on conditionality via establishing the EU compatible economic system is considered as the best mechanism available to promote exports, attract Foreign Direct Investments and advance economic development of Georgia (Eteria, 2019). Studies conducted in order to evaluate DCFTA's impacts on Georgia's trade in general and particularly on exports were positive. According to the recent study "exports are estimated to increase by 9 and 12 percent in the short and long run respectively, with imports going up by 4.4 and 7.5 percent respectively" (Ecorys/CASE, 2012, p. 37). In addition to that, the main positive aspect of the implementation of the AA (namely, legal approximation and regulatory convergence obligations) is that in long run it will support formation of compatible with the EU economic system in Georgia. An increased compatibility with the EU regulatory and legislative system "is expected to result in a more supportive and stable business environment, facilitating FDI inflows" (Adarov and Havlik, 2016, p. 24). Moreover, legally binding nature of Association Agreement also "...will increase the attractiveness of Georgia as an economic partner for foreign investors" (Kawecka-Wyrzykowska, 2015, p. 88). It is clear, that trade and investment growth rates are the most important criteria to evaluate the AA/DC FTA's effect on Georgia's economic performance, especially in the short-run.

Analysis of Georgia's trade data demonstrates that during 2011-2014, the annual average growth rate of Georgia's exports to the EU was 23,8%, while the annual average growth rate in 2015-2018 was 4,6%. Moreover, imports annual average growth rate sharply declined from 14,1% in 2011-2014 to 3,3% during 2015-2018 (Figure 1).

Despite the fact that after the enactment of AA/DCFTA Georgia has started exports of some new products (kiwi, blueberries, etc.) to the EU market (European Commission, 2018), considerable decrease of annual average growth rates of Georgia's exports to the EU in 2015-2018 as well as imports from the EU is obvious. In 2015, Georgia's exports to the EU increased by 3,3%. However, "this figure is rather favorable compared to the 23% decline in total Georgian exports worldwide. One of the reasons for such a sharp drop was the economic crisis in the

CIS region, especially Ukraine and Russia” (Emerson and Kovziridze (eds), 2018, p. 39).

**Figure 1. Georgia's Exports-Imports with the EU (Growth (%)) in 2011-2019**



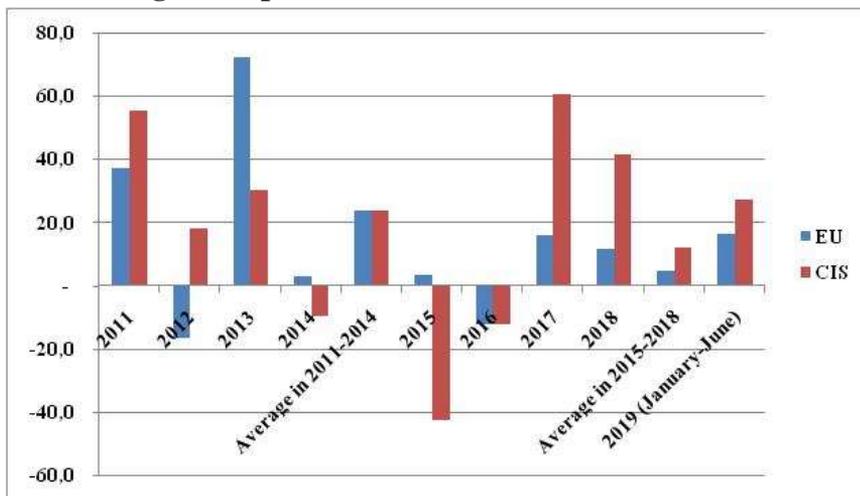
**Source:** Elaborated by the author based on data from National Statistics Office of Georgia. [www.geostat.ge](http://www.geostat.ge)

A significant decline of Georgia’s exports to the EU was observed in 2016 because of “... the price drop for a number of commodities at world level” (European Commission, 2017a, p. 5). A considerable increase of Georgia’s exports to the EU were observed in 2017 and 2018 (15,8% and 11,4% respectively). Increasing trend of Georgia’s exports to the EU remains stable in 2019. According to the last trade data during the first half of 2019, exports growth rate compared to the same period of the previous year was 16,1%, while imports decreased by 10,8%. It should be noted that in absolute terms Georgia’s exports to the EU in 2018 compared 2014 increased by 16,9% (from 624, 2 Mil. USD to 730,3 Mil. USD), while imports from the EU in 2018 compared to 2014 increased by 10,8% (from 2371,9 Mil. USD in 2014 to 2629,1 Mil. USD in 2018).

Noteworthy, that during 2015-2018 the annual average growth rate of Georgia’s exports to the CIS countries compared to 2011-2014 also decreased (from 23,6% on average in 2011-2014 to 11,8% on average in 2015-2018). It is clear that the annual average growth rate of Georgia’s exports to the CIS still remains higher than the annual average growth rate of exports to the EU. Moreover, according to recent trade data, during the first half of 2019 Georgia’s exports growth to the CIS

countries compared to the same period of the previous year is higher (27,1%) than exports growth rate to the EU countries (16,1%). Therefore, despite AA/DCFTA with the EU, CIS countries remain as Georgia's largest trade partners (Figure 2).

**Figure 2. Georgia's Exports to the EU and CIS (Growth (%)) in 2011-2019**



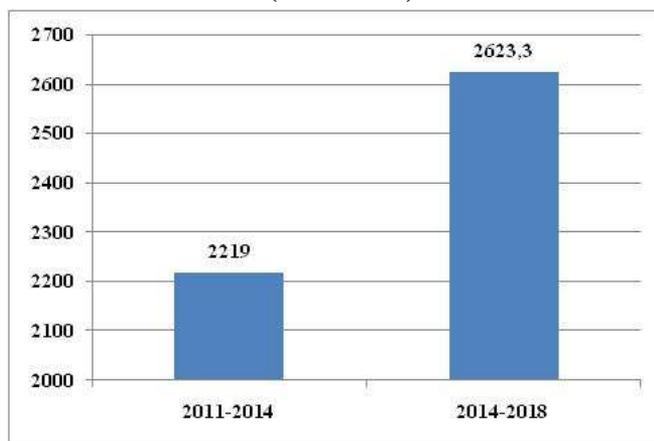
**Source:** Elaborated by the author based on data from National Statistics Office of Georgia. [www.geostat.ge](http://www.geostat.ge)

The second factor to estimate AA/DCFTA impact on Georgia's economy is the investment attractiveness of the country, which should increase as studies predicted. It is clear, that considering the EU-Georgia AA/DCFTA there are two channels to attract more foreign investments to Georgia. First, it should support to attract investments from the EU countries based on same regulatory area. Second, it also should support attractiveness of Georgia for investments from third countries, which do not have free trade agreements with the EU and are willing to increase export to the EU market via producing goods in Georgia.

As data on Foreign Direct Investments reveals during 2011-2014 or pre-AA/DCFTA period, total investments from the EU countries to Georgia was 2 219 Mil. USD, while during 2015-2018 or post-AA/DCFTA period FDI from the EU countries to Georgia reached 2 623,3 Mil. USD. Thus, in 2015-2018 FDI from the EU compared to 2011-2014 increased by 18,2% (Figure 3).

Despite the fact that in absolute terms Foreign Direct Investments from the EU countries increased in 2015-2018 compared to 2011-2014, the annual average growth rate of FDI from the EU countries to Georgia in pre-AA/DCFTA period was much higher than it was during the post-AA/DCFTA period.

**Figure 3. Foreign Direct Investments from the EU Countries in 2011-2018  
(Mil. USD)**



*Source:* Elaborated by the author based on data from National Statistics Office of Georgia. [www.geostat.ge](http://www.geostat.ge)

As conducted analysis demonstrate during 2011-2014 the annual average growth rate of FDI from the EU countries to Georgia was 44,5%, while in 2015-2018 the annual average growth rate of FDI from the EU countries to Georgia significantly decreased and was just 4.1% (Figure 4).

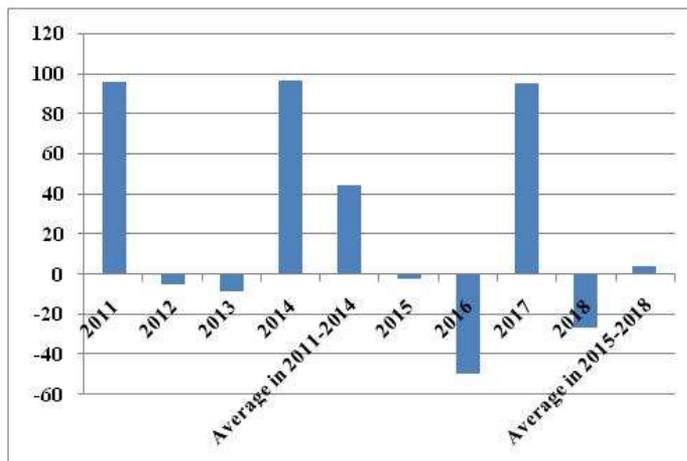
A considerable decrease of the annual average growth rate of FDI from the EU countries demonstrates that DCFTA effect on Georgia's investment attractiveness for European companies is still very low and therefore, already implemented regulatory convergence is not sufficient precondition for increasing of investment attractiveness.

Despite the fact that "Regional agreements can enhance market access by promoting approximation or compatibility of national regulations, standards or conformance assessment provisions (Woolcock, 2003, p. 27), conducted analysis of Georgia's trade and investment data reveal that AA/DCFTA impact on Georgia's trade and investment performance are not yet significant. It is clear that achieving the full compliance with the EU's rules and standards imply heavy costs, especially in the short run, for both the public and private sectors, as it was indicated in CASE/Global Insight feasibility study (2008).

Difficulties related to the exports to the EU market mostly determine redirection of Georgia's export towards markets with relatively low requirements (CIS Countries). It is clear, that Georgia needs more financial aid from the EU as

well as more investments to satisfy EU rules and standards in many economic areas, including agriculture, which is the major exporting sector.

**Figure 4. Foreign Direct Investments from the EU Countries (Growth (%)) in 2011-2018**



*Source:* Elaborated by the author based on data from National Statistics Office of Georgia. [www.geostat.ge](http://www.geostat.ge)

In addition, it should be noted that the investment attractiveness of Georgia was mostly determined by the liberalized and deregulated business environment. Thus, considering scale and depths of legal approximation and regulatory convergence with the EU envisaged by AA/DCFTA, effective implementation of the Agreement could be seen as encouraging as well as discouraging factor for investment attractiveness because of increased regulations and therefore, establishing more regulated economic system in Georgia. Consequently, this could be considered as kind of “vicious circle”, which might be created by implementation of AA/DCFTA. To break-through a “vicious circle” depends on the increased investments to Georgia from the EU countries, attracted by the same legal environment as well as from other countries attracted by export opportunities to the EU market.

As a result, taking into account major outcomes of initial 5 years since enactment of AA/DCFTA, impacts of already implemented reforms (legal approximation and regulatory convergence with the EU) on Georgia’s exports to the EU and investment attractiveness of the country for foreign investors, including investors from the EU, is vague.

## 5. Conclusions

The EU's recent trade policy developments have profound impact on the content of economic dimension of the EU-Georgia Association Agreement. Noteworthy that initial positive results of the AA/DCFTA on Georgia's economic performance are not significant. As conducted analysis demonstrate the annual average growth rate of Georgia's exports to the EU as well as the annual average growth rate of Foreign Direct Investments from the EU countries during 2015-2018 significantly decreased compared to the pre-AA/DCFTA period. Despite this, Georgia should effectively continue reforms in all areas, envisaged by the Association Agreement. However, it should be noted, that Georgia needs a new stimulus to advance in transformation process. Therefore, the EU should increase Georgia's incentives to implement all AA/DCFTA related reforms, including proceeding efficiently in dynamic approximation of Georgia's legislation with those of the EU. In this regard to grant Georgia the EU membership perspective and/or at the initial stage advance Georgia towards membership of the European Economic Area (EEA) would be important encouragement, which at the same time will maintain public support towards the European Integration in Georgia on the high level. It is obvious that the high public support is crucial precondition for successful implementation of the European Integration related reforms.

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# The Human - Universal Paradigm in Knowledge and Human Activity (Security Aspects)

*Ion SÎRBU\**

## Abstract

*The era of globalization involves interactions and inter-state and inter-human relations of all types, including economic ones. An important place among them also belongs to the cross-border ones. The paradigm is the model, the dominant aspect in science and the knowledge of a certain period of time or epoch. There are particular paradigms, specific to one or another science, to one or another domain. There are also general or universal paradigms, such as ecological and communication ones. The human paradigm is, however, the most universal one, as it manifests itself in all spheres and fields of human activity and practice, including economics. The whole practice and knowledge, according to the universal paradigm of humanity, must be directed towards ensuring the security and survival of humans, society and nature. The true human is the person with a high and permanent morality and moral behavior. Namely, Man is the supreme value for man and for this reason today, while being in danger, he has become the most important global problem, which practically includes in itself all other problems. The universal paradigm of humanity is compulsory even for the fields of medicine, military and force spheres. It occupies a special place in the real economy and economic science.*

*Keywords: Human practice, survival, human security, science, economic science, cross-border activities, universal paradigm, Human.*

*JEL Code: B30, B31*

## 1. Introduction

Humanism, even from its beginnings in Socrates' philosophy, regarded the human as the value, the supreme value. Man, today not only has not lost his quality,

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but tends to extend it to more and more areas and spheres of his activity. It can also be seen from those conditions specific to the present reality and development of man and the world in which he activates.

Humanity today, says Russian philosopher V. A. Lektorsky, has approached such a milestone of its development, which can be compared not only with the Neolithic revolution, but even with the process of anthropogenesis. Now, this is about the fate of man. Will he preserve himself, or will he disappear? Maybe he will turn into some non-human being, such as the posthuman or the non-human, which in fact also means extinction, in our opinion.

The social and geopolitical processes, which are at the center of today's heated discussions, says the philosopher, are shadowing this problem for many. But one can't get rid of it. The discussions of today devoted to economics and numerical science, the use of artificial intelligence, the possibilities of transforming the human body and psyche, related to the idea of human improvement, mean that humanity is already (without fully realizing it) in the so-called "electronic society" stage and of the "electronic man" (Вопросы философии, 2018, 33).

It becomes clear, says V. Lektorsky, that even the problems of social and political philosophy today can no longer be discussed without addressing this inherently new way of human existence. New cognitive and information technologies are destroying the ordinary ways of living. In this situation, the most important issue, from the point of view of life meaning, considers V. Lektorsky, is to understand what (in the world and man) can and should change, what is impossible to change and what should not change, even if possible. The problem of the interrelationships, the "finding" and the "making", the realities of the world outside of man and of the virtual human reality, the nature of consciousness, of free will and human autonomy, which pertains to it, have today turned from the problem of academic interest into the most practical ones (Вопросы философии, 2018, p. 33).

Thus, theory and practice impose the problems of man and of human relations, of man as the supreme value for all fields and spheres of his activity. All activities that take place in nature, society, knowledge, inclusive and para-scientific knowledge or "forms of knowledge outside science", as the Russian philosopher ИТ Kasavin (Вопросы философии, 2018, p. 39) calls it, must be done through the humanity or human prism, as its supreme value, and its security. Is this possible? Is it possible for man to become the universal principle and paradigm of any human activity? What role can the human principle and paradigm play in all human activities, taking into account the processes of globalization and global approaches?

What would be the relations and actions between people, institutions, national and international organizations, states, which would contribute to the victory of humanity and security in the world?

The presentation below will be devoted to the answers to these and other problems related to the present and future of man and of the human world. The constantly changing reality in which man activates, the scientific-philosophical literature, and the mass-media have served as investigative material for this article. Comparison, extrapolation, generalization, philosophical forecasting, dialectics - all of them formed the methodological basis of this study.

## **2. Results and discussions**

It is difficult to imagine that you can find people today who have not heard of globalization, globalism, global issues. These concepts are related to the lives and activities of the people, states, international organizations of our time, which is often marked with these terms. But not always those who operate with the given terms have the same concept in mind.

### **2.1. Global issues, globalism and globalization**

Global problems are those problems that lie in front of the whole human community and most of them threaten human existence further. However, some of them, if to be resolved, open up to the man an accelerating, ascending development. Threatened or stimulated by these problems is the whole human society, and their solution can only be achieved with the efforts of all or most states, nations, people – with the efforts of all mankind. Will humanity be able to solve these problems or not? The future will show us. This, however, is ultimately up to us, the people.

Globalism involves general, or rather, global, approaches. In order to solve the given problems, it is necessary to think globally, act locally, defend and protect man and his security in the context of the security of society and of the nature. We need globalism in our actions and practices, in thought and knowledge – a global and globalizing approach in all.

Globalization is an objective process, but also a subjective one, that is, it has the necessary side, the legitimacy of the development and the other side, the subjective aspect of this development, which depends on the will of the people, of the strong and of less powerful states and organizations.

Some perceive globalization as a positive factor, that is, it can lead to the successful solution of global problems, to human solidarity and to the exclusion of wars and violence from human life, hatred and intolerance between people and cultures.

Others blame globalization in the excessive standardization of cultures, people, in threatening national identities and diversities of all kinds. Criticizing Western humanism in the context of globalization, the Chinese philosopher Du Văi-Min, vehemently condemns the desire not to fall within the framework of abstract universalism, in which harmony is falsely interpreted as uniformity, and the idea of general fate is transformed into the strategy of domination. Harmony is not uniformity. Harmony, affirms the Chinese philosopher, implies the freedom of unification, tolerance and appreciation of differences (Чумаков, 2019 p. 29).

It is stated that globalization is by itself the intensive modernization process. In reality, however, according to Du Văi-Min, this is a considerable distance from her. The spatial idea of the West and the temporary idea of modernity, says the Chinese philosopher, both presuppose the development strategy that would lead to convergence and uniformity. However, it must be borne in mind that globalization also opens up the possibility of localization, nationalization and regionalization. It allows us to see a new spectrum of flowers, sounds, smells, tastes, dispositions, emotions, to notice many connections: national gender, linguistic, age, class and religious.

The human community has never been as differentiated as it is today, and at the same time, thanks to the achievements of science and technology, in particular the information and communication technologies, it has never been so strongly interconnected (Чумаков, 2019 p. 29).

We could, therefore, speak of the ambiguity of globalization: the positive direction and the negative direction. It is up to humans through which of these will globalization occur. I think that it is not desirable for globalization to take place in the interests of a state, or of a community of states to the detriment of the majority, whether it's the US, China, Russia, Germany or France. Globalization must be done in the interests of all, in the interests of humankind. This development will be possible if the dominant and universal paradigm is that of the humanity.

The processes of globalization, as considered by Prujânin and Țcedrina, involve the integration of humanity into economic, socio-political and cultural-informational aspects (Пружинин, 2019, pp. 33-39). The mentioned authors highlight the fact (referring to Gojev KM and Tarba ID) that "a special danger in globalization is seen by the representatives of small nations, whose culture,

notwithstanding the fact that it has deep and original historical roots, in particular is subject to globalizing transformations" (Пружинин, 2019, p. 34).

The same authors state: "Undoubtedly in the history of world culture, we also discover the tendency towards generalization and unification. But this is of another kind that does not standardize culture, but on the contrary ensures mutual understanding of different, often radically different cultures in the linguistic plane. And the World Philosophical Congress, as a cultural phenomenon, contains in itself a powerful potential for such a mutual understanding. In the course of the philosophical World Congresses, "Another globalization" is realized (Пружинин, 2019 p. 34). This globalization, we believe, is beneficial to man and his world because it is not obligatory, legal, inevitable. This is intended for mutual understanding, finding commonality and not for the tendencies of domination and servility.

The age in which we live is a predominantly globalized one, with tendencies, largely, of ascending or positive development. It is important to understand and interpret it from the perspective of historical reality (Щедрина, 2018, p. 90-93) and from the perspective of objective forecasts (Пирожкова, 2018, pp. 99-110) regarding the man and the world in which he lives.

## **2.2. The paradigm as a historical stage in the development of science**

The science during its development, according to Cun, goes through certain historical stages. The transition from one stage to another is characterized by him as a scientific revolution, as an exchange of paradigms. Each historical era in the development of science has a certain model, a dominant one that manifests itself in all science or in certain areas of it – called paradigm. The paradigm that manifests itself in several sciences, we believe, could be called the general paradigm. Those that manifest themselves in a science, in one field or another can be considered as mere paradigms. The paradigm that manifests itself in all science, in all areas of reality, is a universal paradigm.

Today we can speak of general paradigms, such as, for example, ecological or communication ones. Almost all areas of human activity must take into account the ecological paradigm or, almost all can contribute to the worsening or solving of global ecological problems. The general paradigm is that of communication, without which the contemporary world, including the scientific one, cannot function and therefore exist. The most general, however, is the paradigm of humanity, the one that we call universal, and today humanity is in danger. It can

survive and sustainably develop thanks to the achievements of science and technologies. But maybe, thanks to them, it may disappear, humans may become non-humans, which extinction as well. Man, through his creations, can destroy Man. Thus, he is today at the crossroads of his development. Hence the importance of the human paradigm as a universal paradigm that can manifest itself in all the sciences, in knowledge and in the whole human activity.

### **2.3. Anthropocentrism and biocentrism**

Many representatives of environmentalism stand against anthropocentrism and advocate for biocentrism. We are also against traditional anthropocentrism. Basically, it justified the irrational use of natural resources for the selfish good of man in his narrow interests. Life, all its forms, are important to nature and man. We must not forget that man is also a form of life. Yes, he has destroyed many of the connections of the terrestrial nature and has enormous potential to destroy it entirely, including its own nature. Man, however, like no other form of terrestrial life, also has enormous potential to restore many of the destroyed and missing things, to build new ones that have not existed before. Man has the means to annihilate himself. He, however, also has the possibility of self-preservation and self-development (Sîrbu, 2019, pp. 120-127).

The new anthropocentrism is called to be based on the human paradigm. Here Man is proclaimed universal paradigm for all human knowledge, science and activity, including economic one.

It could, therefore, affirmed that anthropocentrism, within certain limits, it is a concentrated form of the human paradigm, of humanity in activities of all kinds. The human paradigm, in turn, implies having all the activities through the human prism as the supreme value for it.

Western culture, philosophy as a component of it, has often approached the human problem through the "Human-Society" relationship and in this aspect, it has made considerable progress. Eastern culture, however, emphasized the relationship "Man and tradition".

Romanian moral philosophy regards these two positions or interpretations as two extremities. Approaching the Human concept of humanity some Romanian ethicists consider that the Romanian culture would be the intermediate way between the West and the East, between these two cultures (Vidan, 2017; Macoviciuc, 2017; Hasmațuchi, 2017). According to V. Macoviciuc "The basic hypothesis of T. Vidam's work is aimed at the "man of humanity" as a model/etalon for Romanian

local history and civilization; the author considers that around this concept/etalon there can be structured a whole philosophical thinking together with a base/complex folkloric philosophy and, at the same time, a socio-cultural praxis "(Macoviciuc, 2017, p. 270). I will also state that the simple man, when he speaks about the knowledge of the young people often exclaims that the main thing is that the young man has to "becomes a Human". By this he understands that the most important thing that a young person must achieve is high morality. Thus, the Human is associated more with the moral man than with the man with high knowledge. This does not result in a depreciation of scholars or scientists, but a warning that the high morality of man on a daily level is more appreciated than scholarship (Şarban, 2017 p. 369).

The high morality of scientists, economists, specialists in all fields, responsible and able to act in accordance with the human paradigm will save the Man who is in danger today. The paradigm of the human, or as Russian philosophers S. Azarenko and D.I. Macarov call it: synergetic anthropology as an interdisciplinary paradigm, can be an exit from the contemporary anthropological impasse (Азаренко, Макаров, 2019, pp. 61-71).

The high morality of contemporary man must also be based on global ecological ethics (Sîrbu, 2015, pp. 159-168) and on Ecosophy or ecological wisdom (Sîrbu, 2018, pp. 52-61). The high morality of the personality can be attained through the moral knowledge, moral convictions, the activities in accordance with them and the will to maintain them permanently and not periodically in their own behavior. Here, the human reasoning only is not sufficient, but the emotionality and spirituality, the human conscience (Величков, 2018, pp. 5-17) are also needed.

Only in this way will the personality become of a Human in all its meanings and correspond to the high mission of being a universal paradigm for all areas of human activity. "Teach yourself to be a Human" was also the title of the XXIV World Philosophical Congress, which took place on August 13-20, 2018 in Beijing. This title has been accepted and promoted by both Eastern and Western philosophies. The universal paradigm of humanity reconciles and unites all the thinkers in the world. There is no more noble task in the world than ensuring the survival, security and sustainable development of humankind, which cannot be accomplished, without being extended to human society, to earth and nature in general.

Some spheres and domains that require humanity principle and paradigm.

Scientific and technical progress, new technologies today lift man to new heights, not even dreamed of in the past. Entire businesses operate today are being

led by robots, artificial intelligence. All, however, are previously programmed by man.

The aforementioned ones also have a negative potential, which can harm the human being, possibly even drive it to extinction, if it does not act in accordance with the universal paradigm of humanity (Sîrbu, 2017; Sîrbu, 2016).

The human paradigm is necessary even in the fields and spheres in which it seems to be inherent right from the beginning (the sphere of medicine), or even incompatible (the sphere and the force and military fields).

Medical activity, even from its inception, is about the human. As a human, he also takes the oath of Hippocrates, specific to the doctors and the practice of their medical activities. Man is the supreme value for doctors and the patient deserves a corresponding attitude, a moral one on their part. Naturally the impression that the inherent human paradigm is related to medical activities is assumed.

The reality, however, also testifies to the existence of the opposite, of the inhumanity in the activities of the doctors. It reminds us, in this context, of the anti-human experiments of Nazi doctors, of Soviet psychiatrists, who made false diagnoses to dissidents to limit their activity for ideological and political reasons.

In the former USSR, subject to inhuman experiments and investigations were children born with various malformations and deviations. Doctors with low morale are experimenting today in both the East and the West with inhuman methods and means for military purposes.

The praxis of Moldovan doctors, for example, does not always correspond to human requirements. Surgeries and treatments are invented by doctors only to squeeze money from the sick. We could also remind ourselves of the practice of the doctor from Bălți, who sexually exploited the sick.

Multiple cases can be found everywhere when it comes to the beauty industry. The behavior of doctors in prisons are also not to be desired. Thus, medical science and practice require the implementation of the universal paradigm of humanity in the medical sphere as well.

The human paradigm, at first sight, seems to be incompatible with the force and military sphere. Or, the army always seems to be about violence, war and death. It is so and even so. The human paradigm finds its well-deserved place. You can resort to violence not just by killing. There is also immobilization, imprisonment, strategic communication and collaboration in practical military activities.

The field of military research and science, as well as that of military practice, also takes place for the human paradigm. The war, as strange as it may seem, can be carried out "in a civilized way" and even with morality in a way. There are

armaments, tactics and strategies that would be "less cruel" to humans in general and to the civilian population in particular. There is also the neutron bomb, which destroys only the living force - the man without interfering with the objects created by it, but which is strictly forbidden like biological and chemical weapons. Of course, the most humane and moral thing would be the prohibition and exclusion of wars from human life. Is this possible? I think it is. We have shown this in the article *The need for world peace for security of life* (Sîrbu, 2019).

The human paradigm is also necessary in the activity of the police, the special forces, the activity of the penitentiary, the prosecutor's office, the courts, the law enforcement agencies in general and in the relations between states and cross-border areas, national and international organizations, civil society and the state.

All of these are penetrated by economic relations and are within the concrete economies, the world or within the states and communities. The economic sphere needs the universal human paradigm. The whole economic science and the particular economic sciences need it as well. Economies that admit the use of drugs, anabolic, armaments, underground economies, corruption and injustice have a great need in the universal principle and human paradigm.

### 3. Conclusions

The age of globalism and globalization has given birth beside others, to the global problem of humanity – the Human is a new global problem that practically includes in itself all the others. Man has become a new principle, a universal paradigm of knowledge, science, human activity, economy and economic relations, including those across borders.

The universal human paradigm is obligatory for the sphere and the fields of medicine, of the military and force domains and spheres, of the interstate, interorganizational, cross-border and inter-human relations.

A special place is attributed to economic relations, economy and economic sciences. The *Human* is the one with a high and permanent morality and moral behavior. Humans are above all, whether in society, nature, knowledge and activity.

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# Impact of Development on Professional Activity

*Viorelia LUNGU\**

## Abstract

*In this article, we analyze some economic and social trends that influence our activity in the workplace. The development of information and economic technologies causes changes with reference to the appearance of new professions in the labor market. With the entry into the era of artificial intelligence, many jobs will be created, others will disappear, or they will undergo transformations. In order to cope with these tendencies, the person needs to have emotional, economic and social intelligence. The objective of the present paper is to highlight the need for change and the development of skills that are fundamentally essential in order to form future resources and possibilities.*

*Keywords: development, emotional intelligence, economic intelligence, social intelligence.*

*JEL Code: I22, I25, I26*

## 1. Introduction

*The difficult problems we meet in life cannot be solved at the same level of thinking, at which they were created (Albert Einstein).*

Nowadays, we hear more usually the question, if is there the possibility to motivate the person, the society for changes? This is dependent on the presence of two qualities (learning ability and motivation) that have decisive importance in this process of change. At the same time, those with prospective vision are successful and negative time for those, who continue to rely on institutions with outdated vision. In order to succeed or be successful, it requires changes, growth and a

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current vision of life. Due to the fact that the technologies are developing at an accelerated rate, you cannot work in an institution from the age of 20 until retirement without continuous professional training and change of vision and action. The term development is definite as the passage through different phases towards a higher stage, evolution. The world is changing towards the global economy and it is necessary for the person's thinking to adapt to it and to develop together.

## **2. Trends in technological and economic development**

The technological development consists of the systems engineering and engineering activities technological engineering, through which the application and transfer of the research results to the agencies is carried out economic, as well as socially, aiming at the introduction and materialization of new technologies, products, systems and services, as well as the improvement of existing ones (Manolescu, 2015).

We are present at the fact that the new technologies and the increase of the network efficiency develop possibilities of work from home, changing the traditional paradigm of the work. More and more people consider not enough earning money for existence, maintaining job security and living on pay. Accountants, web designers, freelance writers, and countless other professionals work qualitatively for both themselves and others. People work virtually anywhere: serving coffee, flying across the Pacific Ocean, or sitting in a coffee shop when we refuel, waiting for an oil change - benefits that are starting to take hold in the labor market.

Cyber networks have totally changed the way of life and activity. However, many organizations are left wondering if they will remain connected to the world that does not exist or will they learn and apply future development trends? The same question can be asked by each of us. It is important to be open to new changes and possibilities but also to be prepared for the implementation of future development trends, with the possibility of coordinating the changes and controlling their influences in order to be successful.

According to technology speed of development, 2019 is expected to be 5G. It will improve global distribution, e-commerce and customer relationships more than 10 times. The great economies of the world are crowding to take first place in the field. The focus falls on the Internet and artificial intelligence, which mobilizes the largest investment funds. Mobile applications and traditional social media

companies, such as Facebook, are losing ground and are being asked to reset on new investment platforms.

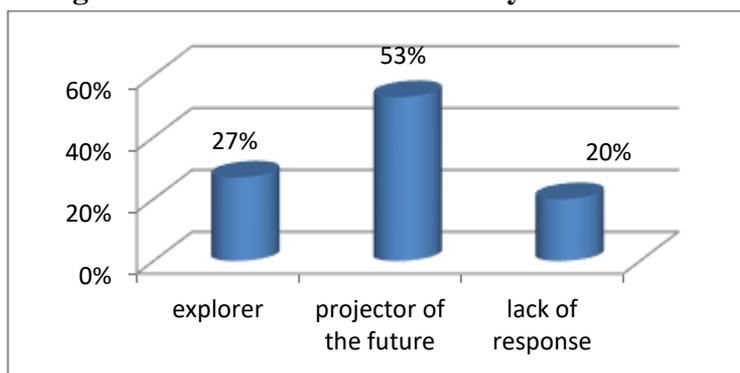
The global economy slows to 3.1% in 2019. Even more optimistic estimates remain significantly below 4%. Developed markets such as the US grow by 3.2%, the EU by 1.9% and Japan by 0.9%, but China by 3.8% and India by 6.8% (The Conference Board Global Economic Outlook, 2013-2028).

In the Republic of Moldova, even if at first glance we notice a positive and constant economic growth of about 4%, accompanied by an essential inflationary moderation and even a slight revival of the private investment activity, the recovery rates are much too low in relation to the low comparison base (it is easy to grow on a low base) and insufficient for real convergence with the countries of the region (Fiscal Monitor of 29.12. 2018), experts in the field support.

Due to technological development, universities are in a position to adapt to the accelerated pace of change in order to become prospective. In this respect, the Prospective Questionnaire of the institution was applied, in which 15 institutions participated, the results can be viewed below:

At the question what is the development plan for the next 5 years 73 % of the respondents opted for the development of the institution through anticipatory and innovative personal visions. Otherwise they didn't respond to this item. Interest presents the answers of some managers who stated that the institution's prospective development plan has as activities: the repair of the student dormitories, the sanitary blocks and only 20% of them opted for the revision of the study programs and the implementation of the new contents and teaching methodologies in order to train the prospective skills. The answers to the question “I pronounce for the role of explorer or projector of the future” are represented in the Figure 1.

**Figure 1. The role of the university for the future**



*Source:* Elaborated by the author

The results in the figure above show that universities are choosing to explore the past and the present.

That is why future development trends are opposed to traditional thinking with regard to career advancement. Holding a diploma from a prestigious educational institution with a mistaken vision that you have a ticket to a successful career, without having any idea how little is prepared for the problems of the future, and those who already have a career believe that the solution of the problems is in future education, there are no opportunities.

## **2. Competences and professions in the 21st century**

Young people today need to acquire a new range of knowledge and skills, in an attempt to distance themselves from the traditional model of education, which supposes a narrower specialization. At the same time, "more and more students are worried about their future. They do not feel ready to work in the new technologized atmosphere"- says Microsoft representative Ryan Asdouriann (NOI.md, 2018). "The presence of skills in more than one field becomes more and more important at the same time," continues Steve Toz, editor of The Future Laboratory (NOI md, 2018). For example, claims the same source, the profession of Data Analyst in the "Internet of Things" requires knowledge and skills in fields such as engineering, problem-solving, communication and entrepreneurship.

The "Internet of Things" has become a part of everyday life. Today we know that many devices - from machines to cookers in the kitchen - have built-in electronic equipment, software and sensors, thanks to which data exchange technology. The data of the Center for Economic and Business Research speak about this. In this regard, it is obvious the need for new specialists - those who study a large volume of data generated by the technique of household, office or car devices, to understand that all this information characterizes us. The data obtained can be used to improve the "Internet of Things": for example, to search for new methods of interaction with electronic devices. The skills that these experts will need, imply the ability to recognize the models, to ask the exact questions and to tell, share them (NOI.md, 2018).

The lawyer in the sphere of robotics is another future profession that can present interest. Required fields of knowledge: communications, philosophy, ethics. Experts believe that the next decade will be the era of robots: they will begin to help the man in everything and will be able to occupy the positions of personal assistants, but also functions in support services. Then the number of vacancies will

increase in the area of "smart cars" production: it is expected that in the UK there will be about 55.8 thousand new jobs in this field. The robotics lawyer, who is an intermediary between humans, robots and artificial intelligence, will establish the moral and ethical laws, and only according to them the machines will be able to work among people.

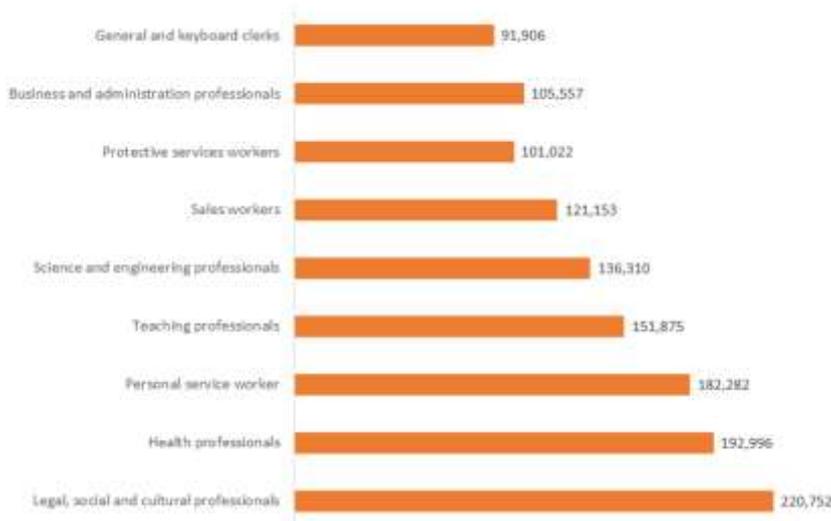
We are witnesses of transformation of the world economy in the sense of the emergence of entire branches that today can hardly be born and this will, of course, have a great impact in terms of the professions of the future and their preponderance. Every 3-5 years there will be jobs and jobs that we haven't heard yet, as we can already see if we look at 30-40 years ago when there were no positions such as rafts man, lamplighter or 3-5 years ago where they have gone professions like telephone panel operator, telegraph operator, typist, lifter, etc.

As more and more fields of knowledge are reintegrated from a holistic perspective, more and more professions will appear in the border area of 2-3 broad fields. These will be by definition cross-disciplinary, making the connection between today's activities seemingly impossible to put together. Of course, we can predict that they will be at the border of medicine, engineering, computing and social sciences. For example, specialists will need to manage the interface between wearable computers and medicine, respectively social sciences, as more and more people will adopt clothes that contain various sensors permanently connected to the internet (NOI.md, 2018).

A special class of skills will be those of leadership on the one hand and entrepreneurship on the other. Both subsisted by the call for independence and autonomy, dynamism and responsibility, elements needed today and even more so in the future. Leadership itself evolves into an all centric leadership formula, deeply collaborative even more than it is today. According to the skills forecast chart made by the European Center for the Development of Vocational Education (CEDEFOP) the most wanted jobs in 2030 will be available in areas such as medical, legal, social care and education.

The appearance of new professions will not be the final point. With the appearance of the new specialties, old occupations will simply be restructured.

Educational institutions need to evaluate, migrating to a condensed, practical, interactive and adapted to the needs. Almost compulsory learning will be mediated and assisted by online expert systems and virtual reality. People will learn everywhere, it is not excluded to be destroyed the traditional teacher-student systems, towards systems based on learning in communities of interests under the guidance of a mentor, like today's online communities.

**Figure 2. Top of Future Jobs**

**Source:** <https://www.hipo.ro/>

The modern community is progressing, and the global workforce is becoming increasingly aware that what really matters is emotional, financial and social intelligence.

Emotional intelligence consists of 4 elements (Goleman, 2007):

- a better understanding of one's emotions;
- efficient management of one's emotions and a significant increase in the quality of life;
- a better understanding of those around and coexistence with a high degree of comfort;
- creating better relationships at all levels with those around them and increasing productivity and personal image.

According to Goleman (2007), emotional intelligence can influence the goals that individuals choose to pursue when they adapt to change and the emotional regulation strategies, they choose to use to manage relationships and facilitate performance. (Sava, 2018, p.19).

According to statistical research (Goleman, 2007), emotional competence is twice as important as technical or intellectual skills. The development of emotional intelligence is the understanding and management of emotions to create harmonious

relationships with others. At the same time, qualities that highlight people who succeed in life are: self-awareness, impulsivity control, perseverance, desire, self-motivation, empathy and social agility. People who master these qualities discover that their relationship with others plays an important role in success.

Today, the importance of emotional management is increasingly emphasized, in order to be successful in its achievements it is important to start fulfilling dreams, to have a plan, to do efforts and assessment the result.

Success supposes a cycle, in the beginning, it is necessary to try and achieve the dream and use it as an idea to reach the goal. Efforts will help us cope with change.

It is important to note, says Neascu, that the description of how to go through these stages should not be led to the idea that what is happening in the mind of the person was surprised in all its complexity (Neascu, 2015, p.15), because in this process there are reorganizations, sometimes even spontaneous changes.

At the same time, an important role in achieving success is the team, where each member sees the success of the other as a means of achieving their own success. The value of future development trends increases with the team joining and involvement.

Success also depends on time management. Each one has a certain time, depending on how they use it, determines the overall success and achievements in life.

Time can be spent: at work/learning, fun, hobbies, and sleep. Success depends on how much time we spend in each of the following areas: area of incompetence, competence, area of good and rest. Success is not a phenomenon that comes unexpectedly. To succeed, we must work hard and have certain qualities that are indispensable to success, such as firmness, risk, goodwill, confidence in our own strengths.

Success is an action, which at the final stage involves a reward: a high note, a prestigious service or even the admiration of those around you. But when we are not rewarded for our efforts, then we feel a deep disappointment, for some emotional people, this can turn into failure. It is possible to find that self-motivation is needed for success.

Social intelligence means, on the one hand, being aware of what motivates them and what other people feel, on the other hand using this knowledge to carefully navigate relationships (Social Intelligence, 2016).

D. Goleman suggests the organization of the elements of social intelligence in two categories: *social conscience and social comfortable (outspoken)* (Goleman, 2007, p. 102).

*The social conscience* covers a wide spectrum, ranging from the instantaneous notification of the other's inner state to the understanding of their feelings and thoughts or the "understanding" of complicated situations.

It includes:

- Primary empathy: feelings shared with others; notice of non-verbal emotional signals.

- Emotional resonance: listening with maximum receptivity; to interact with another person.

- Empathic precision: understanding the thoughts, feelings and intentions of another person.

- Social cognition: to know how the social world works.

Social comfortable is the simple sensing of one's feelings or the mere fact that we know what someone thinks or intends does not guarantee fruitful interactions. Social comfortable is built on social consciousness to give rise to effective and trouble-free interactions (Goleman, 2007, p. 102).

The spectrum of *social comfortable* includes:

- Synchrony: interaction without problems at a non-verbal level;

- Self-image: efficient presentation of one's own person;

- Influence: modeling the result of social interactions,

- Concern: taking into account the needs of others and acting accordingly.

The term social intelligence refers to the ability of man to perform special interactions, with adaptive character, in accordance with the demands and challenges of daily life (Goleman, 2007, p. 102).

There are mutual influences between social competence and emotional competence, depending on the relationships and social behaviors that the person develops.

The development of social intelligence contributes to a successful adaptation of a person in a social environment.

An important step to have a progress is guaranteed by financial intelligence, which does not refer to how much money you make, but how much money you keep and how well they work for you (Dolganiuc, 2019). Nowadays, the school does not yet focus on these three intellectual aspects, but the theory and the skills make us independent, a capacity that each one can develop.

Although the activities of Social and Financial Education were introduced in the activities organized at several high schools in the Republic of Moldova (Cara, 2016, p.6), these activities did not take place.

Emotional, social and economic intelligence prepare the person for the socio-economic changes generated by artificial intelligence. With the entry into the era of artificial intelligence many jobs will be created, while others will disappear, and most will undergo transformations. Therefore, the European Commission encourages the Member States to modernize their education and training systems and to support labor market transitions based on artificial intelligence.

The digital generation has become capable of performing more tasks at the same time, but this comes with costs in terms of time and performance. The data is mixed regarding the relationship between time spent in front of the TV, the use of smart phones, Facebook and academic performance. On the one hand, there are data showing that these have a negative impact on school marks, but depending on their duration and nature, they may have a good impact.

We live in a time when we must adapt "healthy"-well to the development of technology. As we cannot generally discuss the effect of nutrition on health, and in the case of using the technology we cannot make global assessments (technological development is beneficial or harmful) rather we should educate ourselves on its effective use.

The development of technologies and the appearance of new economic models determine an increased potential for ensuring the sustainability of planetary ecosystems.

Thus, work activity depends on many factors, the most important being technological progress and education. It changes not only the professions but the work itself and its content. The perception about work will change radically, from the means of survival and social validation mechanism will migrate to activity of personal achievement and impact of the world.

For this purpose, Spencer G. Niles, Joann HarriS-Bpwlsbey proposes for the employees of the 21st century to be with the current global economy they need to:

- permanently learn to do things already known, and new ways to do new things.
- develop a sense of passion and curiosity about life - forces that bring energy, innovation and new ideas to the workplace.
- develop their ability to cooperate - a skill necessary to address the complex difficulties of the 21st century.

- keep the balance between analytical thinking and creativity, which leads to valuable solutions for solving the problems that companies face.
- develop their ability to cope with changes and tolerate ambiguity.
- rapid adaptation to the demands of a constantly changing workplace.
- efficiently use technology (Niles, S.G., HarriS-Bpwlsbey J., 2015).

### 3. Conclusions

The progress of information and communication technologies has led to a more visible standardization of the economy: the knowledge and wealth of previously disadvantaged countries have increased to such an extent that they rival those of the United States and other world powers. This "flattening" of access and opportunities has major effects on the character of work throughout the world, including accelerating economic globalization, the interdependence between national economies, so that what happens in one country's economy has an impact on another country's economy.

The world knows a constant change and a lot of the professions that were in great search in the past have disappeared but there are new ones that need to have prospective skills and transdisciplinary knowledge. The anticipation of new professions can be made taking into account the current trends in the market, but also the economic, social, technological, environmental changes taking place. The jobs of the future will depend on how science and technology are changing. But as the modern community progresses, the global workforce understands that what really matters are emotional, financial and social intelligence, which prepares the person for the socio-economic changes generated by artificial intelligence.

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## Possibilities of Continuous Improvement of Budgets by the Kaizen Method in the Current Context

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### Abstract

*Stimulating the tendencies of integration of the Republic of Moldova in the world economy requires the indigenous entities to continue to be efficient, competitive, very operative, but also sustainable, given that obtaining long-term positive financial results depends on sustainability. In order to guide their actions, the entities request information on the activity carried out, in which the most important place is the budget. In this article, the authors are describing the Kaizen method - a Japanese concept which assume continuous improvement of the processes and budgets. The importance of budgeting method consists in efficiency of application, not just in performance of it. Once the company has selected a method of budgeting it should to make sure that this instrument is applicable and in concordance with its necessities. The investigation methodology includes fundamental approaches regarding the possibility of applying the Kaizen method in the local entities. Thus, the dialectical method was used with its fundamental elements. The methodology and recommendations formulated can serve as a support for managers in order to sustainably improve the results from the long-term improvement of the work process. This means full and active involvement in the Kaizen process of employees at all levels, naturally developing a sense of ownership and self-discipline.*

*Key-words: kaizen, budget, efficiency, performance, improvement, European integration.*

*JEL Code: L25, M41*

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## 1. Introduction

The acceleration of the globalization process, the speed of technological development, the development of the digital economy is just some of the main causes that require the evolution of managerial accounting in order to adapt its specific techniques and methods to the new information requirements of the entities. Regardless of the economic situation of an entity, any manager wants to improve the efficiency of the existing team, the economic-financial activity of the entity, and the results obtained are increasing.

Currently, in the local specialty literature, the problems of the budgeting process aimed at developing the team, the entity in general, the projects of new ideas of success, and the creation of an operational management system of the entity on responsibility centers are not sufficiently investigated and complex; to enable the strategic objectives to be achieved, with the most efficient use of resources, in order to increase the competitiveness and performance of the entity.

The importance and topicality of scientific research, in this field, are conditioned by the presence of various efficient management modes, which solve the problems of the budgets, one of them being the Kaizen budgeting, a method that has begun to be used by businessmen. The Kaizen concept is a simplification by dividing a complex process into smaller processes. Thus, this method eliminates losses from a process by considerably improving it, using systematic observation and statistical data, continuously changing the tools, but also the techniques used.

In relation to the entity's objectives, one of the most important Kaizen applications is Kaizen Costing. Adopting management decisions based on this method allows the company to optimize its operations and open additional opportunities, which it did not previously have, due to too high costs or too much rigidity in operation (Kinga, 2019).

The circumstances set out above confirm the topicality of the investigated topic and require the complex examination of the budgeting problems within entities and its improvement in accordance with the requirements of the current context. Thus, the present work falls within both the sphere of cost management issues, as an instrument in the management of entities, as well as in the field of accounting research, especially management accounting.

The purpose of this research is to investigate the theoretical and practical aspects of budget improvement, within entities, through the Kaizen Method, in order to identify the existing problems and to base the priority directions of improvement and optimization, in the current context.

To provide answers, the authors, through the methods of analysis and synthesis, referred to sources of information with reference to the topic addressed, such as: relevant scientific papers of the specialists in the field, consulting the websites of the international bodies involved in the standardization process and accounting harmonization, as subsequently by using the methodology of induction, deduction and comparison, the results obtained to be materialized in the present investigation.

In order to achieve and enhance the research purpose, the following objectives have been set:

- analysis of approaches to the Kaizen concept;
- theoretical and scientific examination of the economic content of the Kaizen method;
- study of the 5S organizational model and substantiate the need for its implementation in order to reduce costs, by eliminating activities that had no results;
- elucidating the problems regarding budgeting in order to continuously improve the number of working hours per product unit;
- specifying Kaizen particularities and training factors at operational level;
- formulating recommendations regarding the improvement of the budgeting, within the entities, by the Kaizen Method.

In this context, we mention that in order to be effective, the Kaizen method must become a daily activity, which is implemented, with the help of experiments that are quickly adapted, without effort, once, over a certain period of time and as a result we observe a slow, gradual, but continuous improvement, with visible effects from day to day, respectively the effects lead to increased productivity, quality and, not least, profit. Among the most important rules of the method are the execution of restructuring, the monitoring of the results and their adjustment, but at the same time, it rejects the static periods, in which the entities do not go through changes, and supports the innovation in any form and size.

## **2. Literature review**

The beginning of any scientific endeavor is the directing of the general research attention to the sphere of scientific knowledge divided by specific fields of research. The research area of this paper represented the problem of the modern approaches regarding the budgeting at the entities level, in order to optimize the business processes and to reduce the costs by applying the Kaizen method, a theme

that can be included in the accounting research field, both in the field. accounting research and budgetary control.

The problems of improving the budget, including by the Kaizen method, in general aspect, are found in the research works of some economists, such as: Masaaki Imai (1985), (Budugan, 1998), Needles (2000), Diaconu (2003), Bouquin (2004), Tabără (2006, 2012), Srikant Datar (2017), Kinga (2019).

The contribution of the mentioned scholars is significant, however, their works do not deal exhaustively and do not reveal, in a complex aspect, the requirement of improving the budget, which highlights the existence of reserves for improving the budget within the local entities. The academic research environment in the Republic of Moldova is still at the beginning of capitalizing on the Kaizen method, a fact proven by the lack of publications in the specialized literature in the field, and for the local entities it is a relatively new notion as the theory and practice of management "a new challenge". This fact has argued the need for Kaizen method research by the authors in this publication.

In order to analyze the budgeting using the Kaizen method, it is first of all necessary to examine the significance of the budget, its objectives and importance, as well as the evolution of the Kaizen method. The budgeting approaches highlight the elements that underpin the budget definition: *accounting tool, ensure customer satisfaction and market success, contribute to the achievement of objectives for a limited period of time, delegate responsibilities to managers and control the fulfillment of concrete indicators at different levels of responsibility of the entity and so on.*

Budgeting is the typical accounting tool used by entities to plan and control the activities they need to undertake to ensure customer satisfaction and market success. In order to establish certain strategies, tactics and objectives before starting the activity, the planning process forces managers to make efforts. No matter how perfect the strategy of the entity, during the course of its activity, it is necessary to control the forecasts in order to detect the causes that lead to deviations, establish the responsibilities and specify corrective measures for them.

The systematic process of ordering future actions, which contributes to achieving the objectives for limited periods of time, represents budgeting (Budugan, 1998). It makes it possible to delegate responsibilities to managers and control the fulfillment of the concrete indicators of the budgets at different levels of responsibility of the entity.

Effective budgeting requires good management, which means that certain rules must be respected: *participants must apply a realistic approach, meet deadlines and use flexible procedures for applying budgetary provisions.*

A first objective pursued by the elaboration of a budget refers to the forecasting both the financial aspects (the profit, the cash flows, the financial position of the entity, etc.) and the non-financial ones (the number of units produced or sold, the number of employees, the number of new products introduced on the market etc.) of the plan and serves the entity as a work program for a future period.

The second objective refers to the fact that the information should be as accurate and relevant as possible to the users, presented in a logical order. The budget, as a document, should start with a clearly formulated title or name, which should also indicate the time period taken into consideration. The period chosen as a reference for the preparation of the balance sheet should be dictated by the purpose pursued through budgeting (*year, with shorter periods for periods: quarters, months*).

The budget is an action plan that represents a method of allocating resources expressed in monetary or natural units. It is most often prepared for a calendar year, divided into smaller sections of time, e.g. quarters or months or for a period necessary to fulfill a specific task (Horngren, 2002). In practice, partial budgets are created and combined into a single company budget.

The significance of the budget is characterized by its functions (Kinga, 2019):  
*informative function* - providing managers with information on the degree of implementation of tasks in the form of periodic budgets. They are the basis for evaluating activities in certain fields of activity. This allows the creation of an information base necessary for the management of the company;

*coordinating function* - connecting the activities carried out in different fields of activity and including them in a coherent budget. This ensures the compatibility of the objectives of the individual areas with the objectives of the whole company;

*motivational function* - exerts an influence on the managers and employees responsible for a given budget, so that the activities implemented by them are appropriate in relation to the company's objectives. It is important to create a budget whose goals are ambitious but at the same time feasible;

*control function* - allows to evaluate the degree of completed tasks. There are three types of analysis: initial (during budgeting), current (during budget execution) and resultant (after budget execution). It offers the opportunity to determine the differences between the finalized plan and the assumed one.

A US study highlighted four factors that can lead to a reduction in the efficiency of the entity's planning and budgeting processes, *in order of importance* (Horngren, 2002):

1. The absence of a well-defined strategy.
2. The absence of a clear link between strategy and operational plans.
3. Lack of individual responsibility for the results.
4. The absence of relevant performance measurement indicators.

The surveys found (Horngren, 2006) that for managers (Australia and Japan) budgeting is the most useful of management accounting activities. The financial managers of the largest industrial entities in the US, Japan, Australia, the UK and the Netherlands highlight a number of interesting similarities and differences between budgetary practices in different countries, the table 1.

**Table 1. The results of the survey**

Nr.	Criteria of the survey	Countries included in the survey				
		USA	Japan	Australia	UK	Netherlands
1.	Percentage of entities that draw up a complete general budget	91%	93%	100%	10%	100%
2.	The percentage of the entities in which the responsible managers participate in the debates of the budget committee	78%	67%			82%
3.	Classifying the budgetary objectives in order of their importance to the responsible managers ( <i>1 being the most important</i> ):					
	✓ Return on investments;	1	4			
	✓ Profit from the operational activity;	2	2			
	✓ Sales revenue;	3	1			
	✓ Cost of production	4	3			

*Source: elaborated by the authors after (Horngren, Datar, Foster, 2006)*

From the information presented, it is observed the widespread use of the budget in all countries. The differences appear only in relation to the budgetary objectives.

The critical analysis of the literature has allowed us to find that the Kaizen method was developed in Japan between the 50s and 80s of the last century, but the name was officially recognized and registered as a trademark in the USA in 1985, when Masaaki Imai, the founder of the Kaizen Institute, published the book "Kaizen-key to the competitive success of Japan". Together with several Japanese businessmen, Masaaki Imai, at that time, was monitoring American companies to

discover the secrets that can increase the competitiveness and performance of a company. Until then, the name Kaizen was just a common noun in Japanese, meaning "always better." Professor Masaaki Imai is known as "Guru Kaizen" and "the parent of continuous improvement." The book that defines Kaizen philosophy and practices, published in McGraw-Hill Publishing House in 1986, has been translated into over 20 languages and published in over 30 countries. The book had the impact of being adopted by a very large number of entities and by a very large number of managers of Kaizen techniques and principles. In the specialty literature, the notion of "kaizen" was developed more deeply by American economists (Needles, 2000), (Srikant Datar, 2017) and Romanian economists (Tabără, 2006), (Diaconu, 2003).

Daihatsu perceives kaizen as one of the six valences of the budgeting process (compared to the five-year budget), which comprises the following components (Bouquin, 2004):

- 1) the budget that defines sales, variable costs and margins;
- 2) the budget for the supply of materials and raw materials;
- 3) the budget for the rationalization of the installation and the reduction of the variable costs (the essential part of the kaizen);
- 4) the budget for the use of labor force;
- 5) the investment budget;
- 6) the budget for the capacity costs of the company and for the general expenses.

### **3. Research methodology**

Although there is no recognized unanimous approach to budgets, the literature gives them many advantages:

- *contributes to the elaboration and implementation of strategic plans and to the motivation of the employees.* The strategy specifies how the entity combines its capabilities with the opportunities on the market to achieve its objectives. The inability to reach the levels set by the budget is perceived as a failure. For these reasons, many managers prefer to set high but achievable goals for their subordinates. As they approach a goal, they make a greater effort to reach it.

- *provides a reference framework for performance evaluation.* Budgets allow to overcome some shortcomings related to the use of past results to analyze current results: past results include past failures and performances; in the future, the conditions envisaged may differ from those of the past.

- *promotes coordination and communication between the subdivisions of the entity.* Coordination forces managers to analyze the relationships between specific functions or departments, at the level of the entity, in the most efficient way possible to allow the entity to reach its objectives. The communication involves ensuring that all the employees of the entity understand and accept these objectives.

To take advantage of the benefits of budgeting, managers at all levels of the entity should understand and support the budget and all aspects of the management control system.

Research shows that the difficulties and peculiarities of the budgeting process start from the way in which they are perceived by managers at entity level, the lack of capacity to reach the objectives, of coordination and cooperation, the insufficiency of ideas regarding the continuous improvement, etc.

One of the key issues that entity managers are facing is continuous improvement. The Japanese designate continuous improvement through the term Kaizen. The Kaizen method aims to reduce costs by continuously improving activities, reducing costs by involving staff in decisions making at the lower level of the hierarchical pyramid, at the workplace (Camp N., Briciu S., 2012).

In essence, the Japanese driving model means continuous improvement, which has proven over time (Toyota, Nissan Motors) that progress with small, but fast steps, leads to new, long-term, safe performance. Thus, the use of this method, emphasizes the fluency of the process of improvement and its efficiency. At the same time, the responsibility of improving the products and processes rests with the entire staff of the entity, not only of specialists. Employee empowerment is described by the proponents of the method, as a common denominator for modern managerial techniques. Thus, the employee is intelligent, responsible, creative, and therefore constitutes a productive resource for the entity. Basically, it is about delegating responsibilities, which focuses on ethics, interest in the results of the entity.

The practice demonstrates that the successful approach of Kaizen activities must be limited to the following moments: forget all the ideas currently applied in organizing the production; totally reject the existing situation; imagine how the new method will work; you do not have to look for perfection, it is good a 40-50% improvement of the existing situation; don't make big expenses; the problems you face offer you the opportunity to use your managerial knowledge and skills; the ideas emanating from more people are better than the idea of a single person.

The investigation of the bibliographic sources allowed to approach an efficient organization model of the entity, which would allow the organization,

cleaning, maintenance, safety and productivity of the workplace, both in production spaces and in offices - the “5S” method. In this context, the question arises: why the organization of the workspace? Because disorder prevents us from finding things first, we execute unnecessary movements, which do not add value, can hide some problems.

The implementation of “5S” has the benefit of obvious improvements in the application areas, as well as the change of people's attitude towards their work and what they do. It is inadmissible to implement 5S with only one or two people. There is a need for all employees to be involved. It involves determination, perseverance and cooperation. Thus, this combination creates a new sense of team identity and a more capable climate in the entity, which through action produces results.

**Figure 1. The first steps for an efficient entity - the “5S” method**



*Source: Elaborated by the authors*

Generalizing the stages of the efficient organization of the workspace, below, a comparison and explanation of the significance of “5S”. These are five words in Japanese, starting with the letter “S”: *Seiri, Seiton, Seisou, Seiketsu, Shitsuke* and which represent the key to improving the workplace.

**Table 2. The meaning of the five words (five steps) in different languages**

Japoneze	English	Romanian	What does it mean?
Seiri	Sort	Sortare	Removing unnecessary things.
Seiton	Set in order	Ordonare	Well organized work place. Ordering the things I need so that they are handy.
Seisou	Shine	Curățare	Cleaning and keeping them at work.
Seiketsu	Standardize	Standardizare	Standardization of rules, so that people independently respect the rules of management.
Shitsuke	Sustain	Mentținere	Maintain the level so that it doesn't get back to chaos.

*Source: elaborated by the authors*

From the information presented in the table above, it follows that:

1. First step involves the clear separation of useful actions and products from those that are not usable. Thus, we deduce that its purpose is to differentiate between what is needed and what is not used. In this context, as a goal it serves to establish the criteria and use them in eliminating what is not necessary, due to the movement of things and the waste of time when looking for a tool or material.

The other S, such as the Setting in order and Standardization - develop the habit of discipline in the workplace, which is usually crucial in the following phases of the 5S implementation..

2. So the second step involves arranging the data, information or tools in a logical order. The purpose is to establish a plan of care, easy and simple so that you can always have what you need, in the amount you need and when you need it. In this context, as an objective it serves the neat aspect of the workplace. From a practical point of view, the highlight of the order at the workplace is the use of protective objects and safety shoes, attention with the things when you transport them, clearly marked paths, etc. These small, seemingly insignificant things - are what make the difference. Therefore, the employees stressed the importance of the orderly workplace. In addition to these things, the 5S are also important for personal safety and health, the prevention of fires and accidents due to oil spills, the prevention of pollution and the prevention of other things, which are so dangerous to human health and safety.

3. The third step, it is cleanliness, which means eliminating the sources of loss and simplifying work processes. The purpose is to eliminate garbage, dust and foreign matter for a clean job. In this context, as an objective it serves a level of cleanliness appropriate to your needs. We would like to mention that once the faults have been identified in the early phase, they can be solved quickly and with minimal costs.

4. The standardization of work methods - step in which procedures are elaborated and new ideas are initiated for the solutions discovered in the previous steps as successful ones. The purpose is to keep things organized and clean, even in personnel matters. In this context, as a primary objective serve the standards for maintaining 5S, for example, the development of the visual management so that the abnormalities are "exposed", the creation of the visual control system, the elaboration of a manual for maintaining the standardization, the development of a color code, etc.

5. The fifth step, moreover, the latter, implies more precisely the observance of the other four points above in any daily activity, at work, but also in personal

life. The purpose is to do the right thing. In this context, as an objective is the participation of all for the development of good habits and respect for the rules, communication and feedback, individual responsibility, practicing good habits, forming the habit and creating discipline in the workplace.

All these stages bring costs down, by eliminating activities that had no results, constant innovation, high quality of products and services offered and productivity, to eliminate work without clear results. Kaizen steps can be performed both individually and in larger or smaller teams, the efficiency of the system does not depend on the number of people involved, but short sessions are needed, in the case of teams, or moments of thinking, when it comes to a single individual, to determine the changes.

The Kaizen method is a multifunctional approach and signifies, first of all, a strategy focused on the continuous improvement of all the activities of the entity in a participatory manner. Simultaneously, it represents a current managerial practice, according to which one day should not pass without a slight improvement. It is also a defining feature of the Japanese mentality for a long time.

As a result of the study, the authors found that the Kaizen method has two major components:

- First it is the managerial maintenance of the entity, in the sense of directing the current activities and tasks of a technical, managerial and operational nature of the standards regarding the work processes.
- Second component, is the managerial improvement that refers to those processes through which the labor standards are improved.

To achieve the most efficient results the Kaizen method works and relies on the simultaneous realization of the following three principles:

- consider the process and the results (not just the results);
- systematic thinking about the whole process and not only taking into account the immediate results (for example, a larger image regarding the activity of the entity, not only from the point of view of the managed sector, narrow); and
- proceed with a learning approach and intention, not with trial or guilt (because the fault is useless).

The before mentioned allow us to deduce that the Kaizen concept implies a gradual increase to ever higher standards of production, by improving the quality and reducing the waste, by small but continuous improvements, which involve all the staff, from the executive to the workers from the lower level. It can be considered a proactive method, which promotes the principle that nothing is perfect

and everything is perfect, if all employees are involved and have decision-making power, at operational level, by delegating responsibilities.

Research conducted on the Kaizen method has shown that its need, within the local entities, appears as a consequence of the increasing degree of difficulty of solving increasingly complex problems, and of the development of entities, in the current context. In order to appreciate the extent to which the objectives are achieved and the strategies are effective, any managerial decision must be based on a good knowledge of the situation, which is not possible in the absence of efficient budgetary management.

Based on the exposed material, we can deduce the advantages of the Kaizen method:

1. The “5S” prepare the morale of the employees for Kaizen;
2. Form the reflex of self-discipline and compliance with Standards;
3. Highlighting irregularities;
4. Reduction / optimization of pointless movements (which does not add value);
5. Identifying latent defects and finding cheap and life-saving solutions;
6. Improve work efficiency and reduce costs.

#### **4. Practical aspects**

In order to estimate the activity of an entity and raise the level of performance, as well as for a deep perception of the budgeting results, it is important to approach it from a practical point of view. In this context, as an example, Budgeting will be used for the continuous improvement of the number of working hours per product unit, taking into account the factor of improvement.

*Example 1. Suppose that an entity establishes the decrease of the number of hours - work per unit of product, as a factor of improvement (updating) of the activity, and respectively, of the reduction of the cost of the manufactured products. Thus, in each quarter, the hours of work budgeted for the manufacture of an ordinary product, which constitutes 4 hours, will be reduced by 0.1 points, and of a product with a higher degree of difficulty, budgeted being 6 hours - with 0.15 percentage points.*

Taking into account this improvement factor, as a result of the budgeting, the entity aspires to obtain a reduction in the number of hours allocated for the manufacture of the ordinary product, but also for the one with a higher degree of difficulty, for the management period concerned, fact presented in the table below:

**Table 3. Budgeted data**

Quarter (period)	Ordinary product, hours	The product with high degree of difficulty, hours
1. January– march	4	6
2. April – june	3,996	5,910
3. July – september	3,956	5,821
4. October – december	3,916	5,734

*Source: elaborated by the authors*

Based on the results obtained, we observe a reduction in the number of hours allocated for the manufacture of the ordinary product, but also for the one with a higher degree of difficulty. Applying the time reduction factor for each of the products of 0.1 and 0.15 percentage points respectively will lead to the optimization of the costs with the staff in each quarter, as the effect will reduce the actual cost of production, and of course, the increase of the profitability index per product, given that the other factors remain constant, that is, the selling price and other components of the cost. The total reduction in working hours, for one year, per unit of the ordinary product will be 0.084 hours (4 hours - 3,916 hours), and for the product with a higher degree of difficulty the reduction will be 0.266 hours (6 hours - 5,734 hours), which also means a reduction in staff costs.

It should be mentioned that the most of the cost reduction associated with Kaizen budgeting, results from several minor improvements and not major "jumps". An important aspect of Kaizen budgeting is the quantity and quality of suggestions made by employees.

The correctness and relevance of the managerial decisions regarding the budgeting of prices are conditioned by the integrity of the information regarding the size of the costs. Another example can serve as a way to improve overall performance, that is, including all budgeted items, such as: the cost, a concrete program, the redesign of a product, the improvement of the production processes, of work, etc.

*Example 2. The entity establishes the coefficient of 0,997 as a total factor of continuous monthly improvement of the total budget of the costs, totaling with 2,450,000 lei, starting with February of the management period in question.*

In this context, applying the rules of the Kaizen method, the cost budget for the management period are represented in the Table 4.

**Table 4. Costs budget for the management period**

Cr. nr.	The months of the management period	Static budget, + updates, lei	Performance factors	Improved budget	Deviations from	
					Improved budget	Static budget
A	1	2	3	4	5	6
1.	January	2 450 000	1	2 450 000	0	0
2.	February	2 450 000	0,997	2 442 650	7 350	7 350
3.	March	2 442 650	0,997	2 435 322	7 328	14 678
4.	April	2 435 322	0,997	2 428 016	7 306	21 983,9
5.	May	2 428 016	0,997	2 420 732	7 284	29 268
6.	June	2 420 731,9	0,997	2 413 469,7	7 262,2	36 530,3
7.	July	2 413 469,7	0,997	2 406 229,2	7 240,5	43 770,8
8.	August	2 406 229,2	0,997	2 399 010,5	7 218,7	50 989,5
9.	September	2 399 010,5	0,997	2 391 813,4	7 197,1	58 186,6
10.	October	2 391 813,4	0,997	2 384 637,9	7 175,5	65 362,1
11.	November	2 384 637,9	0,997	2 377 483,9	7 154,0	72 516,1
12.	December	2 377 483,9	0,997	2 370 351,4	7 132,5	79 648,6

*Source: elaborated by the authors*

In the table 4, the authors intended to demonstrate numerically the benefits of applying a performance factor in budget building. Thus, in column 5 is presented the improvement, namely the reduction in monthly costs, and in column 6 the reduction of cumulative costs over the entire period of the budget year. In this context, if the entity intends to apply an improvement factor at the operational level, it is important to look at continuous performance growth, to quantify the benefit. In the example above, the cost reduction for the whole year is 79 648,6 lei, resources that can be allocated for the additional production of goods or for the creation of future economies in order to meet the current needs of the entity. Even if the value of the improvement factor is quite small, we notice that the cost effect is quite large for one year, but being applied strategically for a period of 5 years and more, then the impact will be much more impressionable.

The study indicates that applying the discount factor is a relatively modern method and has a wide applicability when making analyzes, budgets for longer periods. In the example below, we aim to demonstrate the relevance of the calculation method, given that the value of the initial costs is kept, so that for users it is better to quantify the effect when the starting point is visible, and respectively the monthly performance.

*Exemple 3. The information processed in example 2 can be updated (by discounting) using the calculation of updates through the basic formula, so  $(1 : (1+r)^n)$ , where:*

$r$  – actualization factor, and  
 $n$  – number of periods.

**Table 5. Cost budget with discount factor application**

Cr. nr.	The months of the management period	Static budget, lei	Performance factors	Improved budget	Deviations from	
					Improved budget	Improved budget
A	1	2	3	4	5	6
1.	January	2 450 000	(0,997) <sup>0</sup>	2 450 000	0	0
2.	February	2 450 000	(0,997) <sup>1</sup>	2 442 650	7 350	7 350
3.	March	2 450 000	(0,997) <sup>2</sup>	2 435 322	7 327,9	14 678
4.	April	2 450 000	(0,997) <sup>3</sup>	2 428 016	7 306	21 984
5.	May	2 450 000	(0,997) <sup>4</sup>	2 420 731,9	7 284,1	29 268,1
6.	June	2 450 000	(0,997) <sup>5</sup>	2 413 469,7	7 262,2	36 530,3
7.	July	2 450 000	(0,997) <sup>6</sup>	2 406 229,2	7 240,5	43 770,8
8.	August	2 450 000	(0,997) <sup>7</sup>	2 399 010,5	7 218,7	50 989,5
9.	September	2 450 000	(0,997) <sup>8</sup>	2 391 813,4	7 197,1	58 186,6
10.	October	2 450 000	(0,997) <sup>9</sup>	2 384 637,9	7 175,5	65 362,1
11.	November	2 450 000	(0,997) <sup>10</sup>	2 377 483,9	7 154,0	72 516,1
12.	December	2 450 000	(0,997) <sup>11</sup>	2 370 351,4	7 132,5	79 648,6

Source: elaborated by the authors

From the presented calculations, we observe that the monthly cumulative result is the same as in the previous example, but this calculation method is more representative given that the value of the initial costs is retained (column 2), so for the users it is more relevant to quantify the effect when the starting point is visible, the monthly performance (column 5), but also the cumulative performance (column 6). Applying the discount factor is a relatively modern method and has a wide applicability when making analyzes, budgets for longer periods.

## 5. Kaizen method applied to world-renowned entities

The bibliographic and online sources allowed us to select some results-curiosities from the activity of renowned entities, which use the Kaizen method.

*Example at Citizen Watch.* Citizen Watch is one of the largest watch manufacturers in the world. The assembly lines in the company's plants have a high degree of automation. Component costs represent between 50% and 60% of the unit cost of each watch. A defining element of the cost management system of Citizen is the Kaizen budgeting. The company sets all the elements of its supply chain,

including component suppliers, the objective of seeking opportunities to reduce costs. For example, at the Citizen plant in Tokyo, budgets provide for constant cost reductions with materials purchased by 3% per year. The company's engineers cooperate with suppliers to help them reduce their costs by 3%. Suppliers who are able to achieve cost reductions of over 3% benefit from higher profits.

*Example at Stabilus Romania.* Stabilus is one of the world's leading manufacturers of gas springs and hydraulic shock absorbers for ergonomic seats used in the automotive industry. Stabilus is also present in Romania, where it owns a factory in Sânpetru, Braşov county inaugurated following an investment of 10 million euros. The factory has an area of 10,000 square meters and a total production capacity of 6.5 million gas springs. As a result of Kaizen implementation, Stabilus obtained the following performance indicators: *increased productivity by 30%; reduced process errors by 70%; reduced number of complaints from customers by 50%; reduced maintenance costs by 24%; reduced energy consumption by 12%; increased number of proposals for improvement by 30%; increased time of technical availability of the machines on average by 2.5%.* By achieving such results, they were able to demonstrate market competitiveness and as a result get two new projects, which will still create about 300 jobs in STRO (Popescu, 2010).

## 6. Conclusion

The research of the theoretical and applicative concepts regarding the budgeting, as well as of the continuous improvement methods allow the following conclusions to be drawn:

- It has been found that, at present, the financial performance of an entity indicates its "health status", and in this context, we notify the importance of the principle of continuous improvement of processes.

- The presence of various performance management modes requires a certain algorithm to solve the problems related to budgets. One of these is Kaizen budgeting, a method that has begun to be used by businessmen, with the purpose of dividing a complex process into smaller processes, in order to eliminate losses by considerably improving the process, using systematic observation and statistical data, constantly changing. the tools, but also the techniques used. The budgeting activity is done for the purpose of research, what has been achieved and where the entity can be directed, meeting the objectives set out in the strategy.

- The significance of the entity's efficient organization model was highlighted - the "5S" method, which allows the organization, cleaning, maintenance, safety and productivity of the workplace, both in production spaces and in offices. In this context, the advantage of the "5S" implementation is the obvious improvement of the employees' morale, the formation of the self-discipline reflex, as well as the observance of the standards, the highlighting of the irregularities, the improvement of the labor efficiency and the reduction of some costs.

- The correctness and the relevance of the managerial decisions regarding the budgeting are conditioned by certain factor of improvement, which allow to reduce the number of hours allocated for the manufacture of products with a higher degree of difficulty, by the integrity of the information regarding the size of the costs. In this context, the impact of the discount factor on longer-term budgets has been deepened. The relevance of the calculation method consists in keeping the value of the initial costs, so as to quantify the effect of the change from the starting point, and respectively, the monthly performance.

The synthesis of the researches carried out allows the formulation of some recommendations regarding the continuous improvement of the budgets, in the current context. In order to appreciate the extent to which the objectives are achieved and the strategies are effective, any managerial decision must be based on a good knowledge of the situation, which is not possible in the absence of efficient budgetary management. Definitely the implementation of the Kaizen method is a long and continuous process, which will have a positive result on the activity and the planned results. This is a method of budget preparation, which was trying to prevent problems from year to year, as this will be done through a periodic (annual) review of expenditure. At the same time, when asked why we need the Kaizen Method, because:

- provides a clear picture for cost sharing and loss elimination;
- determines economies to be sustainable in the long run;
- it creates the corporate culture and motivates the communication by which the reduction of costs is a common thing;
- identifies the functions by which the remaining cash can be reinvested in economic growth and innovation;
- increases responsibility for decision making;
- find ways of efficient spending;
- identifies and eliminates unjustified expenses;
- involves improving the production process by: optimizing the launch system in manufacturing; setting the machines; increasing the performance of cars;

training and motivating staff; encouraging the staff in charge of identifying the possibilities of cost reduction.

We consider this method to be effective also because employees are allowed to argue the working methods within the limits of their professional competences. This will lead to increased responsibilities for the actions taken and we believe with certainty that, namely, the given budgeting method generates the increased responsibility of the staff for increasing the efficiency of the use of budgeted resources. In this context, management of local entities must regain the power of the practical spirit and begin to apply Kaizen principles. These practices, at low costs, will provide management with the opportunity for faster development through innovation - an aspect that those who use - excel. That's why Kaizen activities in Japan have always focused on action.

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# European Union - Eap - Moldova. Reflections on the Perspectives of the Emergence of Transnational Justice on Anti-Corruption and Anti- Fraud Dimension

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## Abstract

*This research analyzes comprehensively the perspectives of the emergence of European transnational justice on the anti-corruption and anti-fraud dimension. Following the analysis of jurisprudence, the normative framework, trends and historical evolution, both in the member states of the European Union, in their relation with the institutions of the Union, as well as the relation of the Union with the third states, it is considered that the involvement, or the interest of supranational institutions, as well as of the Union as a whole, for the defense of its financial interests is inevitable. The involvement through the financing of the various projects, the allocation of different funds or, as a generic category, their management, will be closely monitored. When elaborating on the findings and conclusions, the emphasis was placed on analysis and synthesis, forecasting method, and in some aspects, it was attempted to extrapolate, or to extend in the future, the dynamics and expected results, with emphasis on investigations in third countries, within the meaning of the conventional framework. The theoretical and scientific support of the paper is extensive, applying the logical, historical, comparative and systemic methods of research.*

*Keywords: Justice, criminal proceedings, investigations, prosecution, safeguards, EPPO*

*JEL Code: K14, K19, K39, K49*

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## 1. Introduction

Following the analysis of the jurisprudence, normative framework, trends and historical evolution in the member states of the European Union, in their relationship with the institutions of the Union, as well as the relation of the Union with the third countries, the involvement of the supranational institutions, as well as of the Union as a whole, for the defense of their financial interests, is inevitable. These judgments refer with regards to the financing of various projects, allocation of funds or, as a generic category, *their management*, which will be closely monitored.

It is necessary to point out that, although appreciated as effective, the activity of the European Anti-Fraud Office (*hereinafter OLAF*), together with other instruments in the area of Justice and Home Affairs at Union level, is facing some difficulties, which has generated to some extent, though not primarily, the establishment of an enhanced cooperation, or as broadly known, of a European Public Prosecutor's Office (*hereinafter EPPO*). Reasonings in this regard can be concluded from the arguments invoked by stakeholders during the negotiations at different stages on the necessity of establishment of this form of cooperation.

This paper addresses general principles regarding the evolution of normative framework and the EPPO activity, perspectives of cooperation with mainstream institutions such as OLAF, Eurojust and Europol, in terms of legality, subsidiarity and complementarity; safeguards within the European Charter (*hereinafter Charter*) and findings of the Court of Justice of the European Union (*hereinafter the CJEU*); the implications of this activity in the member states, non-member states and, in particular, third countries, implicitly its relationship with national law enforcement authorities.

The research is not focused on the description of the processes and negotiations regarding the establishment of an EPPO, or on the dynamics of the processes in the regulatory field, about investigations, or judicial cooperation between the bodies of the Union and the authorities of the member states, non-members or those of third countries, but it aims at essential aspects regarding the category that can be generically referred to as *transnational justice* and *its emergence*, to generate a shift of the paradigm.

The paper targets key issues, especially the activity in third countries (*within the meaning of the conventional framework, a.n.*), such as the Eastern Partnership (*hereinafter EaP*), the Republic of Moldova, of the EPPO and OLAF, because from our point view, these are the bodies with the main vocation in the field of combating

fraud and corruption, and related issues, which involve the budget of the European Union, but implicitly also the national budgets of the states. Also, we will try to answer the question whether the investigations of the European bodies will be conducted in third countries and the forms of interaction for the achievement of such goals.

The outlined issues are important, as the society expects, that in certain cases related to public interest, which affects the financial interests of the Union and the public property of the states inextricably linked to external financial processes and flows, whether it is a member of the Union or a third state, to be addressed appropriately.

It should also be mentioned that sometimes, at the general level of perception, society becomes aware of various events, including through mass sources of information but, that the investigation is not an abstract process or a theoretical exercise, it is not a random one, but strictly regulated, and it is required in all cases to respect the safeguards, which imply stages and requirements of form and content, as well as procedural exigency (*e.g., the legality of initiating the proceedings, the means and content of the notification about the commission of an alleged illegal act or misconduct; the existence or absence of immunities; the competence to investigate; evidence rules; authorization of actions or special measures of investigations; arrest, seizure and confiscation; forms of cooperation, including cross-border cooperation*), as well as other intrinsic aspects to these processes. We will also note preliminarily that, the transnational justice is emerging for several areas, especially those targeting the financial interests and management of funds in a narrow sense (*without taking into account, for e.g. the phenomenon of terrorism that is a specific topic and has a somehow distinct regulatory and institutional background*), but not only, and during the process a number of uncertainties and collisions may occur (*e.g. in matters of jurisdiction, declination/negative conflict of competence, either positive conflict competence/vocation to investigate a case*), and not only, given the differences of jurisdictions and procedures, belonging to and/or use of mechanisms on the one hand, and those still inaccessible or requiring approximation in some countries on the other hand (*e.g., European arrest warrant; European investigation order; safeguards, directives, etc.*).

We anticipate that the operationalization of the EPPO will lead to a major shift of paradigm, and not only for the member states of the Union, non-member states of the initiative, but also third countries but, these particularities must be analyzed, because there are conventional limits and more than that, it is entrusted

with a specific mandate, regulated in particular by a Regulation, in connection with a Directive (*with certain explanations with regard to the reference provisions, a.n.*).

Moreover, once established, it would be necessary to prepare (*if so far there is not yet, or at least negotiate the final form and approve rules of procedure and conventions with third countries*) and other documents, which could be a process of an indefinite length, with uncertain results. This does not exclude the fact that, in prospects, the competence cannot be extended or limited, either to be invested with attributions and additional conventional instruments.

These generalities and eventual affirmation of the safeguards already consolidated within the Union through the CJEU could explain to the society certain processes. At the same time, we anticipate an increase of the importance, amount, and quality of the national jurisprudence of the states, with effects on the whole European legal construction.

The paper contains some conclusions, summarizing the key issues, some forecasts regarding the criminal investigations carried out by the EPPO where the Union has financial interests, either implicitly in a form or another, the Union contributes to the development of these societies.

Of a certain importance will be the delimitation of the consolidated capacities of EPPO and other European bodies, of their incapacities in relation with national authorities because these are conventional instruments, and the limits of action in these cases can be narrowed or restricted by a sovereign, national discretion, and in special cases, by express or *tacit* resistance.

This study aims to develop complex research that could serve as the basis for policy documents on anti-corruption and anti-fraud dimension, with emphasis on the *financial interests* of the European Union, and eventually, the harmonization of the national legal system. The study also aims to clarify the subject to those interested in these important processes that we are witnessing in real-time.

### **3. Materials and methods**

While elaborating on the topic, the national normative framework, community acquis (*Directives and Regulations*), and conventional material were consulted, with appropriate references and the explanations. At the same time, the available specialized articles with emphasis on the establishment of the EPPO were studied, highlighting the contribution of authors such as *Cucchiara M., Hodges, L., Asselineau V., Sarlet M.*

The analysis observed, through systemic and logical methods of research, key issues such as: the structure and dynamics of the processes of investigation and prosecution, especially those that concern the budget of the Union, the public property of member states and/or third countries; EPPO and its close cooperation with OLAF, Eurojust, Europol and national authorities; safeguards during proceedings. The research analyzes the period starting with 90’.

The theoretical and scientific support is comprehensive, applying: the logical; systemic; historical; comparative; forecasting methods of research, and where possible to extrapolate the dynamics and results.

#### 4. Current issues

The allocation of various funds and financial support, as well as through different other means and instruments by the European Union is one of the most eloquent instruments of supporting the democracies and economies of third countries, including the states of the EU partnerships, implicitly the EaP and the Republic of Moldova.

Currently, the Union is expanding the issue for which it provides support, examining new dimensions in this regard, as these are usually mutually conditioned. Considering that the main conditions that candidate states have to meet are mainly the Copenhagen criteria, they still fulfill the incidence function, or, as it has been observed, the indicated criteria must be taken into account when evaluating, for example, the risk that a generalized deficiency to the rule of law represents for the principles of adequate *financial management* (EC, 2018). Thus, the generalized deficiencies regarding the rule of law and to the stability of democratic institutions can have a decisive impact on the proper financial and economic management, and when assessing the situation, the criteria will be incidental to the test of *adequate management*, but not only.

In order to solve various security challenges, such as cross-border and transnational crime, terrorism, migration, energy security, substantial financial means are allocated by the Union in order to improve the security environment. These funds are protected by the competent national authorities but also by supranational entities already established, or in process of establishment, whose primary task is the protection of the financial commitment of the European community, implicitly evaluate areas affected by the *fraudulent management* of these funds.

In order to comply with these requirements, the Union's agreement with the Republic of Moldova, for example, contains provisions in the chapter regarding financial control, as well as other corresponding obligations.

Some experts noted that although the Union has in place a variety of tools and mechanisms to ensure the full and correct application of the principles and values set out in the Treaty on European Union, there is currently no immediate and effective response of the EU institutions, especially when it comes to ensure proper financial management (EC, 2018). However although, there is a special anti-fraud office, which is in charge of investigating cases where there are suspicions about the misuse of funds allocated from the EU budget or the evasion of taxes and fees to the EU budget and which can analyze cases of alleged serious misconduct by officials, irregularities in the conduct of tenders, conflicts of interest, counterfeiting of money, infringement of intellectual property rights and corruption - both at European and international level (Antifraud, 2018).

The investigations initiated by OLAF are of administrative nature, including when there is an extension of disciplinary actions in administrative proceedings, and that does not fully clarify the whole spectrum of issues concerning the implications of these investigations on the *suspect's* rights, *subsequent criminal investigations* and evidence gathering, financial investigations, seizures and confiscations, other legal issues inherent to these processes, especially when referring to the case-law of the CJEU. Such examples could refer to cases of challenging the admissibility of evidence and the lawfulness of other relevant procedural components; denial of recognition of EU acts for purposes of ongoing criminal proceedings (Schonard, 2012, p. 63); relying on evidence newly or separately gathered after "inspiration" by EU information; uncertainties about the admissibility of the OLAF Final Report; repeating investigative acts already performed by OLAF; forwarding of information by OLAF to national authorities, or the requests by Eurojust to conduct such investigations or similar requests by Europol (Schonard, 2012, p.65); cases that implies a duplication of efforts (EP DGIPU, 2017, p.7) and that is detrimental to both the procedural economy and the rights of the person under investigation.

In order to fully figure out the proportions of the issue in question, it is estimated that the EU budget is damaged with about 6 billion euros by fraud. The special report of the European Court of Auditors of 2019 displays that, OLAF investigations generated (*subsequent, a.n.*) criminal prosecution in less than half of cases, and resulted in the recovery of less than one third of the funds (ECA, 2019), which might seem incredible from the point of view of efficiency but also of the

operational potential, thus suggesting the need for alternative methods of conventional intervention. It isn't a coincidence that these methods are alternative and not subsidiary or complementary because, from our perspective, this emphasizes the explicit nature of the conventional intervention, though both visions are taken into account.

In the same line of ideas, the extent of tax evasion and tax avoidance phenomena, according to the European Commission, estimates in amounts up to 1 billion euros per year (EC, 2018). The negative impact of such practices on the budgets of the member states and the Union, and on the citizens is obvious, and that it could affect confidence in democracy. If EPPO is not yet operational, we could imagine its capabilities and prospects by comparing the generic data delivered by OLAF, which, between 2010 and 2017, reported more than 1,800 investigations carried out, with the recommendations to recover over 6.6 billion euros to the EU budget, as well as issuing of more than 2,300 recommendations to the competent authorities of the member states and the EU, to take legal, financial, disciplinary and administrative measures.

If so far OLAF is not entirely an almighty body, with coercive instruments and powers typical to national authorities, as well as the difficulties during the investigation process, can it be said that the EPPO will rise to the level of expectations?

The awaited answer is that the considerable efforts of the institutions, in particular the EPPO and OLAF, will be adjusted in combating fraud and corruption in member states of the Union and inevitably in third countries, especially in the countries where there are invested substantial financial resources, allocated funds, development grants, carried out infrastructure projects and other cooperation tools.

We mention that these investigations, but also those that are going to be initiated by EPPO, are not always perceived adequately by the society, the capacities of the institutions are not fully inferred, the same refers to the legal investigation proceedings, their efficiency, and purposes, and that when issues related to funds are analyzed, an extremely important aspect refers to the problematic of delimiting external and internal funds, when they are the subject of *fraudulent management* or misappropriation, especially when it comes to proper investigation of that kind of allegations, prosecuting the perpetrator and recovering the damages. From these reasonings, it can't be said that any cooperation that has a financial component can be the subject of an investigation in the matter set out.

#### 4.1. Developments

Searching for means to strengthen the capacity and cooperation in security areas, including the financial issues, a research done at the end of the 90's, namely *the Corpus Juris* (ELA, 2000), proposed that a European Public Prosecutor be created with an inquisitorial system of prosecution, and that it would delegate prosecution to representatives in member states. It observed also that complication to investigations were that crimes were not necessarily committed in EU member states and that the fraudsters could be based outside the EU, but be stealing EU funds. (SEE, 2011, p.2). However, this research was never meant to propose or to create a single criminal code or criminal procedure along EU, but to rather bring legal principles that would be valid across all member states when dealing with a financial crime that related to the EU (SEE, 2011, p.1). This was one of the cornerstones of today's reality. Although by now, these ideas are distorted by some currents, whether derived or assimilated, spreading the idea of a *Pan-European federal criminal justice system*, some of the proposed ideas were adopted and implemented in the later years, especially the findings regarding the budget and financial issues are actually more than ever.

The system of the bodies which are concerned to some extent with investigations, including criminal ones, at Union level is mainly composed of Eurojust, Europol, and OLAF (*considering the specific nature of the activities carried out for the purposes of the topic*), and the newly established the EPPO that is to become operational (*estimated November 2020, which does not fully reflect the exact meaning of operationalization, a.n.*).

From the economy of the provisions of the EU Regulation 2017/1939 (CEU, 2017) adopted under the Treaty on the functioning of the European Union (TFEU) art. 86, *financial interests* of the Union are all the revenues, expenses and assets covered, acquired through or due to the budget of the Union and the budgets of the institutions, bodies, offices, and agencies established under the Treaties, as well as the budgets managed and monitored by them (CEU, 2017) . This Regulation represents a major innovation in the European Area of Freedom, Security and Justice (Speiza, 2018, p.135) to strengthen the efforts at the European supranational level by implementing a genuine form of enhanced cooperation.

The Regulation states that EPPO shall be responsible for investigating, prosecuting and bringing to judgment, the perpetrators of, and accomplices in, offenses against the Union's financial interests and that it shall exercise the functions of prosecutor in the *competent courts of the member states*.

It is undeniable that most of the provisions of the Regulation are of specific importance, as regards the transfer of operational data between member states and/or third countries, the protection of such data, generalities regarding the hierarchy of subjects during the investigations, the roles and competencies of the subjects, other aspects relevant to cooperation, however, it is necessary to delimit some distinct generic hypotheses that should be addressed when question of cooperation is put in place: EPPO investigations and cooperation in the member states of the initiative; EPPO and EU states non-members of the initiative; EPPO and partner third countries (such as the Republic of Moldova); EPPO and other third countries. If the first hypothesis does not generate major deficiencies, the second only a few, then the last two hypotheses could generate serious legal and practical concerns.

*The first aspect* involves the compatibility of the legislation of third countries with the *Community acquis*. Although the harmonization of the national laws of the member states of the Union and of the partner third countries (*with "European aspirations"; which have been engaged in a form of intense cooperation, a.n.*) is achieved through the conventional Union instrumentation, for the initiation and conduct of investigations and/or tangential in third countries, this is not an absolute premise. We also note that, through the Regulation, it is a must that the EPPO should have its competence defined *by reference* to the *criminal law* of the *member states* that criminalizes acts or omissions affecting the Union's financial interests, in particular, Directive 2017/1371.

*Subsequently*, the obligation to protect the funds through criminal legislative measures was established in the Association Agreement of the Republic of Moldova with the EU (*hereinafter Agreement*), and also in its implementation action plan. Also, this is due to the need to approximate the national legislation to the community *acquis* as a whole. Thus, for example, the Criminal code of the Republic of Moldova incriminates misconducts at the special provisions of art. 240 (*Use against the destination of the means of the internal loans or of the external funds*), 332<sup>1</sup> (*Fraudulent obtaining of the means of external funds*), 332<sup>2</sup> (*misappropriation of the means of external funds*) of the Criminal Code, in conjunction with the provisions of art. 126<sup>1</sup> Criminal code, which explains the means of external funds, all of the above being complementary to the general and special regulations settled by the criminal law, including criminalized illegal conduct with a similar object. These amendments were made by Law no. 105/2017 (CrimLaw, 2017). In addition to the arguments presented and other implicit ones that served the basis for adjustments, arguments can be found in the Government Decision no. 302/2016 on

approving and proposing the adoption of the draft law mentioning that, - *at the present stage, the Republic of Moldova is beneficiary of over 2.87 billion euros in the form of grants and preferential loans that are implemented in the framework of 838 projects at the national level.* Although the Agreement does not contain any details on the EPPO and couldn't at that time, we consider that cooperation with EPPO should and will be a priority for the national authorities for obvious reasons.

Thus, as mentioned earlier, article 16 of the Agreement, establishes that the parties shall cooperate on preventing and combating all forms of criminal and illegal activities, organized or otherwise, including those of transnational characters, such as smuggling and trafficking in human beings; smuggling and trafficking goods, including small arms and illicit drug trafficking; illegal economic and financial activities such as counterfeiting, fiscal fraud and public procurement fraud; as well as fraud, as referred to in Title VI (*Financial assistance, and anti-fraud and control provisions*) of the Agreement, in projects funded by international donors; active and passive corruption, both private and public sector, including as regards to the abuse of functions and influence; forging documents and submitting false statements; and other offences.

The Agreement also states that the parties shall enhance bilateral, regional and international cooperation among law enforcement bodies including strengthening cooperation between Europol and the relevant national authorities, being committed to implement effectively the relevant international standards, and in particular those enshrined in the UN Convention against Transnational Organised Crime of 2000 and its three Protocols, the UN Convention against Corruption of 2003 and Council of Europe relevant instruments on preventing and combating corruption.

Title III of the Agreement (*Justice, Freedom, and Security*), article 20 paragraph 2, states that regarding to judicial cooperation in criminal matters, the parties will seek to enhance cooperation on mutual legal assistance, that would include, where appropriate, accession to, and implementation of, the relevant international instruments of the UN and the CoE and closer cooperation with Eurojust.

As to the *financial assistance, and anti-fraud and control provisions*, especially article 421, establishes that the provisions shall be applicable to any further agreement or financing instrument to be concluded, and any other financing instrument to which Moldova may be associated, and that the parties shall take effective measures to prevent and fight fraud, corruption, and any other illegal activities, *inter alia* by means of mutual *administrative assistance* and *mutual legal*

*assistance (a.n.)*. For these purposes, the competent authorities of Moldova and EU authorities shall regularly exchange information and, at the request, shall conduct consultations. OLAF may agree with its counterparts on further cooperation in the field of anti-fraud, including operational arrangements. The national authorities shall check regularly that the operations financed with EU funds have been properly implemented and take *inter alia* any appropriate measure to prevent and remedy irregularities and fraud, prevent and remedy any active or passive corruption practices and exclude conflict at any stage of the procedures related to the implementation of the funds.

Moreover, article 425 (*Investigation and prosecution*), puts the burden on the authorities of the Republic of Moldova to ensure investigation and prosecution of suspected and actual cases of fraud, corruption or any other irregularity including conflict of interest, following national or EU controls and where appropriate, OLAF may assist in this task. The authorities of the Republic of Moldova shall transmit to the Commission without delay *any information* on suspected or actual cases of fraud, corruption or any other irregularity, including conflict of interest, in connection with the implementation of EU funds. In case of suspicion of *fraud* and *corruption*, OLAF shall also *be informed*, and it shall be authorized to carry out on-the-spot checks and inspections in order to protect the EU's financial interests against fraud and other irregularities. The authorities of the Republic of Moldova shall take any appropriate measure to recover EU funds unduly paid and carry out an approximation of its legislation to the EU acts and international instruments referred (*e.g., Annex XXXV*).

Concerning the competence of examination and judgment, there might be a competition for the investigation (*criminal prosecution*) between the EPPO (*being seconded by OLAF*) on the one hand (*and implicitly between them, the balance is shifted towards the EPPO, a.n.*), and the national authorities on the other hand (*conflict of competence, a.n.*), though some might say that there are subsidiarity and complementarity relationships. However, there are some remedies to these situations in the case of the member states, although not exhaustive. As mentioned in the Regulation, to this point, it provides for a system of shared competence between the EPPO and national authorities of the member states, based *on the right of evocation* of the EPPO, but not in the EPPO relationship with third countries. This aspect concludes the limits of the evocation to a narrow circle of subject such as the states that are members of the initiative, as opposed to the non-member states of the initiative members of the Union, and especially the case of third countries.

It should be mentioned that the Regulation generally explains who investigates, who supervises and who decides upon a case, with the supremacy of the Regulation, but with the subsidiarity of the national law. It is important to mention that the last word to say on the attribution of competence is given in all cases to the competent national authorities, which means *any judicial authorities, which have the competence to decide on the attribution of competence in accordance with the national law*. Therefore, the findings regarding the right of evocation are valid to some degree, whilst not being fully applicable or explained in the case of third countries.

In July 2017, the Directive 2017/1371 *on the fight against fraud to the Union's financial interests by means of criminal law* (EP/CEU, 2017) (*hereinafter PFI Directive*) was adopted, preceding the adoption of the Regulation and the establishment of the EPPO. The PFI Directive and the EPPO Regulation explains the range of material competence, establish *inter alia* offenses affecting the financial interests of the Union, with explanations and signs of *these elements*.

The PFI Directive protects the 'Union's financial interests', meaning all revenues, expenditure, and assets covered by, acquired through, or due to the Union budget; the budgets of the Union institutions, bodies, offices, and agencies established pursuant to the Treaties or budgets directly or indirectly managed and monitored by them. Article 4 explains that by other criminal offenses affecting the Union's financial interests the Directive understands money laundering as described in article 1 of Directive 2015/849; passive and active corruption; misappropriation. All acts committed must embrace the intentional form of guilt, and that the intentional nature may be inferred from objective, factual circumstances. Offenses which do not require intention are not covered by the Directive.

As regards, for instance, the *corruption* offense, the PFI Directive considers that giving of bribes in order to influence a public official's judgment or discretion and taking of such bribes should be included in the definition of corruption, irrespective of the law or regulations applicable in the particular official's country concerned. For these purposes, a 'public official' shall be understood by reference to the definition of 'official' or 'public official' in the national law of the member state or *third country* in which the person in question carries out his or her functions. Regarding the immunities, the Directive states precisely that the provisions on the lifting of the immunities contained in the relevant EU regulations, or similar provisions incorporated in national law should apply.

On the other hand, the Regulation applies also to 'inextricably linked offenses' considered in light of the relevant case-law which for the application of

the *ne bis in idem* principle, retains the identity of the material facts (*or facts which are substantially the same*) as the relevant criterion, understood in the sense of the existence of a set of concrete circumstances which are inextricably linked together in time and space. The Directive does not affect the proper and effective application of disciplinary measures or penalties other than of a criminal nature. For other sanctions, the principle of prohibition of being *tried* or *punished twice* in criminal proceedings for the same criminal offense (*ne bis in idem*) should be fully respected.

We note that, the PFI Directive replaces the Convention on the protection of the ECs' financial interests as of July 1995, with effect from 6 July 2019 and that by this date, member states should have adopted and published laws, regulations and administrative provisions necessary to comply. For partner third countries, this situation is also important from the perspective of succession of acts and the legal action of the replaced Directive (*having clear references to this end in the Agreement*). At last, according to article 120 of the Regulation, the EPPO shall exercise its competence with respect to any offense within its competence committed *after the date* of the entry into force of the Regulation.

#### **4.2. EPPO, the triumvirate of established EU bodies and third states**

The EPPO structure involves key subjects such as the Chief Prosecutor, the College, Permanent Chambers, the European Prosecutors (*hereinafter EP*) and the European Delegated Prosecutors (*hereinafter EDP*), although not all of the subjects are strictly procedural, having roles and duties determined relatively for the cases that may arise during an investigation. We will point out that, as regards the authorization of activities that require such a procedure (*e.g. controlled delivery and technical supervision, wiretapping, monitoring and control of financial and banking transactions*), the list of activities and challenging those, legal limitations, will be performed, with certain exceptions, according to the national law in the competent court of the member state (*e.g., CJEU explain the legal issues, but not on the validity of procedures or procedural documents, a.n.*), and an important part of the activities will be carried out by to the national authorities at the request of the EDPs. For some situations, the EP or the Permanent Chamber will act as a hierarchical control body.

The Regulation states that the EPPO and OLAF should establish and maintain close cooperation aimed at ensuring the complementarity of their respective mandates and avoid duplication. In that regard, OLAF should in principle *not open any administrative investigations* parallel to an investigation conducted by the

EPPO into the same facts. The provisions related to the relationship of the OLAF and EPPO are not very clear except the fact that they should cooperate. To this point, an evaluation of OLAF Regulation 883/2013 is currently ongoing and may lead to legislative changes so as to reflect the future relationship between OLAF and the EPPO (Juszczak and Sason, 2017, p.86). In cases where the EPPO is not conducting an investigation, it should be able to provide relevant information to allow OLAF to consider appropriate action in accordance with its mandate. In particular, it could consider informing OLAF of cases where there are no reasonable grounds to believe that an offense within the competence of the EPPO is being or has been committed, but an administrative investigation may be appropriate, or where the EPPO dismisses a case and a referral to OLAF is desirable for administrative follow-up or recovery. When the EPPO provides information, it may request that OLAF considers whether to open an administrative investigation or take other administrative follow-up or monitoring activities, in particular for the purposes of precautionary measures, recovery or disciplinary action. In the course of EPPO investigation, it may request OLAF to support or complement its activity, in particular by providing information, analyses (including forensic analyses); expertise and operational support; facilitating coordination of specific actions of the competent national administrative authorities and bodies of the Union; conducting administrative investigations. Both entities shall have indirect access to information in case management systems on the basis of a hit/no-hit system.

Once an EPPO is established, there is a need to identify mechanisms to protect its financial interests in the non-participating member states and to deal with cross-border cases involving participating and non-participating member states in the EPPO (Cucchiara and Roccatagliata, p.10). For such a case, the College should suggest the need for opening of negotiations on an international agreement. Where the notification of the EPPO for the purposes of multilateral agreements already concluded by the member states with third countries is not possible or is not accepted by the third countries, EDPs may use their status as national prosecutor toward such third countries, as a fallback option (Csonka, Juszczak and Sason, 2017, p. 132), but they should inform and where appropriate endeavor to obtain consent from the authorities of third countries that the evidence collected is used in investigations and prosecutions carried out by the EPPO. This means that an EDP could use its powers as a national prosecutor in relation to a third country that does not a cooperation agreement concluded in order to perform investigations on behalf of the EPPO. The EPPO will be also in a position to make use of the existing instruments of the Council of Europe, in particular, the Strasbourg Convention as

of 1959, once it takes up its investigatory and prosecutorial functions (ECCP, 2019, p.4-5). The EPPO should also be able to rely on reciprocity or international comity vis à-vis the authorities of third countries, carried out on a case-by-case basis.

Further, after consulting and reaching an agreement with the relevant authorities of the member states, the Chief Prosecutor shall approve *inter alia* the functional and territorial division of competences of the EDPs. This could mean also that the territorial division is not limited conventionally to the borders of the member state of the EDP, nor the competence of the Permanent Chamber will, but rather that it could cover member state areas, as well as additional areas in a *non-formal formula*, such as non-member states and third countries, which from the practical point of view could generate some additional issues, though the scenario could embrace the form of liaison contacts in a headquarters-third country relationship additionally to the first one. In this way, article 104 of the Regulation establishes that the working arrangements with the authorities of third countries may, in particular, concern the exchange of strategic information and the secondment of liaison officers to the EPPO and that they may designate contact points in third countries in order to facilitate cooperation.

As regards to the material competence of the EPPO, article 22 establishes that it shall be competent in respect of the criminal offenses affecting the financial interests of the Union that are provided for in Directive 2017/1371, as implemented by *national law*, irrespective of whether the same criminal conduct could be classified as another type of offense under *national law*. This also means that the Regulations and normative framework already adopted by July 2019, or in course of implementation are going to be the pillars for further investigations. As to offences referred in point (d) of Article 3(2) of the Directive, as implemented by national law, the EPPO shall only be competent when *the intentional acts or omissions defined* in that provision are connected with the territory of two or more member states and involve a total damage of at least 10 million euro. The EPPO shall also be competent for offences regarding participation in a criminal organisation as defined in Framework Decision 2008/841/JHA (CEU, 2008), as implemented in national law, if the focus of the criminal activity of such a criminal organization is to commit any of the offenses referred to offenses defined and any other criminal offense that is inextricably linked to such criminal conduct. In this respect, although there are some provisions regarding the personal and territorial competence of the Regulation, which we will refer to in the following and which, at first sight, would seem to narrow, the incidence to the Decision 2008/841/JHA broadens the competence of the EPPO, especially in third countries. In any case,

the EPPO shall not be competent for criminal offenses in respect of *national direct taxes* including offenses inextricably linked thereto.

In relation to the territorial and personal competence, article 23 establishes that the EPPO shall be competent for the offenses referred were committed in whole or in part within the territory of one or several member states; committed by a national of a member state, provided that a member state has jurisdiction for such offenses when committed outside its territory; or were committed outside the territories referred by a person who was subject to the Staff Regulations or to the Conditions of Employment, provided that a member state has jurisdiction for such offenses when committed outside its territory. This means that the EPPO will be competent to investigate in the above-mentioned cases and supplemented with the Decision 2008/841/JHA. We consider that, in all cases, the decision on the attribution of functional and territorial division, the further formal case attribution, and the competence of the Permanent Chamber, respectively a EP will be of the highest importance, in order to cover cases and areas, for the purposes of conducting an investigation of the offence committed outside the territory of the member states of the initiative and even outside the Union.

Where the EPPO decides to exercise its competence, the competent national authorities shall not exercise their own competence in respect of the same criminal conduct, with the appropriate exemptions. According to article 80, the EPPO may transfer operational personal data to a *third country*, subject to compliance with the other provisions of the Regulation, and where the conditions are met.

The EPPO shall establish and maintain a close relationship with Eurojust based on mutual cooperation within their respective mandates and on the development of operational, administrative and management links between them. In operational matters, the EPPO may associate Eurojust with its activities concerning cross-border cases, including sharing information on its investigations; inviting Eurojust or its competent national members to provide support in the transmission of its decisions or requests for mutual legal assistance to, and execution in, member states of the Union that are members of Eurojust but do not take part in the establishment of the EPPO, as well as third countries.

International agreements with one or more third countries concluded by the Union or to which the Union has acceded in areas that fall under the competence of the EPPO, such as international agreements concerning cooperation in criminal matters between the EPPO and those third countries, shall be binding on the EPPO. In the absence of an agreement, the member states shall, if permitted under the relevant multilateral international agreement and subject to the third country's

acceptance, recognize and, where applicable, notify the EPPO as a competent authority for the purpose of the implementation of multilateral international agreements on legal assistance in criminal matters concluded by them.

Where the EPPO cannot exercise its functions on the basis of a relevant international agreement, the EPPO may also request legal assistance in criminal matters from authorities of third countries in a particular case and within the limits of its material competence.

Subject to the other provisions of the Regulation, the EPPO may, upon request, provide the competent authorities of third countries, for the purpose of investigations or use as evidence in criminal investigations, with information or evidence which is already in the possession of the EPPO. After consulting the Permanent Chamber, the handling EDP shall decide on any such transfer of information or evidence in accordance with the national law of his/her member state and the Regulation.

Where it is necessary to request the extradition of a person, the handling EDP may request the competent authority of his/her member state to issue an extradition request in accordance with applicable treaties and/or national law.

The third basic aspect refers to procedural safeguards during EPPO investigations. The investigations and prosecutions of the EPPO should be guided by the principles of proportionality, impartiality and fairness towards the suspect or accused person, which includes the obligation to seek all types of evidence, inculpatory as well as exculpatory, either *motu proprio* or at the request of the defense.

The Regulation requires the EPPO to respect, in particular, the right to a fair trial, the rights of the defence and the presumption of innocence, as enshrined in articles 47 and 48 of the European Charter, as well as article 50 of the Charter, which protects the right not to be tried or punished twice in criminal proceedings for the same offence (*ne bis in idem*). The rights provided for in the relevant Union law, such as Directives 2010/64/EU, 2012/13/EU, 2013/48/EU, (EU) 2016/343, (EU) 2016/1919 as implemented by national law, should apply. Any suspect or accused person should benefit from those rights, as well as from the rights provided for in national law, including the rights concerning evidence. However, certain defense-related issues mentioned by the ECBA are of particular interest and were not diminished fully by this end. These refers particularly to ensuring *equality of arms* and proceedings safeguards, especially during “grey” area of “pre”-investigation; rules for prosecuting and bringing to judgment including judicial review and appropriate remedies for defence before trial; compensation mechanism for

wrongful investigation or prosecution by EPPO (Hogler, Hodges, Aselineau and Sarlet, 2013, p. 1-3).

## 5. Conclusions

The involvement of the the Union by means of supranational institutions to defend its financial interests and those of the taxpayers is of a particular importance, considering the most recent and coherent developments in the normative framework of the European Union, as well as the political struggle within the Union for the operationalization EPPO.

Considering that the investigations are not abstract and random processes, it is necessary to respect the safeguards, including stages and requirements of form and content, and that the gaps that were found in the normative framework that regulates the EPPO activity will be eliminated through the subsidiarity of the national normative framework, but also through creativity and commitment. We anticipate that whenever the case investigated will have an increased social resonance, the result will depend on the commitment and courage of the involved parties. This will lead to a significant paradigm shift, especially for the non-member states of the initiative that are members of the Union and the third countries, as long as the interaction mechanisms are not put fully in place and/or the Union is not a “whole nody” with all the attributes of power.

Although the harmonization of the national laws of the member states of the Union and of the partner third countries is achieved mainly through the conventional instruments, for the initiation and conduct of investigations, this is not an absolute premise. For instance, the obligation to protect the funds was stipulated in the Association Agreement, and although those documents do not contain any details about the EPPO and could not at that time, the interaction of the national authorities with the EPPO will be a priority, including but not limited to the mere fact that the subsequent financing, as well as the support of the entire international community, are conditioned by the implementation of reforms and the eradication of fraud and corruption. These refer to the entire dialogue of the Union with third countries, starting with the monitoring process, and up to the evaluation.

Although it is not an absolute premise, we strongly consider and recommend that once an EPPO is established, there is a imperative need to identify mechanisms to deal with cross-border cases involving participating and non-participating member states, as well as third countries, by means of negotiation of amendments

to the bilateral and multilateral agreements, as well as the creation of professional networks.

We conclude, therefore, that EPPO is a conventional instrument, which has its limitations, but also brings innovation that will change the situation in the field of justice, especially anti-fraud and anti-corruption dimension, and which has strong prospects to expand and overcome the conventional borders of the EU.

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