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*Alexandru Ioan Cuza University of Iasi*

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# Working Papers Series

Volume I, Issue 1, 2009

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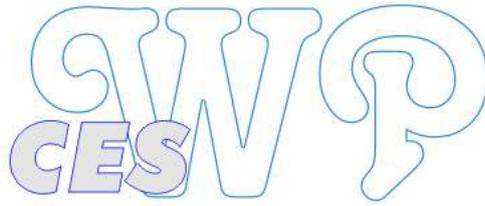
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# CIVIC PARTICIPATION-ELEMENT OF EUROPEAN DEMOCRACY

Ana-Maria Bercu

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**Abstract:** *Democracy is explained by giving the power to the government, with the consent of citizens, expressing their will, directly or indirectly through voting. Promoting and respecting individual and collective rights and freedoms is the foundation of democracy. Citizen participation is remarkable on two levels in the European government: one, as a citizen of European Union member state, in which exercises the rights and freedoms, the second as a European citizen (in agreement with the Treaty of Maastricht in 1993) which has claimed rights and freedoms recognized by law. Citizens of EU Member States elect, directly or indirectly, representatives (national) in the Community institutions to represent their interests.*

**Keywords:** democracy, individual liberties, individual rights, European governance, fundamentals rights, European Constitution, European Citizen

**JEL Classification:** A13, H11, H77

## 1. THE DEMOCRATIC PRINCIPLE OF CIVIC PARTICIPATION

„The essence of democracy is lead with and for the people”, expression utilized by Abraham Lincoln in 1863, which keep it’s actuality and today. Democracy can be explain establishing the power at state level in accordance with the citizens opinions, which is done, directly or indirectly, using the vote. Promotion and respecting the rights and individuals and collective liberties constitute fundaments of democracy. The state, through it’s institutions and structures that it created, is the only one who assure the respect of people rights, generally said, and citizens rights, specially, in case of necessity using the force of it’s power to establish the entire rules disposal. Appears in this moment, like a result of democracy the civic participation at government level, to institute and maintain the power inside of state. Civic participation represents the concrete modalities truth the needs, interests, aspirations of citizens are transposed at government level. It can be said that the „engine” which activate and sustained a social politic is civic participation.

Florence Chaltier saying something about the forming process of European Union, assert that „history of communitarian construction is one of progressive born, not without pain, but with a firm

decision, for a new political objective” and go on with some explications about the democracy of member states: „the common denominator of member states is their deep attachment about the democracy principles and state of law” (Chaltier, 2005, p. 55). Through the European institutions those principles find the measure of their applicability. The European Court of Justice recognised the necessity of European democracy meaning a surclassification of national democracy or, with other words a sum of democracy which constitutes the European Union today.

The citizens of member states participate at numerous levels in government process. It is known that communitarian law has applicability on member states, also on citizens of member states from European Union that, directly or indirectly, participate to elaborate the communitarian rules. In this direction enter the action of European Court of Justice, which, through the decision make it in cause that solves pose in evidence a principle of European law, the principle of directly effect. This principle emphasize the directly applicability of communitarian rule at national level creating right and duties for physical and juridical persons. Having those rights, the citizens and juridical persons can use this principle in front of national juridical instances.

## **2. ELEMENTS OF EUROPEAN DEMOCRACY**

The civic participation can be analysed on two levels in European government: one, like citizen of a member states of European Union, who exert rights and liberties, implicit about institute the power in state, and second, having the European citizenship (in according with provisions of Maastricht Treaty from 1993). The European citizen can exert their rights and duties recognised by European law. The citizens of member states of European Union delegate, directly or indirectly, the national representative at European institutions level to represents their interests.

At Europe level, a form of representative democracy can be remarkable at Council of Europe. The Council of Europe is the European body composed by state chiefs and govern of 46 states from Europe, a space of reflection and democratic consolidation. Today, the Council of Europe has a lots of proper bodies, like Ministries Committee, Parliamentary Body who is formed from delegates of national parliaments, also the Congress of local and regional powers of Europe. In this mode can be find the solutions for the problems which appears at different levels of member states. Through their representatives, the European citizens has the convictions that their problems have optimal solutions. An European body which point out the active implications of European citizens at governmental process is European Council. This body was created since 1974 at Paris summit at proposal of French president Valery Giscard d’Estaing and German Chancellor Helmut Schmidt. This new body created was composed from chiefs of states and govern, accompany from ministries

of external affairs, their missions being to think in common about the subjects bided of European construction. The article 4 of European Union Treaty define it's mission:” European Council give to Union the impulses need for it's development and define the general politics orientations”. More exactly, has the role to assure the coherence and continuity of communitarian actions of Union (article 3 from Maastricht Treaty). Synthetically, the missions of European Council are:

- a. Giving the impetus to general politics of European Union;
- b. Defining the general orientations;
- c. Assign the directories lines of general politics of Union;
- d. Watching at coherence of European ensemble;
- e. Express in a solemn manner the common position of member states in problems about external affaires.

The European body which represents the interests of member states, implicit of citizens of them, is the Council of European Union, named also the Council of ministries, or simple, Council (word used also in our argumentation). The Council is made from one representative from each member state of European Union, like a rule, from a ministry, thus being preview in article 203 from Treaty of European Community. Today is formed from 27 representatives of member states depending on day order. With other words, depends on problem posed in discussion. For examples, if is debate a problem about agricultural politic of European Union, than the member states has being represents from the agricultural ministries of each member state.

### **3. RIGHTS DETERMINED BY PRINCIPLE OF DEMOCRACY**

The principle of *participation* brings together three complementary elements: the right to participate, the right to contest and the right to being protected. At states level, these rights are found in fundamentals acts. At European Union level, those rules are edicted in primary legislation (European treaties), also secondary legislation (acts of communitarian institutes). The participations of European citizens at governmental level it's realized by offering the possibilities to manifest free their wishes about the concrete modalities about leading and applying the politics at European level. The right to vote and to participate at elections are recognised in equal measure to European citizens. All citizens of member states of European Union have right to vote and can be elected in European elections, even at municipalities level. The vote right is an extension of the fact that the individual leaves on certain territory, but the right to being elected at level of administrative-territorial units constitute a major innovation.

The principle to elect the European Parliament through the direct suffrage was adopted in 1976, and the Maastricht Treaty, which affirms the subsidiary principle, stipulated the fact that all the citizens of the European Union can vote at their residence place at the level of European elections. The electoral districts rest on nationals, but candidatures and votes remain multinational.

At the municipalities level we can discuss about local democracy, the right of European citizens residents of a member state of the European Union, to vote and being elected in local governmental structures (is a right affirmed also by our Constitutional Law, revised in 2003, 16th article). Is a concrete modality to express democracy, like a direct effect of civil society implications at governmental level.

Another right recognised to European citizens is to contest. Anybody, physical or juridical persons which consider that an act or fact of an European institution are harmful (carrying out or through non achievement an act or a fact give like responsibility to a European civil servant) have right to contest the act or fact in front of European Parliament or European Mediator.

The right to be protected is manifested by the right to benefit of diplomatic and consular protection of the Union in foreign countries. The democratic character of European construction was renewed in May 1999, through the Amsterdam Treaty which proclaimed the European Charter of Fundamental Rights. The article 7 stipulated the fact that, if a member state doesn't respect the principles of liberty, state of law and democracy, it can be deprived the rights that have like member states of the Union. Is a radical modality through those fundamental principles are respected. The European Charter of Fundamental Rights, proclaimed in December 2000, represents the „sum” of rights and liberties of European citizens. It's about also about the rights exert individually and those which are exert collectively. The member states doesn't according to this act a juridical fundament, in this way to assure it's respect need a jurisprudential action.

The project of European Constitution give juridical power to the Charter because includes it's provisions in its text. We can notice the importance that constitutional treaty offers to Charter giving an entire title.

The project of European Constitution presents some effects on European democracy. The provisions about European citizenship is present, also the concrete modalities for the European citizens to vote their representatives at supranational level.

The rights of citizens are stipulated in Title V from the Project of European Constitution. First article (Article II-99) is *the right to vote and to be elected in European Parliament – “any citizen of European Union has the right to vote and to be elected as part of European Parliament, in the member state that he belong, in the same conditions like the resortisants of the state.”* Is a good

example for the applicability of democratic principle of democracy which point out the importance of civic participation at European government.

The principle of subsidiary is also applicable for democratic participation, because the actions of communitarian institutions must have the impact and solve the problems of local communities.

#### **4. CONCLUSIONS**

The European Union represents an ideal of democracy and prosperity for the member states. Offering the real possibilities for the citizens to express their opinions about the power and the institution of this power at the national level is equal with the democracy. The European citizenship created by European Treaty of Maastricht gives the right to express the convictions through the European institutions. Protections of these rights are assured by the European Court of Justice and by the European Court of Human Rights.

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# CULTURAL DIVERSITY AND HUMAN RESOURCE MANAGEMENT IN MULTINATIONAL COMPANIES

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**Abstract:** *When the multinational firms employ human resources from different countries they have to submit to the restrictions concerning cultural differences. The paper is an attempt to show how the human resource management administrates these cultural differences.*

**Keywords:** diversity, cultural differences, human resources management, multinational company, multiculturalism

**JEL Classification:** F23, M12, A13, Z13

The cultural diversity for the employees represents an essential problem for the managers, because beside the unquestionable reality of this one in the majority of the multinational companies but in the national companies also, a different force of labor from the cultural point of view, brings to the organization advantages and inconvenient.

When the society employs personnel from different countries, this one must obey to the restrictions coherent to the cultural differences. To understand the impact of the multiculturalism or of the cultural variety of the human resources over the activity of the company with the international activities, we consider convenient the presentation of the principal criterions which define the cultural groups, identified by G. Hofstede (Hofstede, 1996) as a result of the investigation made on the basis of questionnaire realized in the field of workers from the company IBM from the entire world. This are;

- *Distance in front of the power*, signifying the importance given by the members of the unequal economical society and social. The distance in front of the power is little in the cultures in which is tried the reduction of inequality in strength and wealth (SUA, Austria, Denmark, Israel, Sweden) and the great society in which the individuals resigns with the managerial position held (Latin countries from Europe, the countries from South America and Africa: Italy, Spain, Mexico, Venezuela, Panama, Malaysia etc);

- *Individualism - collectivism*, which describes the relations between peoples. In this way it was recorded that the richer a country is the individuated the comportment of its inhabitants is and the reverse, the poorer it is the more developed is the communitarian spirit.

- *The masculineness – womanhood*, describing the position occupied by the respective culture and the equality between the sexes. In a masculine society the role between man and woman are clearly differentiated, while in the feminine cultures the roles interchangeable, existing much equality. The predominant masculine cultures may be found in: Japan, Greece, Italy, Switzerland, Greece, Venezuela and the feminine one are in Sweden, Denmark, Holland and Finland;

- *The control of incertitude*, namely the measure in which the individuals are threatened by the unknown. The cultures in which the control of the incertitude is bigger prevails the need of security, planning, order, as it is happening in Japan, France, Greece, Portugal, Belgium. In exchange, in Denmark, Sweden, Great Britain, SUA the control of the incertitude is reduced, which consist in assuming of risk in the developed activity.

- The Confucianism –dynamism, criteria extended by Hofstede (Lynch, 2002, p. 340-341), in connection with the horizon of long and short time. The Confucian society of long term put the accent on the long perspective and perseverance (China, Hong Kong, South Korea), while the short term society have as defining values the importance of the state, the social obligations and the faster decisions (USA, Canada, Great Britain, Nigeria).

The implications of every culture over the management of human resources are synthesized in the table 1.

**Table 1 - The implications of cultural differences over the management of human resources**

<b>Low distance from the power</b>	<b>Big distance from the power</b>
<ul style="list-style-type: none"> <li>- little number of the hierarchical level</li> <li>- reduced palette of salary</li> <li>- Highly qualified workers, with the same statute as the officials</li> </ul>	<ul style="list-style-type: none"> <li>- big number of the hierarchical level</li> <li>- large palette of salary</li> <li>- mot-qualified workers, with inferior statute as the officials</li> </ul>
<b>Individualism</b>	<b>Collectivism</b>
<ul style="list-style-type: none"> <li>- the relations between the employees are based on personal interests;</li> <li>- The employees doesn't expect the company to care of them;</li> </ul>	<ul style="list-style-type: none"> <li>- the relations between the employees are based on morality</li> <li>- The employees expect the company to care of them</li> </ul>

<ul style="list-style-type: none"> <li>- the initiatives of the personnel have precedence;</li> <li>- uni-personal decisions are predominant</li> </ul>	<ul style="list-style-type: none"> <li>- loyalty and duty have precedence;</li> <li>-are predominant the group-decisions.</li> </ul>
<b>Masculineness</b>	<b>Womanhood</b>
<ul style="list-style-type: none"> <li>- the men are looking for a career;</li> <li>- There is tensions in work;</li> <li>- uni-personal decisions are predominant;</li> <li>- personal achievement is predominant</li> </ul>	<ul style="list-style-type: none"> <li>- the men and the women are looking for a career</li> <li>- little tension in the work;</li> <li>-are predominant the group-decisions;</li> <li>-integration in the team is important.</li> </ul>
<b>High level of incertitude</b>	<b>Low control of incertitude</b>
<ul style="list-style-type: none"> <li>- preference for big companies;</li> <li>- small ambition for promotion and preference for ancient managers;</li> <li>- avoidance of concurrence between the employer;</li> <li>- resistance at the change;</li> <li>- promotion of the personnel from the interior of the company;</li> </ul>	<ul style="list-style-type: none"> <li>- preference for small companies;</li> <li>- huge ambition for promotion and the access of the young for the position of manager;</li> <li>- promotion of concurrence between the employer;</li> <li>-the employees doesn't oppose resistance to change;</li> <li>- promotion of the personnel from the interior and from outside of the company ;</li> </ul>
<b>The Confucianism</b>	<b>Dynamism</b>
<ul style="list-style-type: none"> <li>- it is important the achievement of a career based on long experience;</li> <li>- reduced mobility of the personnel between companies;</li> <li>- loyalty for the company</li> </ul>	<ul style="list-style-type: none"> <li>- it is important the material wellbeing on short time;</li> <li>- high mobility, dictated by the material gain;</li> <li>-reduced loyalty for the company</li> </ul>

Source: Partially adapted after Burdus, 1998, pp. 55-61, *Comparative management*, Economical Publishing House, Bucharest, 1998, Page 55-61.

Therefore, it is understandable that the tasks of the managers are more complex in the multinational companies which hire personnel from multidimensional geographic spaces (even from national companies with employees of different nationalities), having problems with the co-

existence of the cultures in the same company. In this sense, the principle strictness- liberty made by Peters and Waterman (Peters and Waterman, 1992, p. 318), according to which the organizations are highly controlled, but, in the same time, permit (and promote) the autonomy, the initiative and innovation of the employees, may function on the American employees, but has some difficulties in other cultures such as the japping or the Korean one, where is a high control of incertitude and an important collective spirit.

Another example, much more particular, is that of an American employee who works in a Japanese company and who expects from his subordinates to announce when a problems appear. Due to a different perception of the "problem", which belongs to a different cultural perception, the Japanese employees go to their American manager only when the situation becomes critical, the situation couldn't be resolved.

After a study made in 16 private and public organizations from the USA and from other countries, the author of the study evidenced the *advantages of diversity*, for the company (Morrison, 1992, p.11-28). And these are: the winning and the keeping of a big quote on the market; reducing of the costs; productivity and the multiplied innovation for the forces of work; the improvement of the quality of the process of management; the capacity of employees to use points of view, stiles for leading and different landing in the process of taking decisions and in cultivation of the new ideas; the development of the multicultural competences for the employees, the capacity to recognize, to light, to analyze and to work when have problems at work, problems with differences of global order, cultural and at the level of the group; the reduction of the resistance of the employees at the organizational change.

The market specificity belongs to different national cultures and their diversity represents for many companies an obstacle hardly to pass. The mentioned study concluded that an efficient modality to gain and to maintain highly quote of life in this circumstances is that of having managers belonging to different cultures. Beside the multiplication of the credibility of the company for the clients- we take into account those who identifies with the manager from the cultural point of view – this managers know better the habits, the expectance, the consumer's behavior from the same country. Thus, in the fight between two big companies in a town from the South- West of the USA, which was mainly inhabited by a Hispanic community, won the candidate who chooses a Hispanic project manager.

When in a company works personnel belonging to a minor community (culture), comparatively with the rest of the employees, usually they are marginalized which makes them to leave the company. The costs for recruiting, training, transfer and that of replacement of the employees being expensive, it was attain the conclusion that is more economical to promote the

diversity, a practice applied with success being that of offering to the “untraditional” managers stimulants for maintaining them into the company. This thing comes into the contestation of the other “untraditional” employees, who will become loyal to the company. If this thing isn’t achieved, the productivity of labor will be clearly evident. More over, being appreciated, they will give full expression to their ideas, contributing to the improvement of the company’s performance.

The mentioned study showed that a correct competence for promotion, at which may take part also the “untraditional” employees, enlarges the group of talented persons, improving the quality of the managers. The team labor with workers from different cultures helps the manager to enlarge the horizon, to become more opened.

Moreover, all this advantages, may be added the fact that the work- groups or the teams of work which relies on the contributions of some members belonging to different cultures benefits of the advantage of an excess of information regarding the labor process, the decisions being well-founded.

The experience of the multinational companies (and not only), and different empirical studies demonstrated that a force of diverse labor is more efficient when the managers are capable to create a medium in a company characterized by pluralism (in which the differences are recognized, accepted and perceived as elements which contributes significantly at his success). The landing or the strategies for the efficient administration of the diversity of the working force was classified by Jean Kim, professor at the Stanford University in 5 categories (Kim, 1991):

1. The landing of the “golden rule” has its basis on the saying “behave with the others as you like them to behave with you”, so on the morality of the peoples. What is reproached of this landing of cultural diversion in the company is that every person has its own system of reference, not taking into account the traditions and the cultural characteristics of those persons.

2. The landing of assimilation, which supposes the adaptation of every member of the company at the dominant culture of the company, the homogeneity from the cultural point of view. This presents the disadvantage that encumbers the creativity and the diversity of the points of view which the company may have.

3. The landing of correcting the errors, characterized by the fact that focuses on the mistakes from the past which have effect over a cultural group from the company. The improvement of the errors refers to those policies adopted by the company in front of different cultural groups with a detriment in the past.

4. The landing of the cultural specifics used for the employees who have a transfer abroad and which implies to learn the norms and the specifics of others culture. In this way, those will interact efficiently with the members of that culture, but it is appreciated that they aren’t capable to

appreciate correctly the culture in which they will reintegrate, they identifying better with the mother- company than with the foreign branch.

5. The multicultural landing, which offers to the employees the opportunity to appreciate the differences between the cultures and those existent between the characteristics of the peoples. The mentioned landing focuses on “the way in which the interpersonal qualifications and the changes of attitude are reported to the performances of the organization”. Its basis is on the idea that the company and its employees will need to change to adapt to diversity of manpower. It is appreciated that this approach is the most efficient because endorses the change at the level of the management, and of the employees, of the systems and of the structures from the organization.

Being given the importance of promotion the cultural diversity in the companies, the managers need preparation in the field of diversity. This means “a complex process of learning foredoom to enlarge the sensibility of the managers and to develop their competences in the landing of the problems of the leading a diverse manpower. The conceived programs generally endorse the following aspects: consciousness of the behavior; recognition of the biased and stereotypical accents; focus on the results obtained at the place of work; the avoidance of the suppositions; the change of the manuals regarding the policies and the procedures (Certo, 2002, p.716.).

The managers must adopt also an *equilibrated attitude in the synergetic administration of the cultural differences*. Many times is it necessary the conciliation of the differences, through the recognition and their adaptation by the employees at the habits of the others. On the other way, in a global business medium and more sophisticated, an attitude of exaggeration of the cultural diversity may be in the detriment of the communication and of collaboration between the employees, production for the marginalized. For that, the optimal solution is the reconciliation and the equilibration of the differences. Moreover, the advantages will be multiplied if beside the equilibration and the adaptation of different cultures is resorted to synergetic exploration of the best aspects of the respective culture. “Reconciliation of the differences leads to the discovery that diversity is pleasant and that integration of the reflection and of global action may be fruitful” (Mockler, 2001, p.318-320).

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# CULTURAL ISSUES IN WEBSITE DESIGN. A EUROPEAN PERSPECTIVE ON ELECTRONIC COMMERCE

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**Abstract:** *Commerce and electronic business have gained momentum in recent years. Attracted by the mirage of global markets, most companies enter the virtual environment without taking into account the cultural implications of such a step. The major question that arises at this stage of development of global trade on the Internet is if companies understand the importance of cultural factors in their actions on the global market and if we have tools, theories and models with which to carry out cultural analysis for understanding cultural environments online.*

**Keywords:** electronic commerce, Internet, localization, culture, marketing

**JEL Classification:** F23, A13, M31

The Internet has shrunk the world in a sense, but it has not eliminated the fundamental cultural differences. This is also true for the European economic space, characterized by a acute cultural and linguistic fragmentation. A number of studies shows that taking cultural diversity into consideration during the process of creation a website is essential. (Del Galdo and Nielsen 1996; Marcus 2000; Burgmann, Kitchen & Williams, 2006; Singh, Kumar & Baack, 2005; Cyr & Trevor-Smith, 2004; Ahmed, Mouratidis, Preston, 2009; etc.). Users from various countries not only speak different languages, but also have different cultures which make them process information, think, feel and behave differently. Thus the development of a good website which would attract users from various cultures requires a careful analysis of the implications of all major cultural elements.

Singh, Zhao and Hu (2005) have analysed the cultural content of Internet pages and have extracted a series of characteristics to which they attributed a number of cultural implications:

**Table 1 - Characteristics of the web that lend it to be a cultural document**

Characteristics	Cultural implication of the characteristic
The web is a general open network having global accessibility	The web is viewed by people across cultures thus lending itself to vast cultural

	variability
Inherent interactive nature of the web	The interactive nature of the web makes it an ideal medium to create culturally sensitive dialogue
Web is characterized by hyperlinks and self-search option	Hyper links and self-search options rely on consumer motivation to browse, therefore if web content is not customized for global customers on individual bases the interactive efforts might be wasted (Fock, 2000)
Web technologies can help capture customer data that can be used for mass customization	Using customer databases and software country specific profiles can be created and used to make the web sites culturally adapted
Media convergence and broad-band technology make web an ideal medium to interact with audio, video, graphic and text	Media convergence on the web can be used to develop country-specific themes, pictures, videos, and sounds to create localized web sites
On the web the capacity to hold the visitors attention “the flow state” is an important challenge	The web sites that are culturally congruent or closely match the social perceptions of users are more likely to engage the users (Simon, 2001)

Source: Singh, Zhao and Hu, 2003

The concepts of internationalisation and localisation are currently used frequently in developing interface based on cultural criteria.

Internationalisation refers to the process of elimination of specifically cultural elements . As a result the interface can be easily adapted for use in various countries, cultures and languages (Fernandes, 1995; Del Galdo, 1996). This perspective offers a number of advantages in developing websites. These advantages may include the reduction of time and costs, usage of less resources, a cheaper maintenance of source codes and a more efficient architecture for these.

Unlike internationalisation, localisation refers to the process of using subtle cultural elements in building web pages (Fernandes, 1995; Del Galdo, 1996).

A localization of a web site means to consider factors such as language, graphic design, layout and spatial orientation, colour preferences, icons, symbols, and also culture, customs, currency, number format, measurements, date/time, etc. (Singh and Boughton, 2002; Brandel, 2007; Cyr and Trevor-Smith, 2004; Singh, Alhorr and Bartikowski, 2010).

The goal of localizing user interfaces is to provide a “technologically, linguistically and culturally neutral platform from which to launch global e-commerce initiatives while allowing a framework that incorporates local content and functionality” (Shannon, 2000).

In a website, visual design aids the viewer in establishing a system to structure information. This structure is created by use of icons, symbols, or other navigational tools (Pullman, 1998). Winn and Beck (2000) describe the persuasive power of design elements on an e-commerce web site, and offer a set of guidelines to Web designers based on elements such as navigation or optimal presentation of information as they appeal to user’s logic, emotions and credibility.

The Internet also creates a new vocabulary. Yeo (1996) proposes the terminology of “interface cultural design”, with the same significance as localisation. Barber and Badre (1998) propose the terminology of “culturability” which underlines the importance of the connection between the concept of “usability” (efficiency in usage) and localisation.

The term “culturability”, which comes from the combination of the words "cultural" and "usability", has been introduced in specialist literature by Barber and Badre (1998) and is used to emphasize the importance of the relationship between culture and usability.

Generally, the graphic components are closely linked with how successful web transactions are, yet one must take into account that web page designers have different cultural backgrounds. Thus due to the inherent global nature of the Internet, organisations must evaluate the impact of images, text, colours, gestures, symbols etc, used within web pages.

Del Galdo and Nielson (1996) have demonstrated in their paper that Internet page design and the colours used have diverse psychological and social implications in various cultures. What is more important is that different users have different concepts on using web interfaces and this because – for instance – the direction of writing in Arabic presupposes that a webpage design should start in the right-hand side upper corner continuing towards the left-hand side upper corner. (Del Galdo and Nielson 1996).

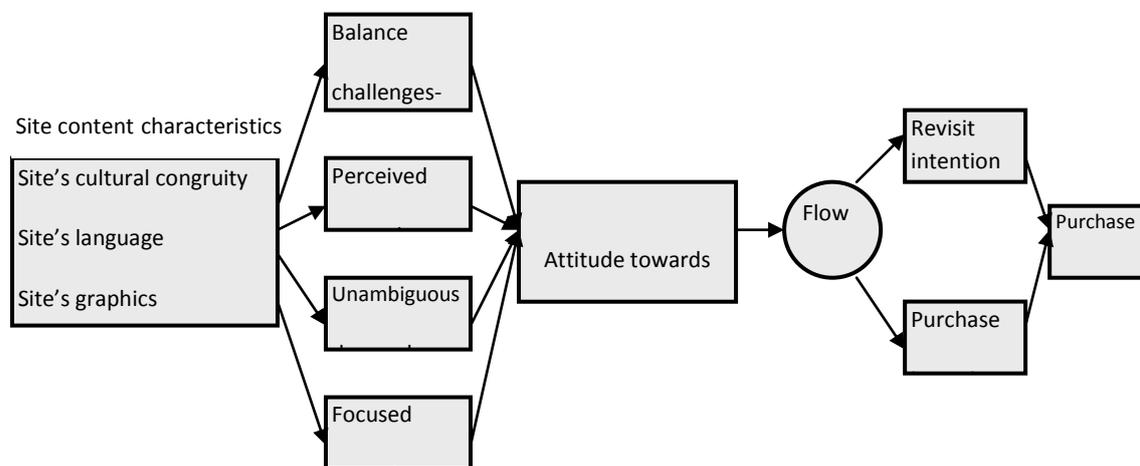
In building Internet interfaces the Latin system is generally used which starts from the left-hand side upper corner. Also in Chinese information starts from the left-hand side upper corner the text downwards towards the lower left corner. This is only one aspect, but which illustrates very well the importance of providing localised interface designs.

Peterson (1997) shows that due to the fact that the Internet reaches beyond any border, there is always a possibility to offend some nationalities. For instance he shows that Germany and France have liberal views regarding sex, which, if included in publicity presentations, will not create controversies, whereas this view is not shared in Greece. Moreover, companies ought to be careful in using gestures and colours on their web pages, as these may have different meaning throughout the world. For instance, the thumb and index united in a circle signifying ‘OK’ in American culture is considered as obscene in Germany (Peterson, 1997).

Besides incorporating cultural differences in their online actions, companies ought to also consider one of the biggest problems regarding Internet global communication, namely that of the language. The predominant Internet language is English; yet a long accepted idea is that marketing should always be practiced in the language of the target market. To surpass this problem Nicovich and Cornwell (1998) have noticed that many companies build their web pages with options for several languages.

Luna, Peracchio and de Juan (2002), constructed a cross-cultural model of flow that includes both dimensions of flow described in the extant literature, cognitive and affective. This model showed that the congruity of a website with a visitor’s culture is a key site content that influences a visitor’s likelihood of experiencing flow.

**Figure 1 - Flow in cross-cultural web sites**



Source: Luna, Peracchio and de Juan (2002)

## CONCLUSIONS

Internet does have its own culture, yet there needs to be an awareness that Internet users come from different cultures, and thus in such a milieu the differences between cultures are not to be ignored. By creating its own culture and by offering common experiences and elements the Internet can be used as a 'bridge mechanism for the transfer between cultures' (Nicovich and Cornwell, 1998).

In pursuing a global market, organisations should be sensitive to cultural differences that impact on the usability of the customer-interface of E-Commerce environments.

While global e-commerce constitutes a growing area that deserves attention from both practitioners and scholars, it is evident that the field is still a young realm that will continue to draw attention from several conceptual perspectives. It is through a continuous and growing research that the best global e-commerce practices will surface for multinational firms to adopt.

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# DISCIPLINAIRE LIABILITIES OF THE EUROPEAN PUBLIC SERVANTS

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**Abstract:** *Work discipline is essential for the proper conduct of business within an organization with implications for productivity and efficiency. Disciplinary liability arises as a direct result of breach of service obligations and rules of behaviour. At EU level, disciplinary responsibility of community public servant is governed by the provisions of the Statute of the European Community published in the Official Journal of the European Community no. L 56 March 4, 1968 and amended on numerous occasions. This paper proposes an analysis of concrete conditions which require disciplinary liability of the European public servant, disciplinary sanctions and procedures for implementing them.*

**Keywords:** public servant, disciplinary sanctions, liability, authority, administrative crime

**JEL Classification:** E02, H11, E61

European Union institutions have workers of various level of education, whose activities take place according to rules from special adopted legal documents. These legal documents from European public servant law, a new legal field of research that gain autonomy because of the special interest and the importance of this matter for the entire activity of the union.

There are two different meanings for the expression European public servant, according to the context that the words are used in. The widest meaning of these words is that it refers to the persons that have public authority and work for an institutions or a European organism, but also refers to the public servants that work for public administration institutions in every state member of the union.

On the other hand, the persons that work for the institutions and communitarian organism are either European servants, or contractual agents, that are persons who work on a labour contract basis and have no authority power invested in them.

In 2004 the total number of public servants and agents was 30.725, from which 22.055 worked for the European Commission. Large parts from them are interpreters or translators. This number is extending every day, because of the extension of the Union (Jacgue, 2004, p. 184).

All three communities established in the 50's (Economic European Community, Coal and Steel Community and Atom-electrical Community) had at the beginning its own staff, that worked according to special rules. Until the applying into practice of the treaty of fusion, there were three different legal frameworks for the public servants status, with different rules for the level of grades, different level of remuneration, various retirement regimes.

Article 24 from the treaty of fusion for the executive institutions of the communities (1967) determined the negotiation over a unique status for all the persons that worked for communitarian institutions.

The unification process took place through Regulation CEE, CECA and CEEA no. 259 from the 29<sup>th</sup> of February 1968, modified many times after the adoption moment. The most recent and the most important modification were done according to the Regulation CE and EURATOM nr. 723 from the 22<sup>nd</sup> of March 2004. This regulation, with all the further modification and joint with the other rules and regulation is known under the title STATUS, regulations and rules applied to the public servant and other European Communities agents (Vedinaş, 1999, p. 12).

The definition of European public servant in the restricted meaning of the term is explained in the article 1 from the STATUS, according to which the public servant of the communities is every person that has been appointed in the condition from the STATUS for a permanent job for one of the Communities institution, according to a written document by the authority invested with the power to appoint workers for that institution.

So, in order to become a communitarian public servant the competent authority must write the appointment document. From the legal point of view, the appointment document has the following characteristics:

- it is a unilateral act, meaning that in the moment of its adoption the only part that gains liabilities is the only issuing authority; the beneficiary of this document has obligation after he or she expresses the approval for the job or the public service the document refers to;

- it must be adopted only if there is a vacant job to be occupied, after an exam or after being successful in an election process;

- it is an authority document, that produces any effect only if the issuing has the competence demanded by communitarian legal rules to adopt such a document

- it gives to the beneficiary or the person regarded by the document the quality of the public servant; so, this is a document that creates new rights

- it is a formal document, meaning that there are rules that establish it must be written and consists of certain information, such are the authority that wrote it, the date, the public service taken into consideration, the reason of appointment, and the date of starting the job and so on.

According to the 5<sup>th</sup> article from the STATUS, the European Public servants are divided into 4 categories: a, b, c and d. In this hierarchy each of these categories is divided into grades. The grade is given to the public servant in the moment of his appointment to the mission, conferring in the same moment the vocation to occupy certain jobs. The grade may be also given if the person passes an exam or is promoted in his or her career.

There is a certain difference between grade and job. So, if the job is erased from an institution personnel framework, the person that occupied that job has no more the mission given by the job but still, he or she keeps the grade and may occupy another job for from the same level. This gives a greater flexibility to the public servants career (Vedinaş, 1999, p. 24).

„A” category consists in 8 grades, on their turn organized in functions extended on 2 gradations. These functions may refer to function of direction, conception or study. In order to occupy such a function some must have special university studies, as the public servants has very important mission to accomplish for the particular communitarian institution they work for: elaborating European politics, preparing the legal document projects and reports, supervising the way that communitarian legislation is applied.

„B” category consists in 5 grades, grouped on function extended on 2 gradations. These functions from B category refer to applicative and executive missions and demand studies of highschool level or professional experience of equivalent level.

„C” category has 5 grades, grouped on functions on 2 gradations. This category refers only to function invested with executive missions that demands studies of medium level or professional experience of equivalent level.

„D” category consists only in 4 grades, grouped in functions extended in 4 gradations. These grades refer to manual function or to missions that demand studies of basic level, rarely joint with technical abilities (administrative personnel).

There is also a fifth category (LA) that consists in translators and interpreters.

The STATUS establishes the principle according to which the public servants from a category are obliged to respect the same rules for recruitment process and also for current activities (Vedinaş, 1999, p. 26).

When a public servant does not respect, on his own will, the STATUS clauses, the disciplinary, civil, criminal or administrative liability is implied.

Breaking the current activity discipline rules is a disciplinary crime and it demands a disciplinary penalty for the public servant who is guilty of that fact. The disciplinary crimes are:

- a) repetitive delay in doing the current jobs;
- b) unjustified absence from the job activities

- c) the pressure to solve a demand outside the legal framework
- d) inappropriate attitude during the job time
- e) not respecting the professional secrecy or the confidentiality of the documents that have this status;
- f) unmotivated refusal to do the tasks and the activities of the service;
- g) repetitive mistakes in job missions;
- h) actions that touch the reputation of the institution or public authority for which the public servant works;
- i) expressing or doing, as a public servant or during the working hours, opinions or public activities with political input;
- j) not respecting the legal rules referring to incompatibilities or interdictions regarding public servant STATUS.

For these forbidden actions above, the public servants may suffer the following punishments:

- a) being attention upon the mistakes he/she made;
- b) legal punishment;
- c) losing 5 to maximum 10% from the salary, for 1 up to 3 months;
- d) interdiction to advance in career for 1 up to maximum 3 years;
- e) passing into a lower job, for 6 up to 12 months, with the respective salary loss;
- f) losing the job;

In order to establish the particular punishment applied to a particular situation, the following criteria must be taken into consideration:

- the causes and the importance of the mistake;
- the particular circumstances that generated the misconduct in the public servant activity;
- the guilt of the servant and the result of his/her mistake;
- the general activity of the public servant ;
- his/her previous conduit in the working filed and other mistakes he-she made before (if there are any);

The disciplinary punishment may be taken into consideration only after the complete analyse of the fact and after the interrogation of the public servant for the respective facts. What the public servant says in his defence must be written. The refusal of the public servant to participate to interrogation or to sign the declaration he/she made must be put down on a document and signed by 2 different persons (witnesses).

The attention upon the mistake and *punishment* may be done by the direct chief of the public servant, and the public servant may appeal to the manager of the institution in maximum 15 days,

counted from the day he/she was informed about the punishment. The manager of the institution will study the case and will draw the final decision considering the facts and the legal framework.

The other punishments may be ordered the he manager of the institution, who decides after the disciplinary commission makes a proposal. The STATUS of the public servants says that in every institution must be organized a disciplinary commission, that will investigate any mistake done be the public servants and will make proposal for a particular punishment, according to the legal rules of the moment.

The public servant that is not happy with the punishment he/she must suffer may apel to the administrative judge, asking for annulment or the modification of the punishment decided.

The disciplinary punishment has three function: educative function (that is the learning process to respect a certain rule) the prevention sanction (that is to determine the public servant not to break the legal rules, because they will suffer some punishments) and the punitive sanction (the punishment itself).

According to educative function, the disciplinary punishments are deleted from the personal record in the fallowing conditions:

a) the *punishment* and the attention upon the mistake are deleted after one year, if the public servant did not do another mistake in that year;

b) the other punishments are deleted in 2 years after the period they have been applied for expired and if the public servant did not do other mistakes in that period of time.

Besides the disciplinary liability, which is mainly established in the rules from the STATUS of the public servants, the public servant may also be involved in situations regarding other forms of legal liability, such as:

- civil or pecuniary liability;
- administrative liability;
- criminal liability.

The administrative liability for the public servants is applied when they did a mistake during the public service mission, mistake considered administrative crime by the law. In these cases there must be a document that speaks about the mistake and about the punishment applied for the public servant. He/she may appeal this document in front of the judge that is invested to solve the petition in the area where the institution or the public authority has his official location.

The civil liability is applied in the fallowing conditions:

- a) for the prejudice upon the institution or the public authority assets
- b) for delaying the paying back of the sum that are in the public servant possession and are not his own;

c) for the amount of money that the institution or the public authority paid in his/hers names to the other damaged persons, according to a legal solution obtained after a juridical process.

The first two situations are solved when the manager of the institution or of the public authority writes an order to keep the money from the public servant monthly salary, and the fifth situation is solved if the public servant agrees to sign a document which says the terms and the amount of money he/she will pay monthly.

For the criminal facts that the public servant did during the job the criminal law establishes very precise steps to be followed.

If a prosecutor is appointed to solve the case, the manager of the institution or of the public authority will decide to suspend the public servant from his current job. This measure is always taken into consideration if the criminal fact that the public servant did puts him/her in the situation of not being eligible as a public servant.

If the judge invested to solve the public servant criminal situation decide he/she is not guilty, the person will take the job and will receive the salary that are not in his account because of the suspension period.

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# EMPLOYMENT RIGHTS ON TRANSFERS OF UNDERTAKINGS IN THE UNITED KINGDOM

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**Abstract:** *In April 2006, in the UK, came into force new rules relating to the obligations incumbent upon business owners if they pursue their alienation. These regulations come to meet several European directive which seeks to ensure employees' rights and prevent any abuses. In this respect, the main novelty lies in the stressed placed on the right to information and consultation, their failure to attract the party at fault liability and corresponding sanctions.*

**Keywords:** employment rights, company law, United Kingdom, business, regulation

**JEL Classification:** K20, M16

## 1. THE RIGHT OF INFORMATION AND CONSULTATION AS A PART OF THE EU SOCIAL POLICY

In the preamble to the EEC Treaty among its objectives there are set "the economic and social progress" of the Member States, together with "the constant improvement of the living and working conditions of their peoples". In the light of these provisions and following ample debates a Social Charter was finally adopted in 1989.

The *Community Charter of Fundamental Social Rights for Workers* provides a comprehensive framework for further consideration accorded to the role and place of work in society. It establishes some guiding principles including, *inter alia*, the improvement of working conditions, the social protection or the right of information, consultation and participation of workers, "*The completion of the internal market must lead to an improvement in the living and working conditions of workers in the European Community. The improvement must cover, where necessary, the development of certain aspects of employment regulations such as procedures for collective redundancies and those regarding bankruptcies. Information, consultation and participation for workers must be developed along appropriate lines, taking account of the practice in force in the various Member States. Such information, consultation and participation must be implemented in due time,*

*particularly in connection with restructuring operations in undertakings or in cases of mergers having an impact on the employment of workers*<sup>1</sup>.

Either the EU or its Member States implement the social rights specified in the Charter through the appropriate means, according to their competences. As ‘guardian of the treaties’ the EU Commission is entitled to propose action programs and strategies common to all Member States, in order to create a minimum common basis.

The first step made by the EU Council concerning the rights of employees on the occasion of a selling of a business was the adoption of Directive 77/187/EEC in 1977 (the *Acquired Rights Directive*). From the very beginning the directive was intended to support the harmonization of national legislations in this field, safeguarding the rights of employees and requiring both the seller (the ‘transferor’) and the purchaser (the ‘transferee’) to inform and consult the representatives of the employees.

The next step followed in March 2001 with the Council Directive 2001/23/EC, which amended the EC Acquired Rights Directive, on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses<sup>2</sup>.

## **2. THE UK 2006 APPROACH**

The United Kingdom was the sole EU Member not to sign the Social Charter in 1989, due to its traditional ‘liberal’ approach<sup>3</sup>. As the political power changed with the election of Tony Blair as Prime Minister in 1997, the Charter was finally signed the following year (1998). During the three consecutive terms in office Tony Blair encouraged a deeper concern for social issues, although he is criticized for insufficient adherence to the traditional labour priorities.

The relevant provisions concerning the employment rights on the transfer of an undertaking can be found in the following regulations:

- the Transfer of Undertakings (Protection of Employment) Regulations 1981, as amended by the Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1987,
- the Trade Union Reform and Employment Rights Act 1993,
- the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1995,

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<sup>1</sup> Please see points 7, 17 and 18 of the *Social Charter*.

<sup>2</sup> *Official Journal L 082, 22/03/2001 P. 0016 – 0020, retrieved from: [http://europa.eu.int/eur-lex/pri/en/oj/dat/2001/l\\_082/l\\_08220010322en00160020.pdf](http://europa.eu.int/eur-lex/pri/en/oj/dat/2001/l_082/l_08220010322en00160020.pdf)*

<sup>3</sup> In the 80’s Margaret Thatcher’s reforming policy is the best example of putting on the streets thousands of employees.

- the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1999.

The TUPE regulations address the fear that the new business owner will dismiss the former employees, in order to bring new ones.

The 2006 regulations apply to the “relevant transfers”, as follows:

- a) when a business or a part of it is sold to another employer, including the cases where the two initial companies cease to exist autonomously and give birth to a third one; or
- b) in the event a “service provision change” takes place<sup>4</sup>.

Other transfers, not covered by these regulations, can be subject to Directions made under section 101 of the 2003 Act (Office of the Deputy Prime Minister - ODPM).

The scope of the regulations is to guarantee the *continuity* of employment, under the same terms and conditions, on the occasion of a transfer<sup>5</sup>. This way the employees of the seller (the transferor) become *automatically* the employees of the purchaser (the transferee) and their contracts of employment are considered to be made with the transferee from the very beginning. Accordingly, they can sue the transferee on grounds prior to the transfer<sup>6</sup>. However, for certain reasons related to the transfer and following a mutual agreement, the employment contracts can be modified.

If a transfer is about to take place, the representatives of the employees have the legal right to be properly informed and consulted on the matter. The seller has also a duty to inform the purchaser about the personnel of the company before proceeding to the business transfer.

The legal requirements apply to all sizes and *all kinds of businesses*, regardless the differences between them. They equally apply to large and to small companies, to public or private sector. Furthermore, the non-profit organizations such as charities are bound by the same regulations.

In case of *insolvency* the old company debts no longer transfer. The dismissals prior to the transfer continue once the transfer started. As a general rule, the original terms and conditions continue to apply. However, the new employer can vary the terms and conditions only in limited circumstances and only after holding consultations with the relevant representatives.

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<sup>4</sup> Where a contractor takes on a contract to provide a service for a client from another contractor ([www.dti.gov.uk](http://www.dti.gov.uk)).

<sup>5</sup> Even under the old TUPE regulations the employer and the employees could not agree to vary employment contracts only because of the transfer (Gillian Howard, *Drafting Employment Contracts*, The Law Society, London, 2004, p. 398-399).

<sup>6</sup> For information on the conditions for bringing a case to the court (employment tribunal), please follow the link [www.employmenttribunals.gov.uk](http://www.employmenttribunals.gov.uk).

### **3. LIABILITY AND PENALTIES IN THE NEW REGULATIONS**

#### **3.1. The duty to inform**

The transferor has to provide the transferee in writing information about all persons who are subject to transfer and about any other person assigned to the organized group of resources. The information is not limited to certain aspects; it can be related to the age and profile of employees or to possible claims. The information should be current and relevant and in no circumstances older than 14 days. In case meanwhile some data change the transferor should notify these changes occurred as well. The information should be provided 14 days before the transfer takes place.

The duty to notify is very important and the sanctions if disregarded are quite serious. The compensation in case of failure is calculated beginning with a minimum amount of £500.00 per employee, awarded on a just and equitable basis. In case of dispute the tribunal will take into account specific contract clauses and the effective loss. However, the interested party (the transferee) is entitled to compensation even in the absence of a penalty clause or losses but only on the grounds of the lack of information.

For instance, a small business, say a supermarket, changes hands and the transferor fails to supply the appropriate information to the transferee. In the light of the new legal provisions for a staff of 10 employees the transferee is allowed to claim at least £5,000.00!

#### **3.2. The duty to inform and to consult**

The duty to consult refers to the target group of ‘affected’ employees. Within the definition of affected employees the new regulations consider:

- the employees in the group transferring
- the employees in the source group affected by the transfer
- the employees in the source group affected by measures related to the transfer
- the employees in destination affected by the transfer
- the employees in destination affected by measures in connection to the transfer

The information should be supplied enough in advance to allow meaningful consultations to take place. This reasonable period of time should be assessed on a case-by-case basis.

Consultations have to cover aspects of the fact of transfer, the envisaged date, the reason for this measure, the legal, social and economic implications, other measured envisaged or not by the two contracting parties.

The consultations must be conducted with the relevant representatives of the employees - e.g. the trade unions- or with any other elected and recognized representatives. If such representatives do not exist in the organization at that moment, some *ad-hoc* representatives should be elected.

The penalties on consultation are set out in Regulation 15. The liability is joint and several. A loss must not be proven to qualify under this regulation. It provides for the payment of 90 days per affected employee, without further conditions to be met as this is considered a protective award. At this point the question is what would be the crossing line between constructive and unfair dismissal.

The protection provided to the employees ranges from the terms and conditions of the employment contracts, including their non-modification on the occasion of transfer to the automatically unfair dismissal. However, some exceptions are admitted, related *inter alia* to certain occupational pension rights.

The applicable *penalties* are up to £ 58,000.00 in case of unfair dismissal, a minimum of £500.00 per employee in the event of failure to notify and 90 days pay per employee for the failure to engage appropriate consultations.

The implications can be easily understood through the following two examples:

We consider, for instance, a publishing company with a total of 20 persons its own staff and contract out printing arm with 10 staff (*Employment Law TUPE*, 2006). Each of the employees earns an average wage of £25,000 per annum. This company engages in a transfer with a printer with 20 staff under contract. Consequently, under the definition of “affected “staff will fall 20 + 20 = 40 employees.

In case of failure to consult the applicable penalty will be: 90 days per person (£6,000) x 40 = =£240,000.

In case of failure to notify: £500 x 10 = £5,000

Furthermore, let’s say that 2 out of 10 walk out (1 for the printer and 1 in destination group).

We are facing now two cases of automatic unfair dismissal.

The award of 12 months will be £25,000 x2 = £50,000.

As far as we can see, the total cost of ignoring the TUPE Regulations is in our case £295,000.

For further analysis, let’s suppose that tender drove down wages and accordingly the overtime allowance is reduced by £1 per hour to compensate (this was agreed at the time).

But two years later – disgruntled employee claims back pay – overtime worked was 10 hours per week.

For 1 employee £10 per week x 104 weeks = £1040.

Consequently, for 10 employees the figure will be no less than £10,400.

In the second example we consider the purchase of a pub (*Employment Law TUPE*, 2006). The pub personnel are composed of 20 bar staff, 3 chefs, 3 kitchen assistants and 2 managers. The average salary is £12,000 per year.

If failure to consult, the penalties are 90 days x 28 at £3,000 = £84,000.

In case of a claim back from seller on the grounds of failure to notify, the figure will be £500 x 28 = £14,000. The total loss for the new business owner becomes £84,000 –£14,000= £70,000 (in the case that nobody leaves).

#### 4. CONCLUSIONS

The new revised TUPE Regulations came into force on the 6<sup>th</sup> of April 2006. Their scope is to preserve the terms and conditions of the existing employment contracts when a business, an undertaking, or a part of one is sold to a new employer. Any provision of any agreement is void so far as it would exclude or limit the rights granted under the Regulations.

The main changes in the 2006 Regulations are:

- a widening of the covering of the Regulations, in order to include cases where services are outsourced, insourced or assigned by a client to a new contractor (the so-called “service provision changes”),
- a legal duty on the seller to provide information about the transferring staff ( named “employee liability information”),
- provisions addressing the particular circumstances where a business is confronting insolvency,
- clarifying provisions in respect to the ability of both employers and employees to vary contracts in the event of a relevant transfer.
- guiding provisions regarding the unfair dismissal connected with an appropriate transfer.

The rights and obligations provided in the 1981 Regulations continue to apply and to the extent that the 2006 Regulations have a different meaning the latter will prevail. Actually the new regulations rather clarify the old ones and not change them. They are an example of how employment law can interfere with company law. These regulations reflect, on the one hand, the European concerns as well as, on the other hand, the English developments in case law since the first regulations were adopted (1981).

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# HOW TO PREVENT FRAUD?

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**Abstract:** *Fraud can range from minor employee theft and unproductive behavior to misappropriation of assets and fraudulent financial reporting. The risk of fraud can be reduced through a combination of prevention and detection measures. Moreover, prevention and deterrence measures are much less costly than the time and expense required for fraud detection and investigation. The information presented in this document generally is applicable to entities of all sizes. However, the degree to which certain programs and controls are applied in smaller, less-complex entities and the formality of their application are likely to differ from larger organizations.*

**Keywords:** fraud proofing, fraud prevention, control, accounting analysis, job descriptions, supervision

**JEL Classification:** K22, K14, M40

## 1. THE STRUCTURE OF INTERNAL CONTROL SYSTEM

Recently, in the auditing literature, has appeared a new word - fraudproofing. This word can be translated by impermeability to fraud. Unfortunately, although any entity wishes to be impervious to fraud, we must recognize that it is impossible because no internal control system cannot full eliminate risk of fraud. What is possible and desirable is that the so-called fraudproofing to represent a way to reduce the risk of fraud to a minimum.

Understanding the many factors that can contribute to the risk of fraud is first step in defining a strategy to prevent fraud. After it is necessary to be implemented policies to reduce threats. Between these policies, the most important and in the same time the most common is the existence of a **good internal control system.**

A variety of controls exist in the classical systems of internal control. The most relevant basic controls are grouped into three categories<sup>7</sup>: physical access control, job descriptions, and accounting reconciliations and analyses.

The best known forms of this control may already seem trivial, but they contribute more than others to protect against fraud. We can list here: locking doors and spaces where are preserved documents, computerized security systems (access card that record time of entry and exit), electronic surveillance systems, more or less sophisticated, taking into account investment which the company can afford (voice recognition systems and even iris scanning).

In principle, the access in the firm should be allowed only to those who must work within it, especially employees.

Certainly this physical access restriction will not ensure a total removal of the risk of fraud, but will decrease this risk considerably.

First, most frauds involve the physical presence of the perpetrator where it occurs, whether it's about assets misappropriated or it's about incorrect book keeping.

Secondly, physical access control is the most visible form of control for those who intend to commit fraud by sending them a signal of the very probable existence of other forms of control, which is likely to discourage them.

Thirdly, even if this form of control does not prevent fraud, it will help more accurate understanding of what happened and to discover the perpetrator by restricting number of suspects.

Formal, job description clearly outlines what duties should perform an employee, being an important tool to prevent fraud. Most often, employees do not perform duties outside of their job description. Those who do is to be category carefully monitored.

In fact, the job description is a tool for separation of tasks. A classical example of separation of duties refers to an employee who is resposanble for an object and to whom is forbidden to handle registration in accounts of operations on that object.

Here we must include mention of the job description that the employee must receive annual vacation.

To increase efficiency through job description control is important, for any company, that job descriptions to be developed in an integrated manner, in that the development should be take account of the activities of persons other than covered.

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<sup>7</sup> *Internal Controls and Fraudproofing*, available at <http://www.aicpa.org/InterestAreas/ForensicAndValuation/Resources/ForensicAcctg/ForensicAccounting/Pages/Internal%20Controls%20and%20Fraudproofing.aspx>, accessed on 10.05.2007

While the role of job descriptions has been stated by many experts, in many companies they are ignored or underestimated considering that they are among the least used documents. There are situations where job descriptions are developed, but they are ignored by employers. In fact, when employees start to do things that are not appropriate is the moment as business leaders to become worried. In addition, the same employees, unless they are rewarded for what they do, it is possible that they might try to find justification to steal.

For this reason it is good like job descriptions to be developed when is necessary, and employees to agree with them and to comply their contents.

Although it seems to be unrelated to fraud, we must show that a fraud will be easily discovered when she cease to produce for some time.

The third category of controls has as starting point the idea that a fraud reaches its purpose if not detected, ie if the result of fraudulent action is well concealed. Fortunately, controls and accounting analysis make difficult or even impossible to conceal fraud.

In the category of accounting controls are included the checks and bank statements received/transmitted from/to business partners and crosschecking between analytical and the synthetic accounting. Regarding the exact nature of accounting analysis, they depend on the nature of operations company. There may be an analysis of the temporal variation of balance sheet items, analysis of profit and loss, sales analysis on geographic areas, analyze the costs and other which also are based on analysis of accounting information.

Of course, most of these tests are not always made to detect fraud, but for making managerial decisions or to verify the accuracy of accounting records.

But, whatever the reason of the performing this controls, is established that they can reveal the existence of possible fraud.

Once established a good system of internal control, for the same purpose - fraud prevention and detecting, we identified the **supervision** how acts like a second level of control.

As a fraud prevention mechanism, a good supervision requires:

- awareness of the possibility of fraud;
- existence and implementation of clear procedures for approval, re-checking and recovery;

Awareness of possibility of fraud is perhaps the starting point in developing a fraud prevention strategy. Supervisors should be aware that an unusual event is always a risk bearer as an error occurs. It's about complaints come from customers or suppliers, discrepancies which are not found an explanation and errors reported by the audit. In these circumstances, if supervisors are not aware of the possibility of an error occurs, the risk that it occurs is very high.

Beyond the possibility of fraud awareness, supervisors must do really supervise. In the category of supervisory actions are included: verifying the existence and enforcement of clear procedures for approving operations, re-checking the work of some employees and restoration activities. In addition, the reaction of a company in front of a fraud should reduce the potential for their in the future. Thus, the company must initiate a procedure to investigate such incidents, take appropriate action against those who committed fraud, establish and implement new procedures and controls to perform specific tasks for remember to the employees the responsibilities and rules given to them into the firm.

## 2. AUDIT AND FRAUD

The last level of internal control system, in terms of preventing fraud is the **audit**, both internally and externally. Internal auditors perform activities which are determined by the highest levels of company management. Among the specific tasks they may be listed: detect fraud and develop mechanisms to prevent fraud. In this regard, it should be noted that all organizations of internal auditors have issued rules for fraud. Unlike internal auditors, external auditors are independent, ie he is not employee of firm. Fortunately, the role of auditors has evolved so that may be included among their objectives detection of fraud, although only like operation derived from the tests that evidence are obtained. However, it is almost generally accepted that, despite all the rules and procedures in the world, if people are dishonest, they will always find ways to violate them. No tools for an auditor to defend in front of a client who intends to commit fraud. The safest way to protect themselves is to ensure that deals with a reliable customer. However, many audit firms ignore this. Auditors should adopt a responsible attitude and demonstrate common sense instead to respond to the wishes of companies that are willing to resort to subterfuge. Otherwise, you can reach the situation where investors no longer trust in company or in the audit firms. To avoid such a situation - neglected - the profession has taken steps to regain investor confidence. Thus, in recent years, attention of the regulators and the academic is given to audit committee since it was formed the belief that the quality of financial reporting depends on the characteristics of the audit committee. Audit committees have the task of selecting auditors of the company. If the reputation of members of audit committees depends on the quality of the auditors' mission, audit committees becomes evident concern in the selection of good auditors. An auditor can be appreciated for its ability to detect and report errors and omissions in financial statements.

Moreover, the market becomes increasingly more critical in terms of reliability audit opinions issued by the audit firms. Thus, analyzing more cases of bankruptcies of firms in the UK and USA, we found that audit is not a sign far safer than a financial analysis to determine the health of a business: most of the companies whose certified financial statements were qualified survived and most businesses have gone bankrupt even if financial statements were certified non-qualified. Therefore, the appearance of audit committee doesn't offer the guarantee that frauds will disappear. However, these committees must assess if the company's managers have identified the risks of fraud, how the measures to fight against the frauds were implemented and to appreciate the message sent by the managers to employees. Features in detecting and preventing fraud can be identified in small firms because for these firms doesn't exist a legal requirement to have certified financial statements. But the more of these companies should be worried about the possibility of fraud and that there are greater risks of nondetection. However, these companies may be offered by accounting and auditing firms with various other services to help prevent and detect fraud. Thus, these services can be listed categories: staff training, review of internal control, control of cash, verification of assets, employment counseling staff, tasks, boosting confidence in employees. Staff training has as starting point the idea that a company's employees are the first to hear about some fraud or actions that may adversely affect the activity of the company where they are employed. Thus, their training should be focused on the following areas: why fraud occurs, how to recognize a fraud and what to do if they suspect a fraud. We know that in small firms internal control is, mostly, very well tuned. For this reason, it is recommended the intervention of external specialists to review the internal control system and propose solutions to improve it.

In terms of their frequency, it was found that fraud involving the company treasury occur most often, so is absolutely necessary to focus on the operations with cash and on the operations with banks. The control of assets supposes the verification of cash transactions because both can lead toward misuse of assets or use them to achieve fraud. In addition, assets can be destroyed or stolen by employees. The counseling the firms that hire employees is necessary all the time because it was found that small firms do not spend too much money in recruitment or to obtain references or information about criminal records or professional or psychological testing of prospective employees. There are studies how show that 7% of employees have stolen or committed fraud in the workplace, what suggests that is becoming more necessary to check all prospective employees before hiring them. As we saw above, segregation of duties is a sure way to prevent fraud that could be committed by employees. Unfortunately, in small firms that operation can not be achieved because of the small number of employees. For this reason, the manager has the obligation to scrupulously monitor employees's activity if it encompass many tasks. Finally, the trust between

employees of small firms is an element that contributes to the proper functioning of the company, but also a factor which may contribute to the production of fraud, particularly by weakening control and by associating with each other to commission of illegal acts. Based on these findings, small business owners are advised to take the following measures which are designed to prevent and detect fraud:

- hiring an accountant or an auditor to verify the accounting firm;
- restricting access to bank accounts and conduct regular crosschecking with bank;
- taking appropriate measures to protect assets;
- improving procedures for selection and recruitment;
- establish procedures for reporting fraud discovered by employees.

### **3. CONCLUSIONS**

As a consequence of more frequent financial scandals caused by managers's frauds and not by the fraud of the employees at lower levels, fraud whose production could not be prevent by internal and external auditors or by the existence of the committees audit, appeared the Association of Certified Fraud Examiners whose role is to reduce the number of fraud, providing confidence for public in the integrity and objectivity of the profession. These experts assist audit committees and the management overseeing the activities, either directly or in their capacity as members of teams of internal and external auditors. In fact, these professionals have practical experience and competence in identifying fraud that firms could hardly have by their employees. In addition to advisory work in risk assessment and implement measures to detect fraud, fraud experts may conduct investigations into allegations or suspicions of fraud case and to convey the outcome of these investigations to the appropriate level of management, audit committee or board, given the nature of fraud and the individuals involved. Beyond the emergence of these professionals increasingly specialized in fraud detection, is important that internal and external auditors to conduct business with professional skepticism in the sense that it must always start from the premise that a fraud may occur whatever experience they have in that company and even they have confidence in the honesty of management.

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# SUSTAINABILITY IN THE CONTEXT OF GLOBALIZATION

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**Abstract:** *Sustainability tends to become in the new millennium the most important characteristic of economic and social development. The possibility to ensure economic development in the context of a reasonable use of raw materials, energy and natural resources in general and to decrease the impact of all human activities on the environment makes the essence of the sustainable development of these activities.*

**Keywords:** sustainable development, globalization, natural resources, decentralization, environment, efficiency

**JEL Classification:** Q01, Q56, Q57, F02

At present, the globalization tendency of all the economic and social elements determines an identical approach of the contemporary life crises. Negative phenomena, such as pollution or the using up of resources, at a national, as well as at world level, are the result of a multitude of preoccupying problems, such as: poverty, environment degradation, workplace insecurity, disappearance of traditional values, unemployment, etc.

## 1. THE CONCEPT OF SUSTAINABLE DEVELOPMENT

The term *sustainable development* was introduced in our current language in the last decade, and the importance it was assigned to it is reflected in the vast literature which arguments the necessity of reconsidering the current relation between the human being and the environment. One will try to systematically identify the aspects specific to this type of development and to elaborate some new concepts, meant to provide some criteria for the reorientation of human activities. Thus, there are over 60 definitions of the concept of sustainable development. The area of these interpretations is somewhere between the two extremes: the one of the first report from Rome – which approaches the stopping of economic growth – and the one of the “greens”, who assign an absolute value to the role of the natural environment. (Angelescu, 2004, p. 242).

The concept of *sustainable development* was used, for the first time, by the prime-minister of Norway, Gro Harlem Brundtland, in 1987. As president of the World Commission on Environment and Development, he presented the report entitled, in which sustainable development was defined

as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” (Brundtland, 1987). This report was the fruit of the over three years’ long collaboration of 20 politicians and experts in economic development and ecology from all over the world.

The message of this report can also be found in “principle 3” of the Rio Declaration on Environment and Development, from 1992, according to which “the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations”.

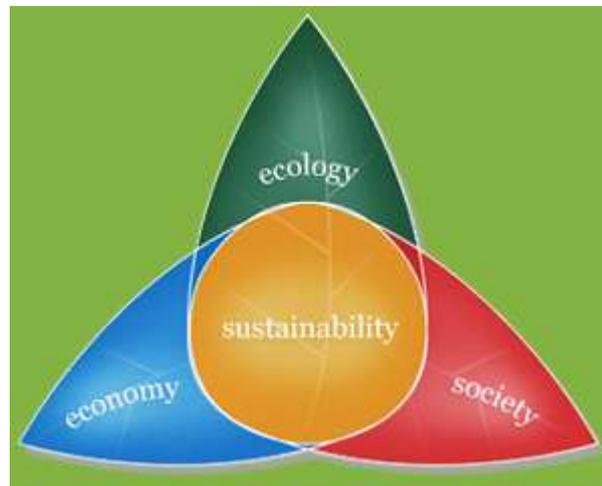
The standard ISO 14000 also refers to this concept, mentioning that “all the types of organizations, are increasingly concerned about achieving and demonstrating sound environmental performance by meeting the requirements of environmental regulations and limiting the impacts of their products or services on the environment. These aspects are outlined in the context of the increasingly strict legislation, of the development of economic policies and of other measures meant to encourage environment protection, the increase of the concerns of the interested parties with regard to environment related issues, sustainable development inclusively” (Rojanschi, Bran, and Grigore, 2004, p.63).

Sustainable development refers to the long term preservation of the functional capacity of the interconnected systems of contemporary society, taking into consideration the economic, ecological and social aspects (Crăciun, 2004, p. 184). It is not easy to find a balance between these components, for (Teodosiu, 2004, p. 16):

- from an *economic* perspective, it is necessary to efficiently assign resources or limited goods, which involves a flexible economy and free access to exchanges;
- from the perspective of the *environment*, the pollution limits must not be exceeded and biodiversity must be preserved;
- from a social perspective, it is necessary to ensure the equality of *social* chances, opportunities, freedoms and justice.

The interdependence between economic, social and environment issues is presented in figure no. 1.

**Figure 1 – Sustainable development factors**



Starting from the factors that influence one another in the development process – *population, resources, agricultural production, industrial production and pollution* – the sustainable development strategy aims at finding *the most adequate criteria for the optimization of the needs-resources ratios, the objectives to attain and the necessary means*, based on mutual compatibility, in time and space. Thus, one must conceive and obtain an economic environment which, via its entries and exits, must find itself in a state of dynamic compatibility with the natural environment, as well as with the present and future needs and interests of the generations that coexist and follow (Rojanschi and Bran, 2002, p.51). As concerns the action of these factors, one may see that, in the world system, two of them are positive loops in reverse connection, namely the exponential growth of the population and of industrial production, and three factors represent the negative loops: pollution, the using up of natural resources and poverty. If the evolution of the first two factors will be corrected so as not to reach a sudden and uncontrollable decline, then it is possible to have economic and ecologic stability (Caracota and Caracota, 2004, p. 13).

Sustainable development approaches the concept of life quality, under economic, social and environment aspects, promoting the idea of balance between economic growth, social equity, efficient use and the preservation of the surrounding environment. The key element of sustainable development is the reconciliation between the development process and environment quality, the promotion of the integrated process of elaboration and decision making, at a global, as well as at a regional, national or local level. Also, sustainable development depends on the correct repartition of

the costs and benefits of development among generations and nations. The major principles that characterize sustainable development are:

- concern for equity and correctitude among countries and generations;
- long term vision on development;
- systemic thinking –interconnection between environment, economy and society.

Sustainable development strategies outline the interdependence between the local and the global, between the developed and the developing countries, with emphasis on the need for cooperation within and among the economic, social and environment components.

## **2. SUSTAINABLE DEVELOPMENT MEANS “TO THINK GLOBALLY AND TO ACT LOCALLY”**

The major objectives of the sustainable development of communities are the protection of the environment, the eradication of poverty, the improvement of life quality, the development and preservation of a viable and efficient local economy.

A sustainable community has control over the development process and adopts, in this respect, a series of decisions meant to guarantee sustainability at a local level. It also has an active social structure – associates, groups and institutions capable of mobilizing themselves for long term common actions and of taking responsibility for this continuous development process. The sustainable community has a vision on development, supported and promoted by all the community sectors, civic associations, local authorities, etc. A sustainable community appreciates and promotes healthy ecosystems, makes efficient use of the resources, develops and ensures a viable local economy.

The sustainable development of communities is primarily aimed at eradicating poverty at a local level, laying emphasis on local resources, which can be structured into four categories:

- *human capital*: knowledge, skills, capacities, creativity, adjustment strategies;
- *physical capital*: infrastructure (constructions, roads, etc.);
- *natural capital*: water, air, soil, flora and fauna;
- *social capital*: governing and decision making structures, communication and culture.

Sustainable communities are prosperous because the population works in collaboration and partnership in order to improve life quality. Sustainable communities make use of their own resources in order to provide for the needs of the current generation and, at the same time, for the resources necessary for the future generations. They mobilize their capacities in order to provide

quality medical services, high living standards for all their residents, via the limitation of waste, the prevention of pollution, the maximization of conservation, the development of local resources and their efficient use for the revitalization of the economy. The more deterritorialized the economic activities, the less they can be controlled by the authorities. Hence, it is necessary to ask multinational corporations to be democratically accountable. Table 1 presents some statements of intent of some multinational companies, which mention the concept of sustainability (Crăciun, 2004, p. 180).

**Table 1 – Statements of intent of some multinational companies with regard to sustainability**

<i>Company</i>	<i>Statements of intent with regard to sustainability</i>
BP	“We are determined to face the challenges of the sustainable development objective. In our vision, sustainable development is a long term strategic problem, which will involve businesses in the consolidation of some aspects that go beyond their normal responsibilities”.
Carlsberg	“Carlsberg Breweries seeks to meet their consumers’, customers’ and employees’ needs via ecological, healthy and sustainable actions”.
Nokia	“Global industries move towards a functioning modality in line with social and ethical principles, such as sustainable ecological practices. We strongly support this development and actively participate to the global initiatives which endorse it”.
Shell	“Shell is determined to contribute to sustainable development”.
Volvo	“The environment programs of Volvo will be characterized by a holistic vision, permanent improvement, technical development and the efficient use of resources. Via these means, Volvo will gain competitive advantages and will contribute to sustainable development”.

### **3. ABOUT GLOBALIZATION**

The conception and philosophy of sustainable development have been and will continue to be crystallized into the elaboration and the factual achievement of the regionalization and globalization projects. These focus, among others, on the decentralization of institutions, on the delegation of

national attributions, on the harmonization of national interests with global objectives (Pohoată, 2003, p. 74).

The phenomenon of globalization overturns the ancient economic, political and social conceptions that governed the world for decades. The economic crises from the last decade of the 20<sup>th</sup> century best illustrate the fact that the development systems must be reconsidered and reoriented towards new tendencies.

The globalization of world economy started in the mid 80s, gained field and adepts in the 90s and continues to manifest itself in the present as well, although it must face regionalist or nationalist conceptions.

*Globalization* is a complex phenomenon, which primarily consists in the stronger integration at a regional, as well as at world level, of the countries and population following the introduction, at a large scale, of information innovations that led to the significant reduction of transportation and communication costs, to the elimination of artificial barriers from the path of goods, services, capitals, knowledge and people, among states (Caracota and Caracota, 2004, p. 145).

*Globalization* is the inexorable integration of the markets, the national states and the technologies in an unprecedented degree, namely in a way which gives individuals, enterprises and national states the possibility of going further, faster, deeper and cheaper than ever before and in a modality which, on the other hand, produces a strong reaction from those that are either harmed or left aside by this new system (Crăciun, 2004, p. 169).

Under the strictly economic aspect of the efficiency of resources distribution and utilization, economic globalization appears as a rational phenomenon, meant to provide a larger volume of goods and services with increasingly fewer resources. Thus, economic globalization involves, in essence, the globalization of the process of creation of the gross domestic product of the states throughout the world.

In the report of the World Bank on World Development, from 2000, it is stated that two parallel processes occur in the world economy: *globalization and decentralization*:

- *globalization* consists in the trans-nationalization, until over-nationalization, especially in the fields of trade, finance and top technologies;

- *decentralization* consists in the transmission, by the local government to the local communities, of an increasing number of administrative, social, educational and budget related attributions, and, consequently, the role of the national state will be limited to diplomacy, army, the adoption of internal legislation.

An objective analysis of the globalization process until now illustrates the fact that economic advantages incline more towards developed countries and towards the great economic

powers where the trans-national societies are located. In this respect also acts the international financial mechanism, which, via its institutions, the International Monetary World, The World Bank, the World Trade Organization, dominated by the great economic powers, advantages, to an overwhelming extent, the developed countries involved in the granting of credits, the realization of direct foreign investments through which the crediting transnational institutions and companies obtain large profits.

However, globalization also has its negative side. First of all, especially in the less developed countries, many suffered from the globalization, primarily as concerns the social security system. Many others were marginalized by the global markets. Secondly, globalization also led to the deficient allotment of resources between private and public goods. The prices are capable of creating richness, but they are not meant to answer any other social needs. Trying to make profit, without any precautions, may lead to the deterioration of the environment and to a conflict with the other social values. Thirdly, global national markets can give birth to crises. It is possible for the inhabitants in developed countries not to be fully aware of the devastating consequences of financial crises, for they have the tendency of affecting, to a greater extent, the developing countries (Soros, 2002, p. 25). Table no. 2 presents some of the effects of globalization.

**Table 2 – Effects of globalization on the users**

<i>Users</i>	<i>Impacts of globalization</i>
Shareholders	The absence of regulation of the capital global markets leads to risks and financial instability.
Employees	Corporations delocalize their production units in developing countries in order to reduce the costs on the global market; here they find conditions for the exploitation of employees with a different cultural profile and divergent moral values.
Consumers	Global products are the target of the attacks with regard to cultural imperialism and forced occidentalization. Vulnerable consumers from developing countries are subjected to exploitation by multinational corporations.
Suppliers and competitors	The suppliers from developing countries must comply with the regulations imposed by multinational corporations via the management of the supply networks. Small competitors are exposed to much stronger opponents.

Civil society (pressure groups, NGOs, local communities)	Global economic activities put corporations in direct interaction with various local communities, thus creating the premises for the disappearance of the traditional lifestyles from the respective communities. Thus one witnesses the birth of active pressure groups who aim at monitoring and publicly exposing the corporations that activate in countries the governments of which are weak and tolerant.
Government regulations	Globalization weakens national governments and increases the responsibilities of corporations with regard to the workplace, living standards, environment protection, observance of certain ethical criteria.

Source: Crăciun, 2004, p.178

Nowadays there is a general, almost consensual political perception, with regard to global economy and sustainable development. The UNO debates emphasized a remarkable convergence of views on the challenges that the world faces at present, when the need for a more equitable world economy, where all the countries should have a fair chance to competition and where those who “have more” must support those “who have less” is acutely felt.

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