LEGISLATIVE MOBILIZATION IN CONVERGENT DIRECTIONS: *ANTI*-CRISIS AND *PRO*-SUSTAINABLE DEVELOPMENT

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Abstract: *In recent years, the legal steps (regulatory) taken at EU level as well as in each Member State, aimed to determine an ascent of sustainable growth, supported by a substantial degree of structural reforms. Obviously, Romania joined on the line, accounting as a responsibility of the state authorities to implement the European standards of the aforementioned nature, and also to develop and implement various (national) laws in an attempt to achieve faster the macro-stabilization and to strengthen the economic and business environment. In other words, lately, a certain enhancement of the intervention of the executive authority/government by legal means in the economic and business environment occurred, a situation determined, as we will show, by the increasing financial difficulties, to which, as we observe, were associated certain circumstances regarding the environment/sustainable development.*

Keywords: laws/regulation; financial crisis; institutional mechanisms; macro-economic; sustainable growth; EU; IMF

JEL Classification: K23

1. Introductory remarks

The last decade has brought to the European Union (EU) important macroeconomic imbalances, which emphasized the negative effects of the financial crisis which started in 2008 (EP, 2014) and was imported from the US, where it started with the "mortgage bubble" (Capilnean, 2013). Those imbalances, manifested especially in the Euro area, determined by the accumulation of massive public deficits and debt, to which were added the level differences of competitiveness, led to an almost unmanageable situation for some countries, created by the simultaneous occurrence of the financial crisis and the debt crisis. The deficiencies which occurred showed that the governance in the Euro area and the economic policy coordination were as weak as possible, a situation that required "thoroughness and broadening of the economic surveillance to guide the fiscal policy over the entire cycle and also on long-term period, while correcting the differences at the level of the growth, inflation and competitiveness" (EC, 2008). The functioning of Economic and Monetary Union (EMU) especially was under pressure because of the failure, in the past, of the regulation and principles which underlie it. On the other hand, the existing surveillance procedures have not proved themselves to be comprehensive enough (EC, 2010). However, it can be stated that getting through the critical period by the Member States (MS) was only possible because of their membership in the EU - with its domestic market for 500 million people and a common currency in 16 MS -by operating the existing coordination tools and methods. In fact, only these instruments, even imperfect, allowed the EU to

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pool their efforts to recover and to survive a major crisis that no MS would have been able to handle on its own. Therefore, starting with May 2010, urgent measures to meet the immediate needs of the crisis were initiated, measures which culminated in an extraordinary Ecofin Council on the 9th of May (ECOFIN, 2010); based on a Commission proposal, it was decided the establishment of a European stabilization mechanism and agreed upon a strong commitment in favor of an accelerated fiscal consolidation. We also mention that at this point it was invoked the necessity for a stricter adherence to the Stability and Growth Pact and the extension of the surveillance to macroeconomic imbalances.

2. Specific bodies and new instruments aimed to fight the crisis

2.1. European financial mechanisms "anti-crisis"

Referring briefly to the European financial mechanisms “anti-crisis”, we reveal that, in order to support the sustainability in the financial sector, the European organizations have tried repeatedly to encourage the economic growth (Bostan, 2011). A brief analysis of the European Economic Recovery Plan (2008) reveals several ways in which the MSand the EU can offer support to the real economy. The measures taken have already changed the way in which the economic and monetary policy is directed, creating new bodies and tools. They affect extensively the manner in which public funds are used within the EU. First, we need to mention that since early 2012 the European System of Financial Supervision operates, and were also set up the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority work. According to a particular document (European Court of Auditors, 2011) presented to the Committee on Budgetary Control of the European Parliament (EP) by the European Court of Auditors (ECA), the EU budget played an important role in this context, providing an extra 5 billion Euros to address the energy security issue and to bring high-speed Internet in rural communities and 11 billion Eurosfor payments (advances) engaged in the cohesion policy. Also, the European Investment Bank has increased its lending possibilities of SMEs with 15 billion Euros. For the MS outside the Euro zone, in order to grant access to financial assistance, the EU has applied an already existing instrument, namely the Community financial assistance mechanism for medium-term. To assist the MS in the Euro area, the EU created two temporary instruments, replaced later with a permanent European Stability Mechanism. The first, the European Financial Stabilization Mechanism was implemented in 2010 in order to ensure the financial assistance of the Union by granting guarantees from the EU budget. The second instrument, the European Financial Stability Fund was designed to assist MS within the Euro area (with a volume of funds up to 440 billion Euros). In 2012 the Euro area countries created the European Stability Mechanism (ESM-permanent), with a lending capacity of 500 billion Euros. Along with the contributions of the International Monetary Fund (IMF), this mechanism has at its disposal nearly 750 billion Euros, representing an integrant of the EU's global strategy aimed at ensuring the financial stability (Capilnean, 2013). In terms of tax regime, in late 2010 the Commission presented a series of proposals regarding an enhanced surveillance of the fiscal policies, as well as of the macroeconomic policies and structural reforms of the MS. The European Council endorsed this initiative and agreed on the enactment of the Euro Plus Pact, which aims towards a more qualitative coordination of the economic policies. A new procedure to coordinate the MS' policies *ex ante* was approved, entitled the "European Semester". This is actually a common tool used to coordinate the economic and fiscal policies of the EU MS, which monitors the budgetary discipline, the macroeconomic stability and the growth-promoting policies. The term "semester" derives from the 6 months period during which the fiscal and structural policies of the MS are analyzed in order to identify current or imminent imbalances, which would violate the rules established by the Stability and Growth Pact. Thus, together with the preparation of the budgetary decisions in each Member State, certain coordination may also take place aimed to secure the stability and growth of the entire European economy. According to the same ECA report, mentioned above, two aspects are of great importance. They refer to the European System of Central Banks and to the new set of norms aiming to control the national fiscal policies. Already, in some EU Member States and in certain third-party countries, these policy fields are subject to extended public control. Concerning the central banks, the reasons that require further reflection in this phase are the amplitude of the assumed financial risks which might be borne ultimately by the European taxpayers and the new macro-prudential responsibilities currently granted to the European Central Bank. As regards the fiscal policy, it is currently present the need for a more effective and virtually independent monitoring of the policies implemented in the MS. After approx. three years (2013) a turning point of the crisis was reached, but the incipient recovery is still fragile as the global economic context is still showing various uncertainties (EC, 2013). A dramatic increase in the next period is not forthcoming, given the risks arising from the distrust in the resistance of the banking sector or the high rates of the sovereign debt (EC, 2013b). However, the signs of the economic recovery should be seen as an encouragement to further efforts to improve the competitiveness and to ensure the sustainable recovery, aiming to support the domestic demand, which should become the main engine of the growth.

2.2. Courses of action established at EU level in order to stabilize the economy

During the last period, the global economy has benefited from a political response coordinated to the existing difficult context, meaning that a number of fiscal and monetary measures taken by the governments helped stabilize the global economy (MPF, 2010). For the future, intending to preserve its efforts in the explained sense, the EU has proposed to act on the following directions (EC, 2013b):

õ *Further differentiated budgetary consolidation*, taking into consideration a set of measures concerning the expenditure and revenue favorable to growth, with a greater emphasis on public expenditure and modernizing the administration. The new trend in taxation policy requires that they be designed to promote growth by shifting the tax burden from the work force to consumption-related tax bases, property and combating pollution (Bostan, 2008); it is increasingly acknowledged that the environmentally harmful subsidies should be drastically reduced.

õ *The resumption of lending the economy*, following the restructuring and adjustment of the banks. Under these circumstances it becomes important the adoption and immediate implementation of the banking union and the strengthening of the banks' ability to manage the risks; also, creating alternatives to bank financing, including venture capital options, the issue of bonds for SMEs etc.

õ *Promoting growth and competitiveness* through the full implementation of the third package of legislative measures on energy in 2014 and improving the efficiency in terms of costs of the support systems for renewable energy. Two other *priorities* refer to promoting resource efficiency by improving water and waste management, recycling and energy efficiency - and to improving the implementation of the Services Directive (EC, 2006), including the control of the restrictions affecting the access to the regulated professions.

õ *Combating unemployment and the social consequences of the crisis* by enhancing the active employment measures, conducting reforms to ensure the correspondence between the wages and the productivity and further modernizing he educational systems.

õ *The modernization of the public administration* by implementing at a larger scale the electronic governing (e-Government) services, including for the collection of taxes and for the points of single contact (PSCs) instituted by the Services Directive. In this respect, a simplified business environment and a reduced bureaucracy becomes very important; the target here is represented by both the decrease in the complexity of the procedure for setting up businesses as well as the reduction of the period for issuing the licenses/authorizations.

From the perspective of the judiciary systems it emerges the necessity for the improvement of their quality, independence and efficiency, also by ensuring solutions for the cases within a reasonable period of time; on the other hand, it is presumed that the modernization of the national insolvency law would considerably improve the conditions under which the companies operate.

2.3. Legislative steps taken by the European Parliament (EP) and the EU Council to achieve the economic growth and sustainable development objectives

The measures taken recently (2013) by the EP to counteract the crisis consisted of (Capilnean, 2013):

• *The two-pack on economic governance* which aims to consolidate the budgetary surveillance in the Euro area and may offer legal protection to the states of the Euro area facing financial difficulties. In 2010, the EU adopted a legislative package designed to supervise financially the private sector and in September 2011, the members of the European Parliament (MEPs) approved the so-called "six pack" regulations;

• The reform package of to *strengthen EU banks*. The changes limit bankers' bonuses in order to reduce speculative risks, increase the capital reserves to help banks to better cope with crises and strengthen supervision;

• Measures to *combat tax fraud*. The EP requested by resolution the MS to join forces to halve, by 2020, the one trillion Euros fiscal gap. The EU members seek an agreement among the governments on measures to combat tax havens, to correct the gaps and to combat the aggressive tax planning;

• Consolidated rules *against the manipulation of the financial markets*. Since privileged information and market manipulation enriched a few bankers, weakening the stability of the financial system, the MEPs voted tougher rules against these abuses;

• Rules for *limiting the risk when purchasing real estate*. They allow those who buy a home to be better informed about the costs and risks of the mortgage and to be partially protected against market fluctuations and increases of the rates; also, they will be better protected if they found themselves in the impossibility of repaying the loan;

• The implementation of a *single banking supervision system*. Since September 2014, the EU banking supervisory system brings under the direct supervision of the European Central Bank about 150 of the largest banks in Europe. The MEPs strengthened the transparency and accountability of the system and asked the European Banking Authority to develop supervisory practices to be followed by the supervisors in the national banks.

In terms of financial resources available to the European Commission (EC), we show that the EU budget is focused on overcoming the crisis by investing in economic growth and creating jobs, a number of projects supporting the entrepreneurs who want to set up businesses (EC, 2013c).For the funding period 2014-2020, the EC aims to meet the objectives of the Europe 2020 Strategy on economic growth (EC, 2013d), also taking into account the key objectives of the EU Sustainable Development Strategy (CEU, 2006), urgently requiring the promotion of a more efficient economy in terms of resource use, more environmentally friendly (Bostan *et al*., 2008, 2009) and competitive (EC, 2010).The sustainable development actually means "meeting the needs of the present without compromising the ability of future generations to meet their needs" (CMMD, 1987). To do so, even before the EU-27 formula, the EC has settled clear objectives and actions related to: (a) climate change and clean energy, (b) sustainable transport, (c) sustainable consumption and production, (d) conservation and natural resource management, (e) public health, (f) social inclusion, demography and migration, and (g) poverty alleviation. Besides, the sustainable development has become a political objective of the European Union since 1997, through its inclusion in the Treaty of Maastricht; in2001, the European Council in Gothenburg adopted the EU Sustainable Development Strategy, which was later largely revised. Today it has become increasingly clear that a sustainable growth involves building a competitive, sustainable and efficient economy in terms of resource use (Bostan, 2014; Pohoata *et al*., 2014). The general strategic objective of the sustainable development concerns the continuous improvement of the quality of life for present and future generations through the creation of sustainable communities able to efficiently manage and use the resources and to capitalize the ecological and social innovation potential of the economy to ensure prosperity, environmental protection and social cohesion. To achieve the targeted aspirations it is necessary to improve the competitiveness among the EU trade partners, through increased productivity, and to maintain the advantage on the market for green technologies as a way to ensure an effective use of the resources in the whole economy, eliminating at the same time, the bottlenecks within the major network infrastructures, and thereby, boosting the industrial competitiveness (Bostan and Artene, 2012).Likewise, there are also necessary the control of the climate changes by reducing the massive carbon dioxide emissions and the fully exploitation of the potential of the new technologies such as capture and storage possibilities of carbon dioxide (Bostan and Roman, 2013).Achieving the objectives concerning energy ("clean and efficient energy"), for example, could cause the value of EU oil and gas imports to fall by 60 billion Euros by 2020, which is not only seen as a saving in financial terms, but it also represents a fundamental element of the EU energy security. In fact, the multiannual financial framework for 2014-2020, which defines the priorities for expenditure directed towards sustainable economic growth, employment and competitiveness, in line with the EU Economic Growth Strategy – "Europe 2020" (EC, 2013d) allows the EU to allocate approx. 960

billion Euros in commitment appropriations (1.00% of EU GNI) and 908.4 billion Euros for payment appropriations (0.95% of EU GNI) (EC, 2013c). The access and the actual use of the concerned financial resources are guided by a normative system, recently reviewed extensively. Thus, the new regulations adopted by the European Union in late 2013 that will govern the expenditure of the funds allocated from the EU budget during 2014-2020 are (Finantare.ro, 2014):

• Regulation (EU) No. 1303/2013 *laying down common provisions on the European Regional Development Fund*;

• Regulation (EU) No. 1300/2013 on the *Cohesion Fund*;

• Regulation (EU) No. 1301/2013on the *European Regional Development Fund* and on specific provisions concerning the investment (for economic growth and jobs);

• Regulation (EU) No. 1304/2013 on the *European Social Fund*;

• Regulation (EU) No. 1305/2013 on support for rural development by *the European Agricultural Fund for Rural Development;*

• Regulation (EU) No. 1306/2013 the financing, management and monitoring of the Common Agricultural Policy;

• Regulation (EU) No. 1302/2013 amending Regulation (EC) No. 1082/2006 on a *European grouping of territorial cooperation* (EGTC) as regards the clarification, simplification and improvement of the establishment and functioning of such groupings;

• Regulation (EU) No. 1309/2013on the *European Globalisation Adjustment Fund* (2014-2020).

But in our case, we want to point out that, as the situation evolved in the previous quarter, when it was stated explicitly that the "sustainable development is the dominant principle of the EU policies", but actually the "EU economic competitiveness issue against the globalization has come to dominate the political agenda" (EurActiv, 2008), perhaps things will not know spectacular improvements in this regard.

While no one can assert that the environment has been neglected, however, it is expected that the principle of the "competitiveness" to remain in the spotlight. This is particularly true since the issue of the financial crisis in the EU still has not been resolved.

3. The financial and economic crisis in Romania and the risks of environmental degradation, additional arguments of the successive amendments to incident regulations

The global economy encountered in 2008 the biggest economic crisis since the Great Recession of 1930, which affected both the developed countries as well as the emerging ones, demonstrating the degree of interdependence among the economies of the world. Since the last quarter of 2008 the crisis has also spread in Romania in the context of the unsustainable growth recorded by our country's economy (7.3% in 2008) that fuelled an excessive current account deficit of about 11.6% of GDP in 2008 (MFP, 2010).As well as in other countries, managing the economic boom has proved difficult, the fiscal policy fuelled the imbalances by spending the income related to the additional growth, which led to higher fiscal deficits. The financial crisis created a number of challenges for the Government, of which the most important were:

• A new approach to fiscal policy, requiring the choice for rational and intelligent spending, a deeper analysis of the costs of the measures taken and the redesign of the expenditure; the purpose: to obtain a maximum effect using limited resources;

• A coordinated global response of the authorities focused on a better recognition of all stakeholders;

• The necessity to improve and reform the public services, the need to do more using fewer resources, respectively a partnership between the government, the business environment, the labour market and the civil society.

The measures concerning the re-prioritization of the expenditure in the public sector, the decrease of the low-priority costs and directing the funds toward the important programs for the development of the national economy, the rationalization of the public organisms and agencies etc. are all actions included in the anti-crisis strategy. Obviously, these actions required amendments in the regulatory framework, emerging a multitude of legislative rules on budget containment (Government Ordinance 34/2009 on the 2009 budget rectification and regulation of financial and fiscal measures etc.). In this context falls in line the reform program of the public sector implemented by the Romanian authorities and agreed with the IMF, which aims to reduce expenditure and conduct reforms in the public sector, designed to pull Romania out of the crisis and lead to a stronger and flexible economy. Next, a large category of rules was enacted to restart/macro-stabilize the economy (i.e. regulation on stimulating the setting up and development of SMEs, state aid, guaranteeing the loans for micro-enterprises/SMEs, etc.). On the other hand, since the economic crisis affects primarily the disadvantaged groups, the intervention of the Executive – by issuing Government ordinances and decisions - was essential for the protection of these groups. So to minimize the effects of the financial crisis on disadvantaged groups, the Romanian government adopted a series of measures on: unemployment, family support allowances, guaranteed minimum income.

Conclusion

Fighting the effects of the crisis caused by the accumulation of massive public deficits and debt, to which were added the differences in level of competitiveness, involved the review of the entire institutional system (laws, mechanisms, etc.), existing both within the EU and each Member State. What we noticed is that the special mobilization that followed the onset of the economic crisis (2008) has strongly marked the “production of laws/rules” on both levels (European and national).They covered the directions also mentioned in the title of this paper, anti-crisis and pro-sustainable development, coherently, as we pointed out, and leading eventually to the creation of special mechanisms designed to improve the situation. However, the optimism is as tempered as possible, given the “legacy” of the crisis and the need to reduce the leverage in the public and private sectors. We can also mention here the fragmentation of the financial systems and credit markets, the restructuring and sector adjustment and the high rates of unemployment.

References

Bostan, I. (2008), *Drept financiar,* Tehnopress Publishing House, Iasi.

Bostan, I. (2011), “Mecanisme financiare europene “anticriza” ”, *Finantare.Ro*, Edited by Arhipelago Interactive, 27 August, available at: http://ionelbostan.finantare.ro/2011/08/27/mecanisme-financiare-europene-anticriza/

Bostan, I. (2014), *Dezvoltare durabila. Afaceri verzi*, Editura Accent, Cluj Napoca, 2014, pp. 7-9.

Bostan, I. and Artene, A. E. (2012), “Business Benefits, Social Responsibility and Sustainable Development in SME Trough Implementing and Combining ISO 14000 with ISO 26000”, *Ovidius University Annals - Economic Sciences Series*, Vol. 12, Issue 1, pp. 819-822.

Bostan, I. and Roman, C. (2013), “Focusing the ECA audit on the environment and sustainable development objectives”, *Quality Journal*, edited by the Romanian Society for Quality Assurance (SRAC), Vol. 14, Suppl. 1, pp. 459-463.

Bostan, I., Iatco, C. and Hlaciuc, E. (2008), “European union legal instruments that ensure environmental health”, *Revista Romana de Bioetica*, Vol. 6, Issue 3, pp. 92-96.

Bostan, I., Iatco, C., Hlaciuc, E. (2009), “Responsibility and accountability in the preservation of natural life conditions”, *Revista Romana de Bioetica*, Vol. 7, Issue 2, pp. 52-56.

Capilnean, M. (2013), *Bilantul crizei: Ce masuri a luat Uniunea Europeana*, Centrul Europe Direct Maramures, available at: http://europedirect.cdimm.org/wp-content/uploads/2013/11/ED-Maramures_Bilantul-crizei.pdf

Comisia Mondiala pentru Mediu si Dezvoltare (CMMD) (1987), "Report of the World Commission on Environment and Development: Our Common Future", available at: http://www.un-documents.net/our-common-future.pdf

Council of European Union (CEU) (2006), "Strategia de Dezvoltare Durabila a UE revizuita", Bruxelles, 26 of June, 10117/06, available at: http://strategia.ncsd.ro/dbimg/27_fisiere_fisier.pdf

Curtea de Conturi Europeana (2011), "Consecintele pentru raspunderea publica si pentru auditul finantelor publice in UE si rolul Curtii de Conturi Europene in contextul actualei crize financiare si economice", Luxembourg, available at: http://www.eca.europa.eu/Lists/News/NEWS1107_04/NEWS1107_04_RO.PDF

EC (2008), "Comunicarea Comisiei cu privire la „UEM-10: succese si provocari dupa 10 ani de Uniune Economica si Monetara" ", IP/08/716.

EC (2010), "Comunicarea Comisiei (250 final) catre Parlamentul European, Consiliul European, Consiliu, Banca Centrala Europeana, Comitetul Economic si Social European si Comitetul Regiunilor, Consolidarea coordonarii politicilor economice", Comisia Europeana, Bruxelles, available at: http://www.europarl.europa.eu/meetdocs/2009_2014/documents/com/com_com(2010)0250_/com_com(2010)0250_ro.pdf

EC (2010), "Comunicarea Comisiei Europene, O strategie europeana pentru o crestere inteligenta, ecologica si favorabila incluziunii – 2020", Bruxelles, available at: http://europa.eu/legislation_summaries/employment_and_social_policy/eu2020/em0028_ro.htm

EC (2013a), "Comunicarea Comisiei Analiza anuala a cresterii pentru 2014", available at: http://ec.europa.eu/europe2020/pdf/2014/ags2014_ro.pdf

EC (2013b), "Comisia Europeana", Bruxelles, COM (2013) 800 final, available at: http://ec.europa.eu/europe2020/pdf/2014/ags2014_ro.pdf

EC (2013c), "Bugetul UE pentru perioada de finantare 2014-2020", available at: http://ec.europa.eu/budget /mycountry/RO/index_ro.cfm

EC (2013d), "Strategia Europa 2020 privind cresterea economica", available at: http://ec.europa.eu/europe2020/index_ro.htm

ECOFIN (2010), "Extraordinary ECOFIN meeting", available at: http://ec.europa.eu/economy_finance/crisis/2010-05_en.htm

EurActiv (2008), “Dezvoltarea durabila in Europa”, available at: http://www.euractiv.ro/uniunea-europeana/articles%7CdisplayArticle/articleID_12459/Dezvoltarea-durabila-in-Europa-umbrita-de-nevoia-de-competitivitate.html

European Comission (EC) (2006), “Directiva 2006/123/CE a Parlamentului European si a Consiliului din 12 decembrie 2006, privind serviciile in cadrul pietei interne”, *Jurnalul Oficial*, L 376, 27.12.2006, available at: http://europa.eu/legislation_summaries/employment_and_social_policy/job_creation_measures/l33237_ro.htm

European Parliament (EP) (2014), “Supravegherea macroeconomica”, available at: http://www.europarl.europa.eu/ aboutparliament/ro/displayFtu.html?ftuId=FTU_4.2.2.html

Finantare.ro (2014), “Fonduri Structurale”, 9 of January, available at: http://www.finantare.ro/calendar-fonduri-structurale-2014-2020

MFP (2010), “Strategia fiscal-bugetara pe orizontul de referinta 2011-2013”, available at: http://discutii.mfinante.ro/static/10/Mfp/strategbug/STRATEGIA_FB_27sept.pdf

Pohoata, I., Bostan, I., Prelipceanu G., Drugus, D., Morariu, A., Bunget, O. (2014), “Equity, intra/inter-generation equalization and profit, in the context of the right to a healthy life and a clean environment”, Revista Romana de Bioetica, Vol. 12, Issue 2, pp. 58-69.