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Current Tendencies of the European Union Development and their Consequences in Short and Medium Term

Abstract

The institutional development of the European Union requires not only a consolidation of the European Union bodies, but also common and coordinated policies, which inevitably imply the obligation of the Member States to give up to a part of their own powers, in other words to give in of their national sovereignty. The matter in question, at least from our point of view, is whether Romania is or not prepared for this kind of constitutional development.

Key words: *institutional development, the European Union, common policies, national sovereignty, constitutional development.*

Obecne tendencje rozwoju Unii Europejskiej i ich konsekwencje krótko- i średnioterminowe

Streszczenie

Rozwój instytucjonalny Unii Europejskiej wymaga nie tylko konsolidacji organów Unii Europejskiej, ale również wspólnych i skoordynowanych polityk, które w sposób nieunikniony implikują po stronie państw członkowskich obowiązki przekazania części ich władzy, innymi słowy zrzeczenia się suwerenności narodowej. Analizowane zagadnienie, przynajmniej z naszego punktu widzenia, sprowadza się do tego, czy Rumunia jest przygotowana na tego rodzaju zmiany konstytucyjne.

Słowa kluczowe: *rozwój instytucji, Unia Europejska, wspólne polityki, suwerenność państwowa, zmiany konstytucji.*

The persons who aimed to build the structure of the European Union were aware that the process would be long and difficult. The historical process proved that an initial idea was subsequently completed and then modified till what was practically pursued and aimed at the

beginning, became progressively not only a forgotten matter but it was also annulled. And this fact became more and more obvious during this development, as the process of European construction modified both its program and goals. Thus, from an economic association of the three initial communities – European Economic Community (EEC), the European Coal and Steel Community (ECSC) and the European Atomic Energy Community (CEEA – EURATOM) – it progressively passed to a process of union and massive integration of the Union's Member States, a complete integration and to a quite aggressive admission process of new members, including Romania. Thus, from a relatively limited initial number, presently, with few exceptions – out of which some are remarkable – practically, the whole European continent, at least to the west of Romania, became members of this union. Besides, this process has not stopped even if, at least for now, the admission of new members was if not stopped, at least decelerated. Negotiations are still conducted but it cannot be foreseen the day when the accession will be resumed. Anyway, we estimate that at least for now, a massive process of accession is not anticipated on a short and medium term.

It was erected a European “construction” founded on a new form of State association. This association is no longer based on the provisions of some simple association treaties that have a pure political feature, as they have existed along the history. It is about a process way more profoundly, a process more complex and with long-term consequences that imply all Member States of the European Union but also, in general, the international community. I do not refer here to a simple association in order to realize some definite goals – for example, a common economic policy to the end of ensuring competitiveness of our continent compared to the United States of America or Asian States – traditionally, Japan, but also South Korea or, especially China.

It is a process of political, economic and social integration, so implicitly, institutional integration of the European Union States. There have also been set up institutions and bodies that no longer represent, in a focused manner, the interests of the Union Member States, but they represent the interests of the new entity which is the European Union¹. I refer here to the European Parliament, Council and Commission, as well as to the other community institutions. Our point is that, at the moment, the Union's interest is one of a kind and different from the interests of the EU Member States, representing in the same time both theirs sum and even way above them. And this “something” becomes as the time goes by, more and more important and meaningful. In other words, the common interest does not

¹ See I. P. Filipescu, A. Fuerea, *The European Community Institutional Law*, edition IV, “Actami” Publishing House, 1999.

represent only a mere summarization of Member States' convergent interests, but it represents an expression of a sole will, situated above the Members' interests. Practically, the European Union acts as an autonomous person/subject of law and exclusively compared to the Member States. So it manifests its specific, own will of an independent and sovereign person.

Within this process of formation and continuous improvement of mechanisms and institutions of the European Union, the last period of time underlined more processes that also occurred as a consequence of the crisis that influences the world at the moment. First of all, it is about the crisis of financial nature, which has diverse repercussions in the economic and social domains. The excessive crediting, the life based on the act of spending future incomes encouraged by the credits which are practically not limited, favoured by the banking systems of the developed states led to the crisis which influences especially the states with an insufficiently developed economies, and as such prone to immediate "sideslips". Practically, at the moment, it is debated, neither more nor less, only upon the disappearance of the European single currency – Euro – and implicitly of the Eurozone towards which Romania aspires, among other countries, even if the date of accession to this structure becomes more and more remote.

Euro was meant to act as an engine of the European integration and as an instrument that was supposed to generate the unification of markets, of transactions within the policies concerning the liberalisation of the movement of merchandises, of labour force and of capital within the European Union. It goes without saying that it is very important to eliminate the risks of money rate, of the necessity of national currency conversion into the currency of the Partner State, of other advantages that were entailed by the single European currency. The single money market cannot be based only on the existence of the single currency, as the specialists in finance and macroeconomics, respectively financing policies, have clearly stated. This is indeed a necessary element, but not sufficient. It is indisputable that at present we have a central European bank operating in the same time as a bank of issue and which, by means of this mechanism controls the financial market, at least from the point of view of the money supply. But it seems that this single mechanism is not sufficient.

An obvious aspect would be the following: we practically observe all kinds of changes, both from the institutional point of view and from the theorists' one, noticing the necessity of completing this "construction" with other two vital elements in order to insure the further existence of this European structure. It is all about common fiscal and budgetary policies. The purpose of these two policies is easy to be guessed but it is way much harder to achieve it, respectively a common budget and a common fiscal policy. The latter implies only

the settlement of some means to establish and collect the taxes on the whole community territory in a unified and synchronized manner. “That is not such a big stuff” would be some tempted to say. But there has to be taken in consideration the premises and the consequences of introducing this kind of measures.

I have previously shown² that the current tendencies of the European Union prefigure an institutional and organisational evolution meant to led not only to the occurrence of a new subject of international law but to a true process of change of this union in a federative or confederative state form, even if it is not similar to the ones already known to the human history evolution. These states organized on federative or confederative grounds display two levels of regulation, if we choose to speak on legal terms, namely a federal and one of the Member States. The two levels of regulation imply different competences and specific attributions. It is obvious that the federative regulations refer to domains that are overall, of general interest. While the fiscal policies and the budgetary are, in our opinion, this particular kind of domains. As such, a money and budgetary policy, respectively a fiscal one, are necessarily attributions that pertain to the level of federative level, in our case, to the European Union. The validity of this statement is supported by the consolidation of the financial market – including of capital flows – of the labour force market as well as of the liberty of movement for the European citizens – it requires necessarily a unified regulation of the aspects that I analyse in the content of the present paper.

Which exactly is the institutional stage of the European Union Member States from the point of view of political will to adopt this measures not a bit simple and especially, by no means popular, is a topic that should be analyzed compared to the specific constitutional provisions of each and every Member State.

If we study, for example, the Romanian Constitution, we will have the following results: article no. 137 paragraph 1 stipulates that the creation, management, use and control of financial state resources are regulated by law. It is obvious that we deal with a single and exclusive attribution of the legislative body, which is the Romanian Parliament. Similarly, article 138 paragraph 2 of the same constitution stipulates the procedure of drafting the state budget project by the Romanian Government and then its submission in order to be consented by the parliament. Another important provision refers to the fact that the taxes and any other sources of incomes of the state budget are established by law.

² Ș. Herchi, *The European state*, „Journal of Agora Univeristy”, Oradea no. 5/2005.

Everything that was above stated contravenes to these basic provisions of the Romanian supreme law. The transfer of these attributions obviously means a prejudice caused to the national sovereignty. Why? Because a transfer of these attributions to the community bodies and institutions which will be authorized by union treaties – as a consequence of their amendment – or based on the act of drafting some new union, constitutional-type provisions – see treaties, etc. – would definitely cause the renouncement to these constitutional provisions, hence their exercise by the Romanian State institutions.

We have to admit that those who thought to create this European structure and, in the case in point, along with the establishment of the European Constitution, they have also considered the aspect of the so-called division of competences between the Member States and the European Union³. I do not intend to give further details concerning these competences because they do not constitute the subject and topic of the paper.

I consider that what is important derives from the political will of the Member States to accept such a transfer of sovereignty. The Romanian legislator has solved these aspects in a form that we find to be extremely ingenious. Thus, to the amendment of Constitution of 1991, amendment performed in 2003, there were adopted new provisions that allow such a transfer of sovereignty. Thus, article 148 paragraph 1 of the Constitution stipulates that the transfer of some attributions to the community institutions and the act of enforcing conjunctly this kind of attributions may be consented by law by the joint chambers of Parliament, with a majority of two thirds. In other words, Romania, in the process of EU integration that is more and more advanced – if we are allowed to use this term, is prepared to give up to a series of prerogatives of national sovereignty and to transfer them to the competent community institutions.

As such, for us at least these policies and tendencies do not constitute a surprise, but they represent a direction of organizational and institutional development that Romania not only accepts, but also supports it. The result is co-operation between the community bodies and those of Romania both in what concerns the budgetary policy – drafting and then establishing a national budget project integrated in the community budget, a project which together with the projects of the other Member States shall be consented by the community bodies and then customized on each Member State. Similarly, the policies concerning taxes and especially their collection methods are to be determined by common mechanisms, to the level of the whole union.

³ C. E. Dragomir, *Sovereignty of the EU Member States*, “Refacos G.A.” Publishing House, Moreni 2005, p. 39.