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CONTENTS

SECTION: CULTURE THEORY, CULTURAL IDENTITY

- I. Georgiana CICEO: THE DIFFICULT PATH TOWARDS EUROPEANNESS. ASSESSING THE POLITICS OF CULTURE AND IDENTITY IN THE EU**

SECTION: EUROPE: CULTURE, ECONOMICS AND LAW

- II. Florin DUMA: INTEGRATION OF THE STOCK MARKETS OF THE EU COUNTRIES. A CONVERGENT OR A DIVERGENT PROCESS?**
- III. Mihaela OPRESCU: FREEDOM OF RELIGION, IN THE JURISPRUDENCE OF THE EUROPEAN COURT OF HUMAN RIGHTS**

SECTION: THE ROLE OF REGIONALISMS IN SHAPING THE PUBLIC REGIONAL AGENDA

- IV. Tanya WITTAL: CULTURAL LEARNING IN A GLOBALIZED WORLD**
- V. Miruna Andreea BALOSIN: LOBBYING IN THE EUROPEAN PARLIAMENT-‘REVOLVING DOOR’ AND ‘COOLING OFF’ PHENOMENA**

Section:

Culture theory, cultural identity

THE DIFFICULT PATH TOWARDS EUROPEANNESS. ASSESSING THE POLITICS OF CULTURE AND IDENTITY IN THE EUROPEAN UNION

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Abstract

The gradual advance of the European integration process has generated vivid discussions on what defines the Europeanness and what its main features are. They were meant to bring useful insights to the wider ongoing debates with regard to who is entitled to embark in this process or what defines in a European context a certain type of political action. They attempted to move beyond the sheer political and economic considerations and go to the core of the whole effort of building a European Union based on the intertwined processes of integration and enlargement. As such, they were closely entangled with those concerning the core values that define a European identity. The present article looks at the cultural policies of the European Union and tries to evaluate their capacity to shape and, if possible, reinforce a sense of Europeanness among the Europeans.

Key words: cultural policy, identity, Europeanness

'Culture' is generally recognized as complex to define. Generally speaking, it can refer to a "refined understanding of the arts and other intellectual achievement" (Oxford Dictionary). 'Culture' can also have an anthropological meaning. From this perspective, it can be assimilated to the yarn of a symbolic world of meanings, beliefs, values, traditions which are expressed in language, art, religion and myths. As such, it plays a fundamental role in human development and in the complex fabric of the identities and habits of individuals and communities. The role of culture in a European context was best

highlighted by the Swiss writer and cultural theorist Denis de Rougemont back in 1948 in his lecture at the Sorbonne on the cultural implications of European unity. According to him 'Europe is a culture, otherwise it is nothing much. [...] culture here is still a goal, an end in itself and not a means to an end.' For Europeans 'it is culture which expresses the human meaning of political life and of the economy: culture sets out to exert an influence on them and allows us to criticize them, to assess their results. So the primacy of culture is part of the way that we define Europe.' It is a distinct feature of Europe that 'its cultural unity, or to put it more accurately, its unity of attitude towards culture, feeds on diversity.' Culture lies at the heart of the European project and is the anchor on which the European Union's 'unity in diversity' is founded. The combination of respect for cultural diversity and the ability to unite around shared values has guaranteed the peace, prosperity and solidarity the EU enjoys. Recognizing the potential of culture for supporting the European identity, starting from the 1980s a number of cultural initiatives at EU level began to come true: adoption of a European logo, a flag, and an anthem, a host of conspicuous cultural initiatives from the restoration of Parthenon to the creation of a European Youth Orchestra or a European literature prize in order to name but a few (Shore, 2006, p. 15). These first initiatives were further strengthened by the decision to include in the Treaty of Maastricht special provisions for cultural policy at European level.

In order to assess how the cultural policy of the European Union can contribute to the forging a sense of European identity we will proceed in the following steps. Firstly, we will deal concisely with the main tenets of the concept of cultural policy. Then we will attempt to explore the main features of the concept of European's in order to distinguish those possible areas of action by the European Union in the realm of cultural policy. Further on, we will examine the cultural policies developed over the years by the European Union. Our focus will lay on the goals stated, content and ways of implementation. The last section will endeavor to evaluate the gap between the stated aims and the contribution of the cultural policies on building an enduring sense of Europeanness among the Europeans. The conclusion will highlight the status of the research and the most important findings up to now. The present research will concentrate on policy outputs of European

cultural policy set against the background of its underlying objective of contributing to building a European identity. We have chosen an institutionalist-political approach to public policy centered on the involvement of actors in the policy processes developed at EU level since there is already a network of government institutions and agencies and nongovernmental organizations active in the field of cultural policy.

Why a cultural policy?

Cultural policy is the area of public policy-making that governs activities related to the arts and culture. Its objective is to ‘foster the (re)discovery or (re)assertion of identities’ (Council of Europe, 1997, p. 46) whereas its content can include a wide variety of issues from national heritage to artist’s rights, property rights, cultural tourism etc. What relates to the field of cultural policy reflects policy options decided at national level or, in a European context, at a European level. As any other public policy it requires legislation, institutions which promote cultural diversity and accessibility, support for the artistic, ethnic, literary and other expressions of people and protection for the cultural heritage. The development and management of cultural policy is therefore one of the most complex areas of modern government, a ‘kind of a balancing act, not so much between competing priorities as in other areas of policy, but between competing visions of the role of culture in society’ (Matarasso and Landry, 1999, p. 7).

As an area of public policy, cultural policy is not a ‘static phenomenon’ (Gray, 1996, p. 218) since it is subject to different influences which have an impact on its content, policy processes and organization as well as the range of instruments applied. From this perspective, policy change can be brought about either by somebody concerned with the policy itself or by alterations occurring in other policy areas which are connected with, or have an influence on the processes in the cultural sector.

In the official European documents of the European Union one can hardly trace a direct link between culture and identity although there is an underlying assumption of a direct bond between the two (Banús, 2002, p. 159, Shore, 2006, p. 10-11). In order to discuss, how cultural policy can help reinforcing identity in a European context, we will

firstly need to explain the concept of European identity as only by identifying those conditions that have the potential to increase the affinity for a European identity we can assess to what extent the cultural policy of the European Union could reinforce this.

What shapes Europeanness?

Identity is manifold as everyone has a wide variety of allegiances - actual or potential. It can unfold from the immediate environment of friends and family through the local community of neighbors, the national homeland up to an identity which is still under construction – that of Europe. The gradual advance of the European integration process has generated vivid discussions on what defines the Europeanness. They were meant to bring useful insights to the wider ongoing debates with regard to who is entitled to embark in this process or what defines in a European context a certain type of political action. They attempted to move beyond the downright political and economic considerations and go to the core of the whole effort of integrating Europe and building a European Union. As such, they were closely entangled with those concerning the core values that define a European identity. Over the years wide areas of convergence have been developed between a European and a European Union identity. Despite the fact that the EU identity cannot surpass the European identity it is obvious that the former contributed greatly to the reinforcement of the latter by establishing clear criteria for what it means to be regarded as European. A number of norms with deep roots in the common cultural heritage of ancient Greece, Christianity and Europe of Enlightenment, connected in a way or another with the ideal of liberal democracy and embedded in the domestic structures of the member states came to define European identity. They represent the main features of European secularism and were embodied as such in the Copenhagen criteria and Article 2 of the Consolidated Version of the Treaty on the European Union which enshrines the values on which the Union is founded: respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of the persons belonging to minorities. This set of values came to be utilized as a compatibility test for all those aiming to acquire membership status.

Inherent tensions between a European and a national identity have been mitigated by the acknowledgement of the fact that the two do not mutually rule out each other since as already mentioned individuals are at the same time members of different social groups and hold multiple identities. According to Thomas Risse, the relation between European and national identities resemble the image of a 'marble cake' as various components of an individual's identity cannot be neatly separated on different levels (2006, p. 296). This relationship is further complicated by the fact that the European identity has always been a work in progress. As a consequence, European identity came to signify different things to different people at different points in time. One possible explanation resides in the very 'cultural and social topography' of Europe, which is 'fragmented, lacking clear unifying principles and shared experiences around which people could identify' (Van Ham, 2001, p. 59).

Under these circumstances, the European identity can be interpreted in a wide variety of keys between an exclusivist and an inclusivist one. Research shows that exclusive national identity is mobilized against European integration in countries where the elite is polarized on European integration, where political parties are divided, and where radical right parties are strong. (Hooghe and Marks, 2004, p. 418). In an exclusivist perspective European identity could only appear slowly through the formation of shared memories and traditions, myths and symbols similar to those that helped the formation of nation states (Smith, 1995, pp.139-140). This would require a high degree of compatibility between popular traditions, values, symbols and experiences of those belonging to this project the more difficult to be reached with every new increase in the number of members. At the other end of this continuum we find those who interpret the European identity in an inclusivist manner. The most powerful voice among these belongs to Peter Van, but we cannot disregard those belonging to Jeffrey Checkel or Peter Katzenstein in order to name just a few of them. For them, the only way to develop a European identity 'might well be to turn our backs to European history and develop a community that is oriented toward the future' (Van Ham, 2001, p. 70). This post-national construction of a European identity will also require a 'new sense of belonging', based not on shared memories, but on 'sedimented

experiences, cultural forms which are associated however loosely with a place called Europe' (Van Ham, 2001, p. 72). This interpretation posits also that only by means of a 'continuous redefinition of itself' not against the other (Checkel and Katzenstein, 2009, p. 8), but through relationships with others (Van Ham, 2001, p. 72; Weiler, 2009, pp. 256-257) Europe can preserve 'its celebrated diversity, its openness and inclusiveness' (Van Ham, 2001, p. 72).

While bearing in mind this distinction between an exclusivist and an inclusivist way of defining European identity, let's now have a look to the cultural policies of the European Union before we come back to this observation and try to evaluate these policies against this background.

What distinguishes EU Cultural Policy?

It is by now considered that the common currency needs to be accompanied by what the German professor on the history of philosophy described as a 'corresponding "cultural currency" that could help the European nations and their citizens to identify culturally' (2000, p. 76) in the already existent economic and political area. A set of shared cultural values can offer Europeans a sense of 'orientation' in these times of 'growing Europeanization of their world' (Rüsen, 2000, p. 76). In fact, the main motivation behind any concerted effort to bring cultural unification in line with the already advanced economic and political unification has always been connected with the necessity of instilling a European consciousness or a European identity into European people's minds. As identities are cultural constructions, this was regarded as an absolutely necessary precondition for bringing about the goal of an ever closer union among the peoples of Europe as enshrined in the Treaty of Maastricht and reinforced by the Treaty of Lisbon. Moreover, the existence of a European identity was supposed to increase the legitimacy of the European Union as a polity and help binding together its citizens.

As it can be seen, Art. 167 in the Treaty on the Functioning of the European Union dealing with culture stipulates that this realm is and will remain primarily a responsibility of Member States. Cultural policy might be dealt with at the regional or even local level,

according to the legislation in each Member State. The Treaty does not provide, for example, for harmonization of the laws and regulations of the Member States. Action at EU level is to be undertaken in full respect of the principle of subsidiarity, with the role of the EU being to support and complement, rather than to replace, the actions of the Member States, by respecting their diversity and stimulating exchanges, dialogue and mutual understanding. Action by the Union shall be aimed at encouraging cooperation between Member States and, if necessary, supporting and supplementing their action in areas such as improvement of the knowledge and dissemination of the culture and history of the European peoples, conservation and safeguarding of cultural heritage of European significance, non-commercial cultural exchanges and artistic and literary creation, including in the audiovisual sector (TFEU, Art. 167).

As the relevant articles of the Treaty of Lisbon suggest, the EU actions with regard to the cultural sector can be framed in the design of the open method of coordination - a non-binding, intergovernmental framework for policy exchange and concerted action suitable for a field, where competence remains very much at Member State level. This implies the adoption in partnership with Member States of a flexible approach, entailing the setting of general objectives with a light regular reporting system. The European Commission puts forward proposals for action. The Council of Ministers and the European Parliament, after consulting the Committee of the Regions, need to endorse these objectives, setting priorities and agreeing on a biennial follow-up exercise. The European Parliament and the Council acting in accordance with the ordinary legislative procedure and after consulting the Committee of the Regions, shall adopt incentive measures, excluding any harmonization of the laws and regulations of the Member States. EU initiatives aim to reinforce the European identity. As part of this exercise, the Commission would draft a joint report with high level representatives of Member States every two years summarizing main issues and trends and discussing progress across Member States with regard to the common objectives. Member States would be encouraged to fully associate local and regional authorities and national cultural stakeholders in the follow-up process and to describe in their national reports how they have been involved. At EU level, the

Commission would involve stakeholders in the process through the Cultural Forum. In the year preceding the publication of the report, the Commission would organize a meeting in order to gather inputs from civil society.

Since 2007, under the European Cultural Agenda, the Commission has been encouraging the national authorities, the cultural sector and EU institutions to jointly promote cultural diversity and dialogue, creativity and innovation and culture in EU external relations. In this respect, the Commission went along two lines by supporting, on the one hand, the intercultural dialogue, and, on the other, skills and mobility. Under the headline culture as a catalyst for creativity and innovation the Commission put forward actions that can be linked to either cultural and creative industries, culture and regional development or cultural heritage. In EU external relations, the Commission included initiatives to promote European culture.

As far as the Intercultural dialogue is concerned, the European Commission supported projects for: Intercultural Dialogue and Roma culture like backing the enforcing of anti-discrimination legislation, funding projects for education, culture and young in the Roma community, creating networks of experts on Roma culture; Intercultural cities in order to foster a genuine dialogue among cultures in various ways (public consultations, citizens' dialogue) and formats (public spaces, schools etc.) as part of a intercultural strategy; Intercultural dialogue in various EU policies such as culture (European Capitals of Culture, Europe Book Prize, European Union Prize for Contemporary Architecture), youth (Youth in Action, Young European of the Year), research (framework programs, European Investor of the Year), multilingualism etc. With regard to Skills and mobility, the Commission supports the free movement for artists and cultural professionals, and increased opportunities for them to produce and exchange cultural goods and services.

In order to promote culture as a catalyst for creativity and innovation, the European Commission envisaged initiatives promoting cultural and creative industries, by sponsoring actions for the creation of the European Creative Industries Alliance and promoting cultural and creative sectors for growth and jobs in the EU issuing a Green Paper on

cultural and creative industries, published in April 2010 and launching a debate on the requirements of a creative environment

In the area of Cultural heritage, the European Union does not have a specific competence. For the preservation of cultural heritage the European Commission can back Member States' efforts to upkeep, protect, conserve and renovate their own cultural heritage. Therefore, the Union's action is complementary to national or regional action. The Commission intervened for championing initiatives like mapping of cultural heritage activities in EU policies and actions, protection of and fight against illicit trafficking of cultural goods and organization in cooperation with Council of Europe of European Heritage Day.

In order to promote culture as part of the EU's international relations, the European Commission envisaged initiatives that uphold Culture and external relations, tailored accordingly for the relations with candidate & neighboring countries, emerging and industrialized countries and developing countries.

Conclusions

Having surveyed the up to now initiatives of the European Union in the realm of cultural policy, it is at this point the moment to assess how these might foster the sense of a European identity among Europeans. We witness now how the political consensus behind the European project is falling apart. After years of permissive consensus that helped bringing the European unification project farther and farther in economic and political terms, the question of what the cultural dimension of the whole European political project really is has come to attract a lot of interest. Although economic prosperity and political stability were put on the forefront by the founding fathers of the EU, over the years it became clear that a lack of agreement on common cultural values resulted in a reduced support for further European integration and reinforced a certain reluctance vis-à-vis the transfer of allegiances to central European institutions (Zetterholm, 1994, pp. 79-80) deepening an already sensitive issue on the agenda of European integration namely that of the democratic legitimacy of the whole project. Moreover, it contributed to deepening an

already sensitive issue on the agenda of European integration namely that of the democratic legitimacy of the whole project.

European cultural policy evolved over the years as a distinct policy space of competition between Member States always sensitive when it comes to surrendering national competences and EU institutions keen on increasing their competences. From the beginning, the cultural policy of the European Union has been tailored for an inclusive conception of Europeanness. The belonging to a common set of values did not mean in any way that the European Union was trying to deprive its members from their cultural diversity. On the contrary, the Union took pride in being founded on the multicultural idea of 'unity in diversity' and reinforced this idea through the legislation and the actions it took in the realm of culture. EU cultural policy managed to lay the foundation for an understanding of the concept of identity under which regions and nations can unite and contributed to challenging a dangerous nationalist perspective by offering a European one. This efforts need to be better communicated so that the sense of belonging to a common cultural space would further raise the sense of awareness of cultural interdependence. In this respect, EU capacity of action would have to be fortified because as of now it has been rather humble.

Bibliographic references:

- BANÚS, E. (2002) Cultural Policy in the EU and the European Identity. In: FARRELL, M., FELLA, S., and NEWMAN, M. (eds.) *European Integration in the 21st century Unity in Diversity?* London: Sage, pp. 158-184.
- CHECKEL, J. and KATZENSTEIN, P. (2009) The Politicization of European Identities. In: CHECKEL, J. and KATZENSTEIN, P. (eds.) *European Identity*. Cambridge: Cambridge University Press, 2009, p. 1-28.
- COMMISSION OF THE EUROPEAN COMMUNITIES. (2007) *Communication from the Commission to the European Parliament, the Council, the European Economic*

and Social Committee and the Committee of the Regions on a European agenda for culture in a globalizing world, COM(2007) 242 final.

- *Consolidated version of the Treaty on European Union.*
- *Consolidated version of the Treaty on the Functioning of the European Union.*
- COUNCIL OF EUROPE. (1997) *In from the margins A contribution to the debate on culture and development in Europe*. Strasbourg: Council of Europe Publishing
- GRAY, C. (1996) Comparing Cultural Policy: A Reformulation. *The European Journal of Cultural Policy*, 2(2), pp. 213-222.
- HOOGE, L., and MARKS, G., (2004) Does identity or economic rationality drive public opinion on European integration. *Political Science and Politics*, 37(3), pp. 415-420.
- MATARASSO, F., and LANDRY, C. (1999) *Balancing act: twenty-one strategic dilemmas in cultural policy*, Council of Europe, Cultural Policies Research and Development Unit, Policy Note No. 4, Strasbourg: Council of Europe Publishing.
- RISSE, T. (2006) Neofunctionalism, European identity, and the puzzles of European integration. *Journal of European Public Policy*, 12(2), pp. 291-309.
- SASSATELI, M. (2002) Imagined Europe: The Shaping of a European Cultural Identity through EU Cultural Policy. *European Journal of Social Theory*, 5(4), pp. 435–451.
- SASSATELI, M. (2008) European cultural space in the European cities of Culture. *European Societies*, 10(2), pp. 225-245.
- SMITH, A. D. (1995) *Nations and Nationalism in a Global Era*, Cambridge: Polity Press.
- de ROUGEMONT, D. (1948) *L'Europe en jeu*. Neuchâtel: Éditions de la Baconnière. Available from <http://www.cvce.eu/> [Accessed 20/05/2016].
- RÜSEN, J. (2000) Cultural Currency. In: Sharon Macdonald (ed.), *Approaches to European Historical Consciousness. Approaches and Provocations*, Hamburg: Körber Stiftung, pp. 75-85.
- SHORE, C. (2006) "In uno plures" (?) EU Cultural Policy and the Governance of Europe. *Cultural Analysis*, 5, pp. 7-26

- VAN HAM, P. (2001) *European Integration and the Postmodern Condition: Governance, Democracy, Identity*. London: Routledge.
- WEILER, J.H.H. (1999, Romanian translation 2009) *Constituția Europei*, Iași: Polirom.
- ZETTERHOLM, S. (1994) Why is cultural diversity a political problem? A discussion of cultural barriers to political integration. In: S. Zetterholm (ed.), *National Cultures and European Integration. Exploratory Essays on Cultural Diversity and Common Policies*, Oxford: Berg, pp. 65-82.

Section:

Europe: culture, economics and law

INTEGRATION OF THE STOCK MARKETS FROM THE EUROPEAN UNION. A CONVERGENT OR A DIVERGENT PROCESS?

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Abstract: *In the European Union almost each country has its own stock exchange and some countries have even more than one. Moreover, these stock markets are in different stages of development and are very differently classified by the specialized agencies: as developed, emerging or frontier markets. In the past years, we witnessed several attempts of mergers and acquisitions or alliances between the Stock Exchanges, both in the Western and Eastern Europe. Recently, the European Commission started to work on a plan to create a so called Capital Market Union in the European Union. In this paper we will analyse the dynamic of this process around the European Union.*

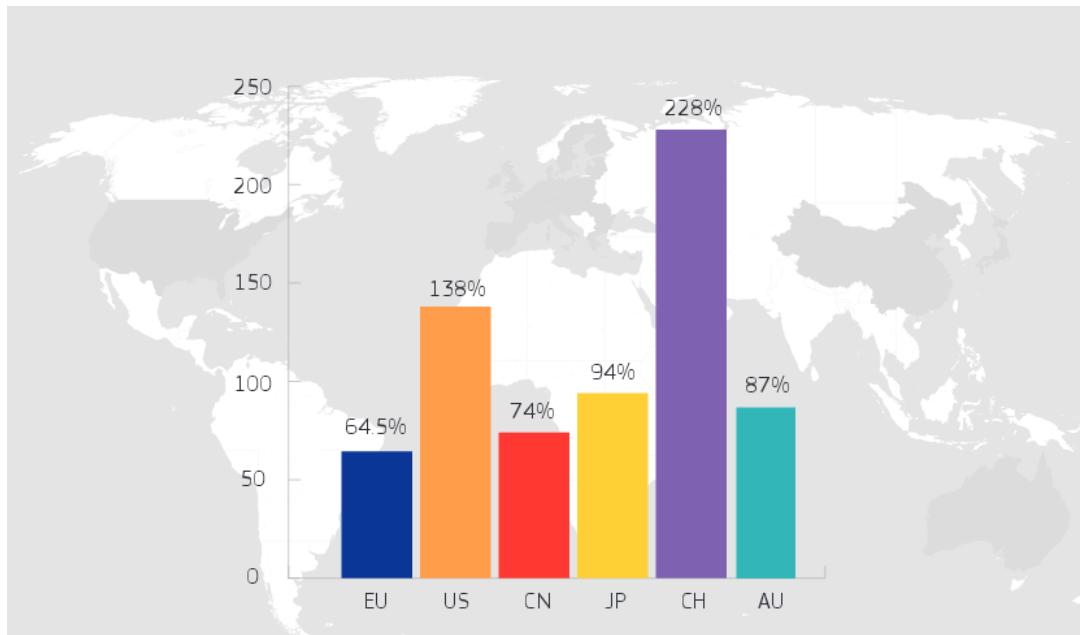
Keywords: stock market, mergers, European Union, capitalization, integration

1. Introduction

The stock exchanges are the main symbol of the market economy around the world and they are essential for the good functioning of any economy. Soon after the changes from 1989, stock exchanges were (re)opened in all the former communist countries from Central and Eastern Europe to mark the transition from a planned economy to the market economy in these countries. One by one they (re)opened in Warsaw, Prague, Budapest, Bucharest, Bratislava, Sofia, Ljubljana and so on, but also in former soviet union countries (in the Baltic states, Ukraine, Moldova etc.), as well as in Russia. As a result we have now at least one stock exchange in every country around Europe, and, as we mentioned before, some countries have even more than one stock exchange as for example Germany (seven

exchanges), Spain (five), United Kingdom (two), France (two), Denmark (two), Sweden (two), Switzerland (two), but also new market economies like Romania, with two stock exchanges (one in Bucharest and one in Sibiu). This large number of stock exchanges in Europe appeared because of its history and traditions, no doubt, but the question is can the EU capital market function efficiently and act as a global player with this fragmentation? Another question is if these stock markets properly perform their essential role of financing the economy? The answers to those questions are rather negative. In the past years the EU's capital markets were outperformed by the Asia's markets and both are well behind the US stock market. Moreover, the capitalization of the stock markets from the EU is only at the 75% of the GDP and the bank credit to private sector is 104%, while in the US the capitalization represents 136% of the GDP, whereas the bank credits account only for 43% (FESE, 2014, 2).

Chart no.1 Main Stock markets capitalization as % of the GDP



Source: EC report, Capital markets in EU, 2013

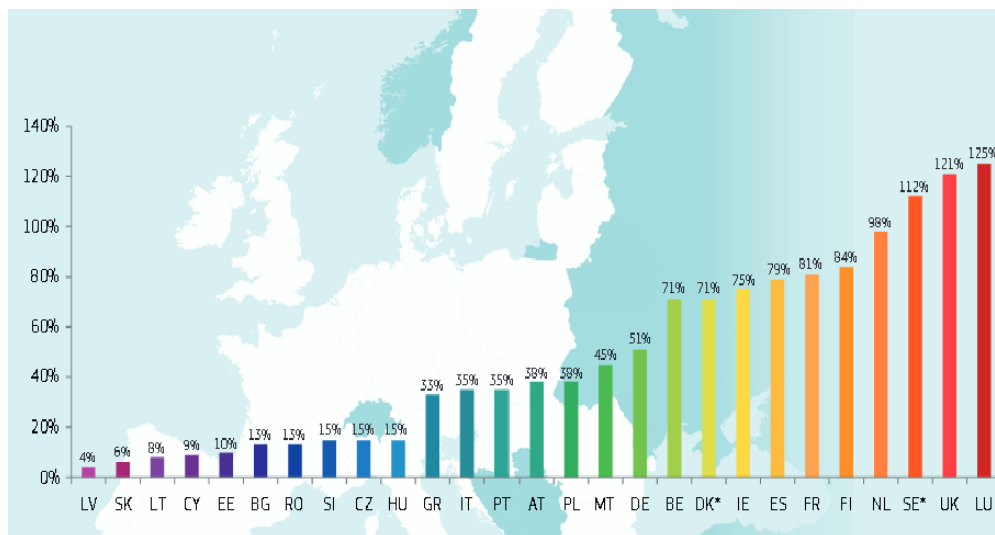
As we can see from chart no.1, the EU's stock markets have the lowest capitalization as percent of the GDP compared with the main stock markets around the

world, even smaller than China's. This has to do with the fact that in the EU, most of the financing is coming from the banks, creating so called 'bank-centric' Europe. In fact, in the US 70% of the financing is coming from the stock market compared to only 30% in Europe. More than that, bank finances are four times bigger than the GDP in the EU, while in the US they amount to only 80% of the GDP. Obviously, this fact magnified the effects of the financial crisis in Europe, while the capital market was a shock absorber in the US.

2. Defragmentation attempts on the European capital market

The low EU's stock markets capitalization in the total GDP has to do a lot with the fragmentation of the stock markets from the European Union. Actually, the capitalization varies a lot among the EU countries. As we can see from chart no.2 the capitalization for the stock markets in Europe varies from as low as 4% in Latvia to as much as 125% in Luxembourg. There are in the EU ten countries that have a capitalization less than 20% of the GDP, but also four countries that have a capitalization over or close to 100% (The Netherlands, Sweden, the UK and Luxembourg). Why is there such a huge discrepancy?

Chart no.2 Stock market capitalization across the EU 28 as % of the GDP (for 2013, *2012)



Source: EC report, Capital markets union factsheet, 2013

One explanation for the first group consists in the fact that all of these ten countries (except Cyprus) are from Central and Eastern Europe and they all had communist regimes until 25 years ago. Therefore, in this area, the stock markets are relatively young and all the previous experience related to the stock market (if there was any) vanished during the communist period, when the stock exchanges were forbidden, like any other form of private enterprise. They are gradually developing, but even between themselves they are not homogenous, being at different stages of development. Some of them are already considered emerging markets like Czech Republic or Hungary; others are still classified as frontier markets for example: Bulgaria, Croatia, Estonia, Lithuania, Romania or Slovenia, while others have so small capital markets that they are not even classified by the specialized institutions like MSCI.

At the other extreme we have a group of very well-developed four countries (the United Kingdom, The Netherlands, Sweden and Luxembourg) that share an Anglo-Saxon tradition and they are closer to the United States capital market pattern. Of course, these countries are included in the developed market category by the MSCI.

These two groups are the extremes but, the most representative countries from the EU are in the middle of this chart with Germany with only 51% stock market capitalization and France with 81%, while most of the other countries are in between or close to this level (there are some Mediterranean and Central European countries that are a little lower, in between 30-40% capitalization of the GDP). All these countries are classified as developed capital market by the MSCI.

As we can see, the EU capital market is too fragmented. Over the past years, we witnessed some attempts of defragmentation, by unifications, alliances or mergers between the stock exchanges from different countries, with more or less success.

One example is Euronext that was created in 2000 as a union of the stock markets from France, The Netherlands, Belgium and Portugal, with the headquarters in Amsterdam. But, its life, in this form, was very short, because in 2007 Euronext merged with the NYSE (New York Stock Exchange) and later on, in 2013 this new entity was bought by the Intercontinental Exchange (ICE). However, one year later in 2014, Euronext

became again a standalone company after the separation from ICE that followed a listing through an IPO (initial public offer). Today, Euronext is a pan-European exchange with more than 1.300 issuers that have a total capitalization of 2.2 trillion euro¹.

The second example, this time from the north of Europe is OMX (Aktiebolaget Optionsmäklarna/Helsinki Stock Exchange) with the headquarters in Stockholm. It was formed initially by a merger in 2003 between the Stockholm Stock Exchange (OM) and Helsinki Stock Exchange². Two years later, OMX merged with the Copenhagen Stock Exchange and then with the Iceland Stock Exchange. The OMX group includes also the Baltic stock exchanges from Tallin, Riga and Vilnius, as well as the Armenian Stock Exchange. The OMX managed to form a pan-Nordic European exchange, bringing together the markets from Scandinavia and from the Baltic states, but in 2007 was bought by the American exchange NASDAQ.

Another example of defragmentation attempt is (or better say, was) the CEESEG-Central and Eastern European Stock Exchange Group with the headquarters in Vienna. Everything started in 2004 when Vienna Stock Exchange bought a stake in the Budapest Stock Exchange³. In 2008, Vienna Stock Exchange bought the majority in Budapest Stock Exchange, as well as in Ljubljana Stock Exchange (the Slovenian stock market). Later that year, Vienna Stock Exchange bought the Prague Stock Exchange and managed to form, as the name suggest, a partially common stock market for Central and Eastern Europe. Unfortunately, this coagulation of stock markets in the Central and Eastern Europe, did not last too long, because in 2015, the CEESEG sold its stake in the Budapest Stock Exchange to the National Bank of Hungary and the ownership in Ljubljana Stock Exchange to the Zagreb Stock Exchange. Currently, only Vienna and Prague Stock Exchange remained together under 'the umbrella' of CEESEG.

These defragmentation attempts, often unsuccessful, show how difficult it is for the stock markets formed around Europe to unify or at least to cooperate one with each other.

¹ <https://www.euronext.com/en/equities>, [Feb., 2016]

² http://www.nasdaqomxnordic.com/about_us [Feb., 2016]

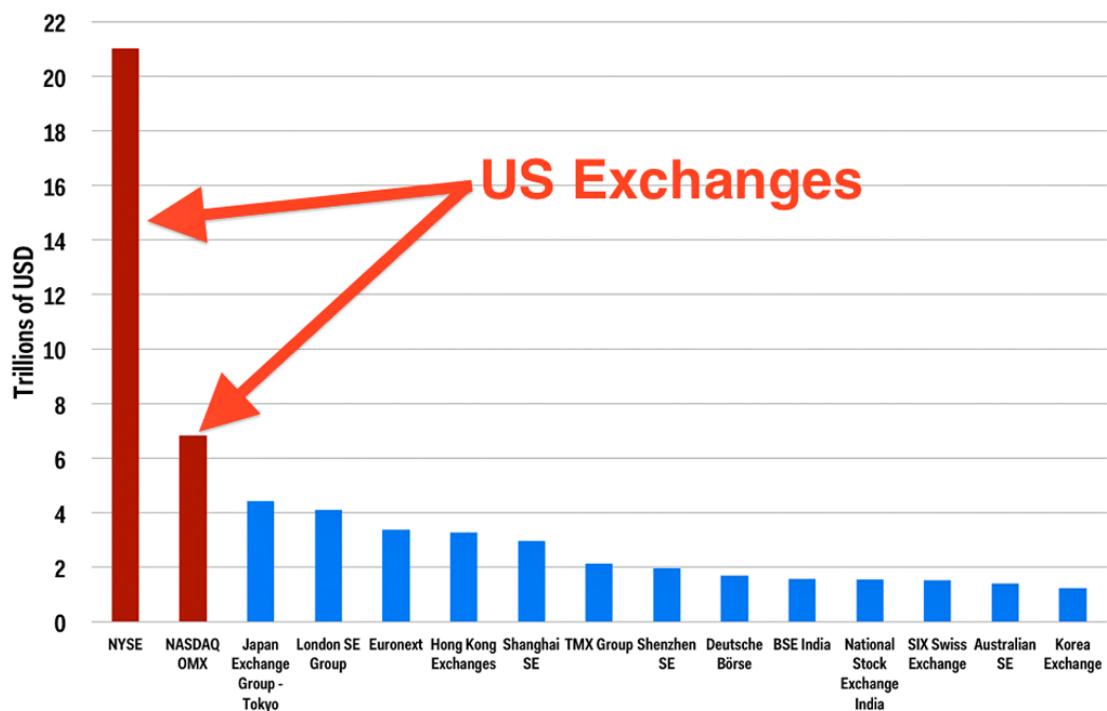
³ <http://www.ceeseg.com/about/history>, [Feb., 2016]

For this reason, recently, the European Commission started to work on a plan to change this and to create a so called Capital Market Union in the EU.

3. Steps toward a capital market union in the EU

One answer to the question: why a capital market union in the European Union? - can be found in Chart no.3. As we can observe from this chart the US stock markets are much, much bigger than all the other stock markets that are important in the world. Due to their fragmentation, none of the stock markets from the EU are in top three, where Japan Exchange Group is the third following the US stock exchanges NYSE and NASDAQ.

Chart no.3 The top of the stock markets around the world by their capitalization



Source: Business Insider, World Federation Exchanges

As we can easily observe from chart no.3, there is a huge difference between the United States and the European Union in terms of capitalization of the stock markets. Despite the fact that EU's economy is about the same size as the America's, the EU's stock market is less than half of its size (Hill, 2015). Actually, in terms of GDP at the purchasing

parity, the EU's GDP (19.180 trillion USD) is larger compared to the US's GDP (17.970 trillion USD⁴). More than that, in terms of population, the EU has 514 million people, much more than the US's population of 321 million people. But, the US has only two main exchanges compared with more than thirty in the EU and, more than that, some of the exchanges from EU are bought by the US exchanges (see the case of OMX that was bought by the NASDAQ or Euronext that was owned by the NYSE). Because of these facts, it is easy to understand why many European companies chose the listing (also) on the US stock markets.

In order to attract more capital and to diversify the financing sources, the EC prepared a Green Paper entitled 'Building a Capital Markets Union' and launched a public consultation based on this on February 2015.

According to this Green Paper, the idea is to build a single market for capital in Europe that would complement banks and would have as objectives to (European Commission, 2015a, 2):

- unlock more investment for all companies, especially SMEs;
- attract more investment into the EU from the rest of the world;
- make the financial system more stable by opening up a wider range of funding sources, complementary to banks.

After the public consultation and based also on the feed-backs received on the Green Paper, the European Commission elaborated recently a document called the 'Action Plan for a Capital Market Union', that was launched on September 2015.

The Capital Market Union is design to support the Investment Plan for Europe (total value of 315 billion euro over three years)⁵ by creating stronger capital market that will complement the strong banking financing and, according to the Action Plan (European Commission, 2015b, 3), also will:

⁴ The World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2001rank.html> [February, 2016]

⁵ The Investment Plan for Europe launched by the Juncker Commission in 2014 can be found here: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2014:903:FIN>

- unlock more investment for all companies, especially SMEs;
- attract more investment into the EU from the rest of the world;
- better connect financing to investment projects across the EU;
- make the financial system more stable by opening up a wider range of funding sources;
- deepen financial integration and increase competition.

The aim of the Action Plan is to create the building blocks for a Capital Market Union (CMU) by 2019 for all the 28 Members State with integrated, well regulated, transparent and liquid capital market. The Action Plan is very ambitious and sets a list of activities and indicative timelines for each of them, but it will be challenging to create a truly single market from the current fragmentation among the stock markets that exist now in Europe. Though, what is the most important is that a step in creating a common capital market for Europe was made with this Action Plan.

4. Conclusions

The Capital Market Union intends to remove the barriers that stand between the investors and the issuers, as well as the obstacles for cross-border investments. A single market for capital in Europe is vital, because all around the world the capital markets are passing through different stages of consolidation and mergers. The interest of US stock exchanges in getting stake in the European capital markets (beside OMX) still remains, even after they gave up Euronext. Just very recently (this February), after Deutsche Borse expressed its interest in realizing a merger with the London Stock Exchange, immediately the Intercontinental Exchange (the owner of NYSE) and CME Group (Chicago Mercantile Exchange and Chicago Board of Trade) came also with unsolicited bidding offers. Competition is tough, because consolidation is important to everybody. All these consolidations are necessary in order to reduce costs, to access a larger pool of investors and to implement the latest technologies. These facts show once again how many divergent factors might appear in this process of making a capital market union.

The so called ‘four freedoms’ are the fundamental principles of the European Union from its creation: free movement of persons, goods, services and capital within the Union. Among these four freedoms, we have the free flow of capital that shows the importance the EU is according to this aspect. Though, the capital markets from around the EU are far from being integrated and, as we showed before, they are still fragmented, often in very small pieces. Therefore, the success of the Action Plan is very important, because the creation of the single market for capital in the European Union will truly completely accomplish this fundamental principle of free movement of capital.

References:

1. BIJLSMA, M., ZWART, J. (2013) The changing landscape of financial markets in Europe, the United States and Japan, *Bruegel Working Paper* 2013/2, http://bruegel.org/wp-content/uploads/imported/publications/WP_2013_02_01.pdf
2. FESE (2014) A Blueprint for European Capital Markets: How to Unleash Markets. Potential to Finance Dynamic and Sustainable Growth, <http://www.fese.eu/speeches-reports/30-a-blueprint-for-european-capital-markets>
3. HILL, Jonathan (2015) A stronger capital markets union for Europe, *Financial Times*, 29 September, <http://www.ft.com/cms/s/0/b00f7b4a-66a0-11e5-a57f-21b88f7d973f.html#axzz42g7o0nV1> [Feb. 2016]
4. EUROPEAN COMMISSION (2015a) *Green Paper: Building a Capital Markets Union*, http://ec.europa.eu/finance/consultations/2015/capital-markets-union/docs/green-paper_en.pdf [Sept. 2015]
5. EUROPEAN COMMISSION (2015b) *Action Plan on Building a Capital Markets Union*. http://ec.europa.eu/finance/capital-markets-union/docs/building-cmu-action-plan_en.pdf [Feb.2016]
6. EUROPEAN COMMISSION (2013) *Capital markets in EU*, http://ec.europa.eu/finance/capital-markets-union/docs/capital-markets-in-eu_en.pdf, [Oct. 2015]

7. EUROPEAN COMMISSION (2013) *Capital markets union factsheet*,
http://ec.europa.eu/finance/capital-markets-union/docs/cmu-factsheet_en.pdf [Oct. 2015]
8. WEILD, D., E. KIM and L. NEWPORT (2013) Making Stock Markets Work to Support Economic Growth: Implications for Governments, Regulators, Stock Exchanges, Corporate Issuers and their Investors. *OECD Corporate Governance Working Papers*, No.10, Paris: OECD Publishing, <http://dx.doi.org/10.1787/5k43m4p6ccs3-en>
9. <https://www.euronext.com/en/equities> [Feb. 2016]
10. http://www.nasdaqomxnordic.com/about_us [Feb. 2016]
11. <http://www.ceeseg.com/about/history> [Feb. 2016]
12. <http://www.world-exchanges.org>
13. <http://www.bursa.ro>
14. <http://www.zf.ro>
15. <http://www.businessinsider.com>

FREEDOM OF RELIGION, IN THE JURISPRUDENCE OF THE EUROPEAN COURT OF HUMAN RIGHTS

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Abstract: *Matters related to religious convictions and their manifestations are often controversial and sensitive, chiefly in an ever more pluralist society. This is why, on the one hand, authorities need to be capable of imposing restrictions only on the basis of a clear juridical justification, and on the other hand, they shall pursue a legitimate goal in a proportional manner. It is to be noticed that, generally speaking, European countries have been confronted with new challenges, due to the religious pluralism stemming from globalisation (the large number of Islamic migrants is relevant in this respect), as well as to the cultural and religious identity crisis Europe has been experiencing. Amid the turmoil caused by social change in the European area, the European Court of Human Rights has been called upon to act on the thorny matter of defining the place of religion in postmodern pluralist societies. Thus, the Court ruled on cases in which the conflict had emerged from the act of wearing religious symbols in public institutions. One may indeed state that wearing religious symbols and garments (Islamic veil, burqa, niqab, crucifix etc.) in schools and universities has engendered, for a few years, significant debates in various European countries.*

Key-words: freedom of religion, Islamic veil, crucifix, confessional neutrality, margin of appreciation

1. General considerations

It is not our intent to conduct an analysis or a presentation of what religion is, either in theological doctrine or in philosophy, as such an endeavour would surpass both the space we have at our disposal and our capabilities.

Nevertheless, through the following research, we shall attempt to emphasise the juridical consequences of cultural, historical and religious diversity in the European

framework, as they result from the jurisprudence constructed around art. 9 of the European Convention on Human Rights.

It is worth mentioning that over the last decade, the jurisprudence of the European Court of Human Rights, in the interpretation of art. 9 of the Convention, has become more complex, as the number of cases in this matter has met with a steady increase.

This may be explained through the effect of globalisation, the evolution of ever more heterogeneous societies, the advent of new beliefs - apart from traditional, institutionalised religions, the amplification of the migration phenomenon, the identity claims of certain individuals and - last but not least - the increase in the role of religion and its related matters in socio-political discourse.

We shall begin by outlining the legal sources pertaining to freedom of religion.

Article 9 of the European Convention on Human Rights reads as follows:

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Article 2 of Protocol 1 of the Convention refers to a particular aspect of freedom of religion, namely the right of parents to provide an education for their children, in keeping with their religious convictions: No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

There are other similar international regulations:

-art. 18 of the International Covenant on Civil and Political Rights. In the light of this article, 1. Everyone shall have the right to freedom of thought, conscience and religion.

This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. 2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice. 3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. 4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

-art. 14 of the International Convention on the Rights of the Child.

-art. 12 of the American Convention on Human Rights.

-art. 10 of the Charter of Fundamental Rights of the European Union also protects freedom of thinking, conscience and religion, in the same terms as the convention. The Charter also guarantees the parents' right to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions (...) shall be respected, in accordance with the national laws governing the exercise of such freedom and right.

Albeit the provisions of art. 9 par. 2 of the European Convention on Human Rights have not been adopted by art. 10 of the Charter of Fundamental Rights of the European Union, with respect to the provisions of art. 52 of the Convention, the right granted by art. 10 of the Charter can be restricted for reasons pertaining to public safety, protection of order, health and public ethics, as well as of the rights and freedoms of other individuals.

We notice that the principle emanating from the entire legal edifice revolving around freedom of religion is pluralism, as the trait of any democratic society is to be tolerant of cultures, sensitivities and multiple beliefs.

Moreover, it cannot go unnoticed that freedom of religion is tightly connected to freedom of thinking and conviction. In effect, the European Court of Human Rights has stated in many of its decisions that freedom of thinking, conscience and religion forms the

basis of a democratic society, in the sense of the Convention. This freedom, through its religious dimension, is one of the paramount identity elements of believers and their view on life, but it is also a precious asset for atheists, agnostics, sceptics or those who are indifferent. This reflects pluralism - difficultly conquered throughout the centuries - which is inseparable from our society. This freedom notably implies embracing or not a certain religion and practicing it or not (see, amongst others, ECHR, the *Kokkinakis vs. Greece* affair, ruling of 25 May 1993, ECHR, the matter of *Buscarini et al. vs. San Marino*, ruling of 18 February 1999).

2. Applicability

With regard to the applicability of art. 9 of the Convention, by examining the jurisprudence in the matter, we find that the Court in Strasbourg has never attempted to confine the protection of this legal provision solely to the great religions (i.e. Christianity, Judaism, Islam), as its field of application is non-restrictive, comprising minority religions and cults in general⁶.

⁶ In the matter of *Kimlya et al. vs. Russia* (ruling of 1 October 2009), the Court retains that “The Court observes that the question of whether or not Scientology may be described as a “religion” is a matter of controversy among the member States. It is clearly not the Court’s task to decide in abstracto whether or not a body of beliefs and related practices may be considered a “religion” within the scope of Article 9 of the Convention. In the absence of any European consensus on the religious nature of Scientology teachings, and being sensitive to the subsidiary nature of its role, the Court considers that it must rely on the position of the domestic authorities in the matter and determine the applicability of Article 9 of the Convention accordingly.” The justification of the decision stated that “the Expert Council on State Religious Evaluation of the Council on Religious Affairs (...) determined that Scientology was a religion.” We may notice that numerous European countries, notably Belgium, France, Germany and the UK have refused to recognise scientology as a religion, while in other states, such as Spain and Portugal, this recognition did come before the courts. In the matter of *Chappell vs. UK* (ruling of 14 July 1987), the Court ruled that druidism can be assimilated to a religion; it is a Celtic cult that worships the spirits of nature and promotes harmony among human beings and nature. Other more recent religious movements, like Jehova’s Witnesses, the Moon sect, the Osho movement and the Divine Light Zentrum, have been considered by the Court as falling under the protection of art. 9 of the Convention.

At the same time, the Court was not hasty in providing a definition to the term religion, which is fully understandable, as any assessment of the elements which endow this element with substance and comprise the variety of values, convictions, beliefs and religious practices, irrespective of time and culture, appears to be utopic. No formula was proposed relating this to any group, community, institution or church. Consequently, for lack of a formal definition, the European court had no choice but, in concreto, to state whether a set of convictions or practices can be associated with a certain religion.

For this, it retained that in order to fall under the protection of the Convention, such convictions, on the one hand, have to be more than mere opinions, as they have to attain a certain 'degree of force, seriousness, coherence and importance', and on the other hand, they must not be incompatible with the dignity of an individual (ECHR, in the matter of Campbell and Cosans, ruling of 25 February 1982). Furthermore, the formal content of such convictions must be identifiable.

Another constant in the jurisprudence of the Court deals with the respect granted to the margin of appreciation of states in the matter of regulating freedom of religion at national level.

3. Traits of freedom of religion

From an internal perspective, freedom of religion is absolute and intangible, as no individual can be forced to think otherwise than how he/she feels 'on the inside', when forming his/her personal convictions, reasons, feelings or states. In other words, since we are referring to profound convictions and ideas pertaining to the inner forum of a person and which cannot, essentially, affect public order, they are not subjected to limitations on the part of national authorities and cannot be the subject of any constraint (Renucci, 2009, 206).

Moreover, an individual shall not be forced to belong to a group founded on convictions he/she disapproves of.

The matter of *Buscarini et al. vs. San Marino* (ruling of 18 February 1999).

When elected to the Parliament of San Marino in 1993, the plaintiffs denounced their obligation to swear an oath on the Bible, otherwise losing their parliamentary mandate, which proved, in their view, that the act of exercising a fundamental political right was subordinated, in fact, to the public expression of a given religion. The Court concluded that article 9 of the Convention had been violated. It also ruled that the obligation to swear an oath was not 'necessary in a democratic society', in the pursuit of one of the objectives stipulated by article 9 § 2 of the Convention, deeming the act of exercising a mandate aimed at representing various views on society in Parliament as contrary to the condition to previously adhere to a determined view on the world.

One may, therefore, conclude that freedom of religion is essential for both believers, who may not be prevented from having and/or practicing their religion, and those who are not religious, who shall not be obliged to adhere to and/or practice a religion.

However, any individual freedom is also a social one, given the juridical existence of man in society. Hence, when religious feelings and convictions are exteriorised individually or collectively, in public or private manifestations, through cult, teaching, practices and performance of rituals, the latter may be the subject of limitations on the part of state authorities, under the terms of paragraph 2 of art. 9 of the Convention.

In this respect, the principle enshrined by the European Court of Human Rights is that of neutrality towards religion, as the authorities have to respect both believers and individuals that have not embraced any given religion.

From the moment when religious convictions are exhibited, the state, as organiser of the life of the entire society, may intervene so as to impose respect and balance amongst individual religious feelings, as well as public requirements and the rights of others.

From this point of view, freedom of religion is relative, as the state's intervention may only be justified under the terms of art. 9 par. 2 of the Convention, namely: it should be provided by law; it should follow a legitimate goal (public safety, the protection of public order, health or ethics and the protection of the rights and freedoms of others); it is necessary in a democratic society.

Like most articles regulating the rights provided by the Convention, art. 9 also imposes two types of obligations on states:

-negative obligations - in the light of which states shall abstain from violating in any way the rights granted through the aforementioned article;

-positive obligations - according to which states shall take all necessary measures in order for the individuals falling under their jurisdiction to exert the rights provided by art. 9.

With regard to positive obligations, state authorities should, therefore, ensure the normal course of religious life and protect the right to religious freedom of any individual, in relation to other people (Chiriță, 2008, 523).

4. Religion and State (from Islamic veil to crucifix)

Matters related to religious convictions and their manifestations are often controversial and sensitive, chiefly in an ever more pluralist society. This is why, on the one hand, authorities need to be capable of imposing restrictions only on the basis of a clear juridical justification, and on the other hand, they shall pursue a legitimate goal in a proportional manner.

It is to be noticed that, generally speaking, European countries have been confronted with new challenges, due to the religious pluralism stemming from globalisation (the large number of Islamic migrants is relevant in this respect), as well as to the cultural and religious identity crisis Europe has been experiencing.

Amid the turmoil caused by social change in the European area, the European Court of Human Rights has been called upon to act on the thorny matter of defining the place of religion in postmodern pluralist societies.

Thus, the Court ruled on cases in which the conflict had emerged from the act of wearing religious symbols in public institutions. One may indeed state that wearing religious symbols and garments (Islamic veil, burqa, niqab⁷, crucifix etc.) in schools and

⁷ The burqa is an item of clothing which covers the entire body and includes a mesh at the level of the face; the niqab is a veil covering the face, except for the eyes.

universities has engendered, for a few years, significant debates in various European countries.

We shall turn to several rulings on the matter at hand:

1. Firstly, the case of Leyla Şahin vs. Turkey (ruling of 10 November 2005).

The root of the affair may be traced to a complaint directed against the Republic of Turkey by Ms Leyla Şahin, who claimed that the regulation on wearing the Islamic veil in higher education institutions was a violation of the rights and freedoms stipulated by articles 8, 9, 10 and 14 of the Convention, as well as article 2 of Protocol no. 1.

The plaintiff, a Turkish citizen, was a 5th year student at the Faculty of Medicine of the University of Istanbul, in 1998. Coming from a family of practising Muslims, the plaintiff wore the Islamic veil during the first four years at University, but in February 1998, the Rector of the University of Istanbul issued an order meant to regulate the access of students to the University campus. This text stipulates that *students covering their head (wearing the Islamic veil) and those wearing a beard (...) shall not be allowed to attend courses, stages and practical activities*. As she was unwilling to renounce the Islamic veil, the plaintiff was prevented from taking several written exams and was given two disciplinary sanctions: a warning for breaking the dress code and a six-month expulsion for participating in an unauthorised assembly that protested against the dress code imposed by the University. This latter sanction was eventually cancelled following the coming into force of an amnesty law. In September 1999, the plaintiff, who refused to comply with the provisions of the aforementioned order, stopped taking courses at the University of Medicine of Istanbul and applied for the University of Vienna.

In the justification of the ruling, while relying on the concepts of state neutrality and secularism, the Court in Strasbourg underlined the role of the State as neutral and impartial organiser of the exercise of various religions, cults and beliefs, and indicated that this role contributes to ensuring public order, religious peace and tolerance in a democratic society. Furthermore, the Court stated that the safeguard of the principle of secularism stipulated in the Turkish constitution, doubtlessly one of the founding principles of the Turkish state, which reflects the rule of law and the respect for human rights and

democracy, can be deemed necessary for the protection of the democratic system in Turkey. The court unanimously concluded that there had been no violation of article 9 of the Convention.

2. Secondly, the matters of Kervanci vs. France (ruling of 4 March 2009) and Dogru vs. France (ruling of 4 March 2009).

The origins of the cases lie in the complaints directed against the Republic of France by Miss Esma-Nur Kervanci and Miss Belgin Dogru, who claimed that their right to religious freedom had been violated, as well as their right to an education, guaranteed by article 9 of the Convention and article 2 of Protocol no. 1.

Hence, the plaintiffs, Muslims aged 12 and 11, respectively, at the time of the case, reported for physical education classes with their heads covered and refused to take off their veils despite the repeated requests by their teacher and his explanations regarding the incompatibility between the act of wearing such a veil and the practice of physical education. The disciplinary council of the high school decided the permanent expulsion of the plaintiffs for disrespecting their attendance obligation, by failing to participate in physical education and sports classes. The plaintiffs contested the decision of the college in court and, after losing their trials in France, turned to the ECHR.

The Court ruled that in France, the practice of freedom of religion in the public space and, more precisely, the matter of wearing religious symbols in school, is strictly connected to the principle of secularism, around which the Republic of France was constructed⁸, and that the sanction given was merely a consequence of the refusal of the plaintiffs to comply with the rules applicable on the premises of the school, which they had been properly made aware of, and not, as they had claimed, because of their religious convictions. Consequently, the Court rejected the case against France.

⁸ Through Law 2004-228 of 15 March 2004, art. L141-5-1 was introduced into the French code of education, stating that: *in public schools, colleges and high schools, the act of wearing signs or garments through which students conspicuously manifest religious belonging is prohibited. The internal regulations shall restate that the implementation of a disciplinary procedure is preceded by a dialogue with the student.*

3. Thirdly, the matter of *Lautsi vs. Italy* (ruling of 18 May 2011), also known as the ‘crucifixes affair’.

The origins of the case lie in a claim against the Italian Republic, made by Mrs Soile Lautsi (the plaintiff), who complained that crucifixes were hung on the walls of classrooms in the public school where her children were being educated. She invoked, based on this fact, that there was a misinterpretation of the right of children to freedom of thought, conscience and religion, enshrined in article 9 of the Convention.

Through the ruling of 3 November 2009, the Court unanimously admitted the request and decided that art. 2 of Protocol 1 had been violated, corroborated with art. 9 of the European Convention on Human Rights. Subsequently, at the request of the Italian Government, the case was deferred to the Grand Chamber. In the written procedure there intervened 33 members of the European Parliament, several governmental organisations and 11 European states. By the ruling of 18 May 2011, the Court decided there had been no violation of art. 2 of Protocol 1 or of art. 9 of the Convention.

The Court underlined that through its decision to keep crucifixes in the classrooms of the public schools attended by the plaintiff’s children, the authorities acted within the margins of appreciation that the defendant state benefits from, amid its obligation to respect, in exerting the functions it assumes in the areas of education and instruction, the right of parents to provide this education and instruction in keeping with their religious and philosophical convictions.

By performing a comparative analysis of the aforementioned rulings, it becomes apparent that, in spite of the seemingly identical factual premise - wearing religious symbols and garments in public education institutions - the solutions given by the Court in the interpretation of art. 9 of the Convention are markedly different, and even antagonistic: on the one hand, the ban on wearing the Islamic veil, seen as a conspicuous sign of religions belonging (in the cases against Turkey and France), and on the other hand the authorisation of the presence of the crucifix in schools, i.e. a powerful Christian symbol (in the case of Italy).

In this context, certain questions become evident: did the Court 'rule' with two different standards in the two situations with identical premises? Or, did the Court not exhibit a certain degree of subjectivity in its ruling on the Lautsi affair?

As far as we are concerned, the premise we should start from so as to be able to comprehend the reasons for the reasoning of the Court in the aforementioned decisions is that the cases brought before it pertain to quite different national situations, stakes and contexts (Ringelhei, 4).

It is beyond doubt that the ban on wearing religious garments interferes with the individual's freedom to manifest his/her religious beliefs, as the former is prevented from acting in accordance with his/her own convictions.

Therefore, in the matters of Leyla Sahin vs. Turkey, Kervanci vs. France and Dogru vs. France, in which the national law (in a general sense of the word) prohibited the act of wearing the Islamic veil in universities (Turkey), respectively public schools (as in the case of France), it is the Court that was entrusted with verifying the compatibility of this interference with the provisions of art. 9 par. 2 of the Convention.

On the contrary, in the matter of Mautsi vs. Italy, such interference is not present. The Court did not find any violation caused by the Italian Government against the internal or external 'forum' of the students, as the latter had not been prompted to act against their own convictions, or prevented from having other beliefs. From this viewpoint, the crucifix present in classrooms would be no more than an essentially passive symbol, not likely to affect the educational rights of parents or the religious freedom of their children. The Grand Chamber states that there are no elements brought before the Court that testify to a potential influence that the exposure on classroom walls of a religious symbol could have on students (§ 66) and that the presence of the crucifix is not associated with the compulsory teaching of Christianity (...), therefore the authorities are not intolerant towards students embracing other religions, non-believers or those having philosophical convictions that are not attached to any religion. (§74)

It becomes apparent that the Court implicitly set a difference between a passive and an active religious symbol, which may trigger acts of intolerance that are likely to degenerate into violence. It is beyond doubt that intolerance is always violent.

Furthermore, the relationship between Religion and State in various European countries bears the markings of the historical and cultural-religious traits of each nation. In effect, in the case of Italy, there is certainly a traditional historical connection between state and church, as Catholicism enjoys historical continuity. One must admit the existence of a strong historical attachment of the Italian people to the Catholic religion, given the presence of the Vatican in Rome.

In the case of France, however, the constitutional principle of secularism, promoted by the French Revolution, is the expression of the will to identify the public space as a non-religious one, in which religious expression does not find its place. Here, secularism uses the vocabulary of tolerance to justify the way the state relates to religion, one that is, nonetheless, based on intolerance.

Thus, there is no single position on the manner in which the balance between the two elements must be achieved - on the one hand, religious freedom, and on the other hand, the principle of secularism, which, at its turn, has variable geometry.

In the case of France or Turkey, secularism implies the evident lack of any sign or religious form of expression within educational institutions depending on the authority of the state. In the case of Italy, secularism in the school environment means the state shall not oblige the student to embrace a certain religion, so it may not carry out acts of religious propaganda, without excluding the possibility that a certain religion may benefit from a privileged position in the public sphere.

It cannot go unnoticed that the interpretation given by national jurisdictions appears to favour the idea that secularism is synonymous with neutrality: a secular state is a neutral one.

With regard to the concept of confessional neutrality, by examining the aforementioned rulings, we may notice that the jurisprudence of the Court provides several concurrent interpretations of what religious neutrality means for a country.

Hence, in the matters against France and Turkey, the Court perceived a state's neutrality as a total absence of any kind of religious expression in the sphere of public institutions. Here, it is the state that makes use of its will to protect the neutrality of public education, so as to justify a certain reaction to the freedom of individuals to express their religion. In the Lautsi affair, the state's neutrality is perceived as an absence of coercion. As a consequence, according to the Court, the state cannot oblige an individual to embrace or adhere to a certain religion, but this does not prevent the state from maintaining strong institutional relations with a certain religion, or from providing the latter with a privileged position in the public space (Ringelhei, 4).

It seems paradoxical to admit, based on art. 9 of the Convention, that a state may prohibit the Islamic veil in schools and universities, so as to protect religious freedom and the freedom of conscience of pupils and students, while another state can impose the presence in public schools of symbols belonging to the majority's religion, without affecting the rights of students of their parents - in both cases, the European Court of Human Rights sanctioned, in the discharge of its conventionality control, the behaviour of national authorities.

Yet, the position of the Court is understandable, as long as the Convention itself is not a rigid system, and its interpretation, in the light of a margin of appreciation of the signatory states, is a means of ensuring some flexibility with respect to the internal relations of each of the latter (Selejan-Guțan, 2006, 38).

What is more, in the discharge of its control, the Court recognises European diversity, chiefly that of juridical systems and cultures, which is why the margin of appreciation of the state proves its pivotal role in the theoretical construct developed around art. 9 of the Convention.

By applying the principle of subsidiarity, the Court in Strasbourg has recognised the relative margin of appreciation of the states, starting from the premise that due to the direct and permanent contact with the vital forces of their countries, state authorities are, in principle, more entitled than the international judge to express their opinion on the exact content of those requirements and the 'need' for 'restriction' or 'sanction' so as to

implement them. (...) Nevertheless, art. 10 par. 2 (the article whose violation was claimed in the matter) does not provide contracting states with unbounded power of appreciation. The Court which, together with the Commission, is responsible for ensuring that the states' obligations are met, is empowered to decide whether a 'restriction' or a 'penalty' is compatible with freedom of expression, as it is protected by art. 10. The internal margin of appreciation thus goes hand in hand with European supervision (ECHR, matter of *Handyside vs. UK*, ruling of 1976).

Hence, the margin of appreciation stemmed out of the need to recognise the diversity of conditions of application of the Convention in the signatory states, and was conceived as an instrument of 'judicial self-limitation' of the Court, as the extent of the margin is greater in areas in which a common European view is difficult to identify.

In fact, in the cases we have analysed, the margin of appreciation of defendant states was invoked as long as there was no European consensus on the presence of religious symbols in educational institutions.

Thus, in the matter of *Leyla Sahin*, the Court's ruling was based on the constitutional principles of secularism of the Turkish state, and gender equality. The Court stated that any examination of the matter of prohibition of wearing the Islamic veil needs to take into account the impact this symbol may have on those who choose not to wear it, whether it is presented or perceived as a constraining religious obligation. It is particularly the case in a country such as Turkey, where most of the population adheres to the Muslim religion.

Here, the Islamic veil is regarded not as a sign of Islamic religious piety, but as a flag of a violent political Islam.

In the matters against France, the European judge resorts to the specific traits of the French secular model, its importance in history and the laws of the defendant state.

In the *Lautsi* affair, when the Court admitted the margin for error of the Italian state, it stated that in Italy, a country with a Christian tradition, the symbol of Christianity legitimately benefits from prominent visibility in society. In other words, exhibiting a crucifix is seen as intrinsically connected to the Italian cultural heritage. As such, the

control of the Court focused on the extent to which the presence of the crucifix could influence the freedom of religious conscience of students. As an exception, the Court concluded that the mere presence of the crucifix was not sufficient, per se, to invoke a process of indoctrination on the part of the respective state.

Conclusions

The lack of consistency of the Court, with regard to the concept of state neutrality, can be explained by the fact that Europe is characterised by a great diversity of states, chiefly in terms of their historical and cultural evolution.

At the same time, the degree of difficulty of the debate is high, given that there is more than the freedom of religion at stake - there is also the right to an education, interreligious and intercultural tolerance, the relations between state and church, the neutrality of the state - the guardian of a pluralist society - and last but not least, religious identity.

To conclude, we have noticed, in the jurisprudence engendered through the application of art. 9 of the Convention, on the one hand, the preoccupation for achieving a minimal level of protection and for defining common norms, and on the other hand, the respect for what European judges refer to as the national margin of appreciation of states, in other words preserving the cultural identity of European states. Indubitably, in the interpretation of the provisions of art. 9 of the Convention, the European Court of Human Rights has exhibited a cautious stance and provided countries with a fairly large margin of appreciation, by taking into consideration national constitutional traditions and attempting to reconcile the freedom of cult with the principle of secularism.

It is our view that only in this way can one explain the fluctuating nature of the theoretical constructs developed by the European Court of Human Rights, in the interpretation of art. 9 of the Convention, although jurisprudence attempts to impose stable guidelines which transcend the diversity of cases examined.

Albeit wearing the Islamic veil in public is justified by women through the right to freedom of expression of their religious options, national authorities often leave us with the

impression that such garments are a *casus belli*, i.e. a pretext for a war of symbols and ideas, in a European religious landscape that has not remained impenetrable to the impact of globalisation and finds itself in a continuous process of pluralisation and diversification.

The only reasonable solution is tolerance, combined with the respect for established political traditions: if in France, where secularism is a noble tradition stemming from the French Revolution, the balance is achieved by learning about respect for those who are religious, in Italy, where school has remained attached to Catholic symbols, it is proper to learn about respect for non-believer rationalists.

Bibliography:

1. CHIRIȚĂ, R. (2008) *Convenția europeană a drepturilor omului. Comentarii și explicații*, 2nd Edition, Bucharest: C.H. Beck.
2. SELEJAN-GUȚAN, B. (2006) *Protecția europeană a drepturilor omului*, Bucharest: C.H. Beck.
3. RENUCCI, J.-F. (2009) *Tratat de drept european al drepturilor omului*, Bucharest: Hamangiu.
4. RINGELHEI, J. (2014) Du voile au crucifix: la neutralité de l'État dans la jurisprudence de la Cour européenne des droits de l'homme, *CRIDHO Working Paper* 2014/1, available online at <http://cridho.uclouvain.be/documents/Working.Papers/CRIDHO-WP-2014-1-JRingelheim-DuVoileAuCrucifix.pdf>, accessed in February 2016.
5. ECHR, Kimlya et al. vs. Russia, 1 October 2009.
6. ECHR, Chappell vs. UK, 14 July 1987.
7. ECHR, Campbell and Cosans, 25 February 1982.
8. ECHR, Handyside vs. UK, 1976.
9. ECHR, Leyla Şahin vs. Turkey, 10 November 2005
10. ECHR, Kervanci vs. France, 4 March 2009
11. ECHR, Dogru vs. France, 4 March 2009.

12. ECHR, Lautsi vs. Italy, 18 May 2011, available online at [http://hudoc.echr.coe.int/eng?i=001-70954#{%22itemid%22:\[%22001-70954%22\]}](http://hudoc.echr.coe.int/eng?i=001-70954#{%22itemid%22:[%22001-70954%22]}), accessed in February 2016

***Section: The role of regionalisms in shaping the public regional
agenda***

CULTURAL LEARNING IN A GLOBALIZED WORLD

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Abstract: *The conditions under which cultural education and cultural policy action take place are decisively shaped by the processes of globalization with a new multi-ethnic composition of the population as an intra-societal counterpart to the internationalization of production and reception of culture. Both factors create new cultural patterns and identities. Key among all the educational challenges is the creation of a “high-skilled citizen with the ability to access, adapt, apply, and create new knowledge and technologies” as OECD stated in 1996. Education and live-long-learning systems thus play a major role in improving development and competitiveness of a country or a region. The purpose of this paper is to give an introduction to the effects of globalization on cultural education for young people and to describe processes that address the numerous challenges to national or regional institutions in the field of cultural learning brought on by globalization. In my opinion one of the key factors to prepare individuals to cope with the new demands is to enhance cultural education understood as civics education at school. Offering cultural learning opportunities to educate this so-called “high-skilled citizen” committed to social and human transformation seems only to be possible by the implementation of a much more comprehensive and much more systematic institutionalized cultural education on all levels of the educational chain.*

Key words: Education and the Arts, Cultural Values, Democratic Citizenship, Globalization

1. Introductory remarks

Before coming to the European Culture Conference in Cluj-Napoca 2015, I asked my students of the International German School of Brussels coming from very different countries of origin: In your opinion, what are the positive and negative effects of cultural globalization?

Let's start with what in young people's opinion is a positive development:

New cultural realities emerge surrounded by diversifying cultural landscapes with multiethnic actors from around the world playing with multiple identities through travel/exchange/study/work, innovation and progress driven process creating cultural freedom and free access to information due to new global technologies. Dynamic individuals create new cultures and lifestyles surpassing cultural codes of conduct; they are more or less hybrid, they are cross-cultural, open minded, engaged in international networks and communicate problems through diversified media channels from analog to digital. They feel interconnected and interdependent beyond their local communities; they imagine being members of a common global community of human beings.

Could this be a guiding vision of cultural education for citizenship in the 21st century?

As negative effects of cultural globalization they described: vanishing languages, vanishing knowledge, vanishing cultural landscapes, vanishing ethnicities, vanishing flora and fauna, vanishing local or regional cultural identities, cultural imperialism of big cultural systems while marginalizing small cultures, devastating destruction of the environment, something like a "MCDonaldization" of culture, cultural consumerism, forced westernization, commodification of knowledge, ways of life and habits imposed by global media with the aim of a homogeneous and adaptable "fusion" identity, overload felt inside caused by dramatic and unprecedented changes in these times of increasing globalization.

Is this a worst-case scenario that would not have been emerged if functioning and effective high-quality education systems coping with the problems of globalization had been established beforehand?

The more we experience developments of ambivalent nature the more we need critical reflection on these developments. Globalization processes cause a dialectical dilemma creating dichotomous cultural values with dialectical tensions. These oscillate between cultural heterogeneity and cultural homogeneity appearing simultaneously in nearly all cultural landscapes worldwide (Burbules: 2000, esp. ch. 12-13) The problem is:

both intellectually and ideologically we can hardly stand the rollover of changing cultural clusters and we do not have any reliable filters anymore through which reality could be perceived (Beck: 2000). There is a gap between reality and perception, inconsistencies and infelicities in analyzing the situation. There is an incomplete and unharmonious understanding of fragmented facts about our living space, about the conditions of our personal lives. Even our personal histories are deeply influenced by globalization as individuals and societies are more and more connected, while social structures are more and more fragmented (Delors: 1996/Morin: 1999/Beck: 2000). Therefore, education is crucial: first as an important prerequisite for participation in social and cultural life; second for democratic participation. This is essential to the acceptance and development of democratic values in a process involving each individual (Burbules: 2000/Arnone: 2013, esp. p. 1 ff). whether and how the conditions and the issues of education and pedagogics are changed by globalization, in what way educational science has so far taken these phenomena into account, and which problems are put on the table for a pedagogical analysis. Education specialists around the world are therefore searching intensively for ways to improve teaching approaches and ways to explain these phenomena. They aim at both finding a new methodological and a new theoretical framework under the joint influence of technological change and globalization (Chigisheva: 2015). New thematic funds are especially devoted to cultural and civics or citizenship education programs which are seen to be steering systems of cultural transmission. (Sharp: 2000/UNESCO: 2010a). During the last 20 years United Nations educational think tanks have contributed to set binding goals with clear deadlines and specific targets. Especially the 2012 UN-Initiative on Global Education (UN: 2012) launched by UN-Secretary General is to foster global citizenship via educational programs: “The world faces global challenges, which require global solutions. These interconnected global challenges call for far-reaching changes in how we think and act for the dignity of fellow human beings. It is not enough for education to produce individuals who can read, write and count. Education must be transformative bring shared values to life. It must cultivate an active care for the world and for those with whom we share it. Education must also be relevant in answering

the big questions of the day. [...] It requires transforming the way people think and act. Education must fully assume its central role in helping people to forge more just, peaceful, tolerant and inclusive societies. It must give people the understanding, skills and values they need to cooperate in resolving the interconnected challenges of the 21st Century” (UN: 2012, third priority objective of the UN-Initiative on Global Education).

Could cultural education deliver a role model for such an educational change in times of globalization as the arts are conceived to be a motor for innovative, critical and creative thinking? What could be the rationale for the development of cultural education in the curricula?

2. The civilizing mission of cultural/arts education as education through the arts

Cultural education or arts education or education through the arts (Bamford: 2006, p. 326-329) is considered to be an important element of education (UNESCO: 2016) in the 21st century and growing awareness amongst governments is given to the pivotal role of cultural education in the development of individuals and communities (UNICEF: 2007). The conditions under which cultural education and cultural policy action take place are decisively shaped by the processes of globalization with a new multi-ethnic composition of the population as an intra-societal counterpart to the internationalization of production and reception of culture (UNESCO: 2015/2016). Both factors create new cultural patterns and identities. Key among all the educational challenges is the creation of a “high-skilled citizen with the ability to access, adapt, apply, and create new knowledge and technologies” as OECD stated in 1996 (OECD: 1996). Furthermore OECD found evidence that arts education has positive “collateral” side effects on academic skills and on fostering innovative potentials (OECD: 2015). Education and life-long-learning systems thus play a major role in improving development and competitiveness of a country or a region (Delors: 1996/UNESCO: 2015). Thus, offering cultural learning opportunities to educate this so-called “high-skilled citizen” committed to social and human transformation seems only to be possible by the implementation of a much more comprehensive and much more

systematic institutionalized cultural education on all levels of the educational chain (Andrzejewski. 1999/Bamford: 2006/Ananiadou: 2009/UNESCO: 2015). Currently, although arts education is a compulsory subject in many educational systems all over the world, there are still some significant differences between artistic education models in different countries (UNESCO: 2014/ Liebau: 2014/Liebau: 2013/Euridice: 2009/Bamford: 2006). Concepts and contents of arts education curricula vary enormously between different countries (Liebau: 2014/Charleroy: 2011). In addition, there is still a gap between political soapbox speeches and active policy implementation in the field of cultural/arts education on the one hand and the real provisions provided within schools on the other hand. However, increased expectations from research, politics and citizens address the question of how the potential of arts education can be made more prolific.

The “Universal Declaration of Human Rights”, Art. 27(1) yet stated in 1948: “Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts”. This article is prefaced by Art. 26 (2): “Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms.” (UDHR: 1948) Until today this declaration is supposed to be the base for arts and cultural education as a key part of any general education system.

The right to participate in the cultural life of a community is recognized as to a basic human right, and that therefore education should not be used as an instrument for political and economic purposes. Until today UNESCO (UNESCO: 2015) takes wide action for integrating arts education in school curricula and lifelong learning programs worldwide. Arts/cultural education overlaps with many other subject areas and touches also upon non-formal education areas. Therefore, cultural education with its multidimensional and transversal approaches and participative methods seems to be a very good means to teach ethical principles in reference to civil, and social rights. First in 1999 UNESCO launched an appeal for the promotion of arts education within schools to point out the “important influence of the creative spirit in shaping the human personality, bringing out the full potential of children and adolescents and maintaining their emotional balance” (UNESCO: 1999). In 2006 UNESCO convened the first “World Conference on

Arts and Education” in Lisbon, Portugal with the launch of the “Road Map for Arts Education” (UNESCO: 2006) and the “World Alliance for Arts Education” aiming at advocating at international level for arts education. The second UNESCO “World Conference on Arts and Education” in Seoul, Korea in 2010 resulted in the “Seoul Agenda” (UNESCO: 2010b) setting three key goals for the development of arts education : accessibility of arts education as a fundamental and sustainable component of a high quality renewal of education; the implementation of high-quality arts education in lifelong learning programs; applying arts education principles and practices contributing to resolve the social and cultural challenges facing today’s world. Therefore, arts educational programs focus on aspects related to cultural, ethnic, racial and religious discrimination. They are to be integrated in school curricula followed by awareness training in the field of social and cultural and diversity as well as vocational training in the field of integration (Winner: p. 249 – 264).

In this line, education systems around the world should accentuate the role of the arts as a major force of economic and social development in the 21st century where multicultural and heterogeneous societies have to manage wisely the coexistence of different cultures within complex structures of interdependent knowledge-based economies (UNESCO: 2015). Furthermore, it is proven that strong cultural roots enable individuals to develop critical awareness and inventing problem solving capacity (Shor: 1992, p. 11 ff/Morin: 1999). Thus, in this context cultural education stimulating multiple dimensions of human existence is an essential link between promoting intercultural dialogue and preserving cultural values (Bishop: 1999, p. 7f/Winner: 2013, pp.21-41). Arts education allows individuals to discover the diversity of cultural expressions as well as to protect cultural diversity (Putz-Plecko: 2008, p. 2 ff).

3. Promoting cultural/arts education

Cultural participation promotes the acquisition of transversal competencies and fosters creativity as well as the capacity to cope with the challenges individuals pose advisedly (Fuchs: 2008/Pace: 2015). Therefore, enhancing cultural/arts education is

important in these times of dynamic cultural evolution due to globalization processes: on the one hand cultural education may help to link cultures ever more closely and to enrich interaction (Liebau: 2014/UNESCO: 2014). On the other hand cultural education enables individuals to pose challenges to people's creative diversity taking into account cultural pluralism while making mutual respect as well as universal human rights imperative (Becker: 2008). Cultural education in intercultural encounters promotes respect for regional, national and universal values (UNESCO: 2014). Arts education preserves cultural diversity enabling dialogue to learn to respect and appreciate cultures and practices different from the very own. In this sense, cultural education lays the ground for democratic participation and responsible action as global citizens relying on the world experience and the values common to all humanity (Morin: 1999/ Fuchs: 2008/Liebau: 2014). Introducing and developing the artistic dimension into school curricula of the global education and training systems in a lifelong learning perspective is therefore crucial to deal with global interdependences and inter-connections of everyday realities with global developments (UNESCO: 2014). So much is at stake in the education systems worldwide that there is a real need to update and modify educational policies in the field of arts/cultural education (UNESCO: 2015). However, varying patterns of legitimizing the integration of arts/cultural education in compulsory school curricula still exist. Eckart Liebau, chairholder of the 'UNESCO Chair in Arts and Culture in Education' at Friedrich-Alexander-Universität of Erlangen-Nürnberg/Germany votes for a multi-layered approach to arts/cultural education (Liebig: 2013) to fully use the arts education's potential to advance personal and social development as a transformative force. Therefore, it becomes imperative to create a global base for high quality arts/cultural education not just of physical infrastructure and materials but also of human skills on the individual, organizational, and community level (Bamford: 2006/Liebau: 2014). This also implies new challenges for developed as well as developing countries' or regions' educational and life-long-learning-systems to educate more, better, and over the lifespan. Creating new ideas and new knowledge for our future societies through cultural learning opportunities for everyone not is not only about improving material or economic well-being, but also

addressing matters of the heart, soul and mind. The benefit of cultural education is – to say it in the words of Jean Paul: “das gleichsam ineinander wechselseitig sich impfende Wachsen des äußeren und inneren Menschen” (Paul: 1996). It is about the ‘habits of mind’ that individuals develop, not about to be a means of developing key competencies to withstand globalization. Therefore, the civilizing mission in cultural education relates to developing the ‘habits of mind’ of a global citizen (Carter: 2001/BKJ: 2008/CERI: 2016, p. 19 f.). As a role model this prototype citizen should be at ease with diverse cultures and be able to bridge those cultures. The civilizing mission via arts education concepts focuses on giving a broad cross-cultural knowledge to enable individuals to responsibly make use of cultural capabilities and skills embodying human creativity to advance for the good of society (Wulf: 2002/2006). In times of mayor cultural, political, and social change arts/cultural education models embodied in traditional systems have to be renewed and re-orientated: transdisciplinarity of teachers’ training schemes, transnational cooperation programs and multi-focused curricula aiming at challenging, engaging and inspiring learners to create, experiment and invent in order to enable them to think critically (BKJ: 2009/Reinwand-Weiss: 2015).

4. Intrinsic value of Arts/Cultural education

Let’s focus now on the intrinsic value of cultural education on the one hand and the impact of cultural education as part of a contribution to citizenship education on the other. Many studies over the last years still identify a weak empirical, methodological and theoretical base on the knowledge about how to develop individual or social skills and competencies through art education (Winner: 2013/ Liebau: 2013/Liebau: 2014).

OECD’s “Skills Strategy” (OECD: 2012), OECD’s “Innovation Strategy” (OECD: 2010) and OECD’s conclusions on “The knowledge-based economy”(OECD: 1996) claimed for empowering individuals by implementing wide educational strategies including the arts: „Key among all the challenges is the creation of a high-skilled citizen with the ability to access, adapt, apply, and create new knowledge and technologies” (OECD: 1996). Arts/ cultural education should deliver a toolkit for “employability”

purposes or social cohesion purposes. As for the inherent tension between the instrumental use of cultural education for economic, political and social purposes and the intrinsic value of cultural participation for the individual, the main justification for cultural education is “the acquisition of artistic habits of mind” (Winner: 2013, p. 19) as researcher Winner states in her recent OECD study on the impact of arts education. McCarthy’s (McCarthy: 2005) and Hetland’s (Hetland: 2013) studies on the importance of arts education for improving community cohesion demonstrate that arts education not only improves the general academic performance and enhances social skills but also can help to bridge the differential between different socio-economic groups. Other research findings conclude that there is no evidence at all that arts education boosts academic performance, stimulates creative or innovative thinking or fosters employment-related key competencies (Bamford: 2006/CERI: 2016). In common, there is a search for how to deliver key competencies for a globalized economy to guarantee progress and to find out how to educate future citizens. Arts education, in this view, is supposed to be a means to foster innovative and creative thinking. However, Winner’s study on the impact of arts/cultural education concludes by stating that “evidence of any impact of arts learning on creativity and critical thinking or on behavioral and social skills, remains largely inconclusive, partly because of an insufficient volume of experimental research [...] and also because of the difficulty of adequately measuring these skills”. (Winner: 2013, p. 256) However, so Winner the intrinsic value of the arts for human experience is a sufficient reason to justify its implementation in school curricula (Winner: 2013). UNESCO, thus, argues that the educational impact of teaching the arts is much more the recognition of its intrinsic value: there is no need to find an external justification for arts education in the curricula. Some distinctive characteristics of the intrinsic value of arts/cultural education are: promoting autonomous learning and autonomous learners; aiming at motivating individuals for building up their confidence and self-esteem; encouraging pupils to strengthening their technical, vocational and communications orientation of key qualifications. The UNESCO “Road Map on Arts Education” (UNESCO: 2006) votes for a universal high quality

education in the field of the arts and culture building creative capacities, improving cultural sensitivity and intercultural skills as prerogatives to guarantee cultural participation.

5. Arts/Cultural education matters

The field of culture and education currently faces major challenges under the sign of an upheaval of social, cultural and metaphysical frames of references for the arts and of the consequent ensuing re-foundation of the educational praxis. The 1996 Delors Report “Learning: The Treasure Within” (Delors: 1996) – an investigation on the interrelation of cultural education and society - situated the whole learning process of an individual into a learning chain of “living together” and marked it at the same time as the biggest challenge facing education. Nowadays, social cohesion is supposed to be one of the main educational values to be shared by citizens and still remains the main purpose of public education. To learn how to live peaceful together in societies with increasing cultural diversity is not for free: respecting human rights, setting a new framework for educational reform to overcome social and cultural inequalities (UNESCO: 2015). Ensuring a just distribution of the benefits of globalization within and among the nation states – our common future will depend on how far we are willing to be “global citizens” in the truest sense of the word: “Our common future will depend on the degree to which we all become better world citizens, creating the unity within diversity which stems from an intercultural education which helps us to build strong cultural roots, to understand and respect the cultures of others and to learn to live together harmoniously in multicultural communities.” (Power: 2000, p. 162-163)

From the results, the following thesis can be drawn, which it would surely be worth investigating in detail: there is a need for a better implementation and new conceptualization of artistic and cultural education in the classroom context in order to prepare young people to cope with new global settings (BKJ: 2009/CERI: 2016).

To conclude: there cultural education really matters. Arts/Cultural education should become a fixed component of school instruction, curricula and lifelong learning programs

worldwide. However, if cultural education only matters because of its positive extrinsic collateral effects on innovation and social cohesion – tant mieux!

Nonetheless, the intrinsic value of arts/cultural education matters even more. Individuals may find out something about an inspiring world of inherent self-contained and conscious pleasure while exploring or experiencing ‘secrets’ without any purpose behind. The famous Dutch philosopher Johan Huizinga described this intrinsic value of arts/cultural experience as a free and meaningful attitude of a playing activity segregated from daily life practices in his “Homo Ludens” from 1938/9 (Huizinga: 2009). Huizinga developed his concept of “play” as a basic cultural phenomenon that could also be taken as an anchor for a theoretical framework of arts/cultural education as he demonstrated that cultural achievements lie on ludic experience beyond logical reasoning and utilitarian goals. “Play” means choice, control, freedom, focus and fun – but: for the reason to find out about possible outcomes for the very own situation! Perhaps our educational systems are still in need of such a transversal approach to education by Huizinga’s “play”? Perhaps this is the all-important “clue”: mainstreaming artistic and cultural education as a transversal priority across all subjects?

References

- ANDRZEJEWSKI, J./ALESSIO, J. (1999) Education for Global Citizenship and Social Responsibility. *John Dewey Project on Progressive Education. College of Education and Social Services, University of Vermont. Vol. 1, No. 2*
<http://www.uvm.edu/~dewey/monographs/glomono.html>
- ANANIADOU, K./CLARO, M. (2009) 21st Century Skills and Competences for New Millenium Learners in OECD Countries. *EDU Working Paper* no.41 (2009)20. Paris: OECD Publication Service
[http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=EDU/WKP\(2009\)20&doclanguage=en](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=EDU/WKP(2009)20&doclanguage=en)

- ARNOVE, R./TORRES A., FRANZ, S. (2013) *Comparative Education: The Dialectic of the Global and Local*. New York: Rowman & Littlefield Publishers, 4th ed.
- BAMFORD, A. (2006) *The Wow Factor. Global research compendium on the impact of the arts in education*. New York: Waxmann
- BECK, U. (2000) *What is Globalization?* Cambridge: Polity Press
- BECKER, H. (ed.) (2008) *Politik und Partizipation in der Ganztagschule*, Bad Schwalbach: Wochenschau Verlag
- BISHOP, R./GLYNN, T. (1999) *Culture Counts: Changing Power Relations in Education*. New Zealand: The Dunmore Press
- BOURN, D. (2008) Young people, identity and living in a global society. *Policy & Practice: A Development Education Review*, Vol. 7, autumn, pp. 48-61
<http://www.developmenteducationreview.com/issue7-focus4>
- BKJ BUNDESVEREINIGUNG KULTURELLE JUGENDBILDUNG (ed.) (2002) *Schlüsselkompetenzen durch kulturelle Bildung. Grundlagen. Sachstand. Positionen*, Remscheid: bkj
- BKJ BUNDESVEREINIGUNG KULTURELLE KINDER- UND JUGENDBILDUNG (ed.) (2008) *Mehr Chancen durch Kulturelle Bildung – Tätigkeitsbericht 2007*, Remscheid: bkj
- BKJ BUNDESVEREINIGUNG KULTURELLE KINDER- UND JUGENDBILDUNG (ed.) (2009) *Kulturelle Bildung stärken. In die Qualität von Bildung investieren. Tätigkeitsbericht 2008 der BKJ*, Remscheid: bkj
- BURBULES, N./TORRES, C. (eds.) (2000) *Globalization and Education: Critical Perspectives*. New York: Routledge
- CARTER, A. (2001) *Political Theory of Global Citizenship*. London: Routledge:
- CERI (2016) *Trends shaping education*. Paris: Centre for Educational research and innovation
<http://www.oecd.org/edu/ceri/>

- CHARLEROY, A. (2011) *International Arts Education Standards A Survey of the Arts Education Standards and Practices of Fifteen Countries and Regions Prepared by the College Board for the National Coalition for Core Arts Standards*. New York: The College Board
[http://nccas.wikispaces.com/file/view/int'l%20standards%208%201%20\(final\).pdf](http://nccas.wikispaces.com/file/view/int'l%20standards%208%201%20(final).pdf)
- CHIGISHEVA, O. (2015) Transformation of Pedagogical Theory and Methodology in the Focus of Globalization. In: *Procedia - Social and Behavioral Sciences* 180, p. 262 – 267
http://ac.els-cdn.com/S1877042815014457/1-s2.0-S1877042815014457-main.pdf?_tid=1deb3ab4-cb28-11e5-a6bb-00000aacb35d&acdnat=1454581067_92bd26fd7270b7b5860c1a7e1f297251
- COGAN, J./DERRICOTT, R. (2000) *Citizenship for the 21st Century*. London: Kogan Page
- DELORS, J./et al. (1996) *Learning: The Treasure Within – A Report to UNESCO of the International Commission on Education for the 21st Century*. Paris: UNESCO Publishing
<http://unesdoc.unesco.org/images/0010/001095/109590eo.pdf>
- DOLBY, N./RIZVI, F. (2008) *Youth Moves - Identities and education in global perspectives*. New York: Routledge
- DOWER, N. (2003) *An Introduction to Global Citizenship*. Edinburgh: Edinburgh University Press
- EDWARDS, R./ USHER, R. (2008) *Globalization and Pedagogy*. London: Routledge (2nd ed.)
- EURYDICE (2009) *Arts and Cultural Education at School in Europe*. Brussels: Education EACEA P9 Euridice: Audiovisual and Culture Executive Agency
http://eacea.ec.europa.eu/education/eurydice/documents/thematic_reports/113en.pdf

- EWIG, D. (2006) *Kulturelle Bildung und Schulentwicklung in der Postmoderne*,. *Schriften zur Kunstpädagogik und Ästhetischen Erziehung*, Band 6. Hamburg: Verlag Dr. Kovac
- FEATHERSTONE, M. (1995) *Undoing Culture, Globalization, Postmodernism and Identity*. London: Sage
- FUCHS, M. (2008) *Kultur, Teilhabe, Bildung. Reflexionen und Impulse aus 20 Jahren*, München: kopaed
- FUCHS, M. (2008) *Kulturelle Bildung. Grundlagen, Praxis, Politik*, München: kopaed
- HETLAND, L./WINNER, E./VEENEMA, S./SHERIDAN, K./PERKINS, D. (eds.) (2013) *Studio thinking: The real benefits of visual arts education*. 2nd Edition. New York: Teachers College Press
- HORNSTEIN, W. (2001) Erziehung und Bildung im Zeitalter der Globalisierung. Themen und Fragestellungen erziehungswissenschaftlicher Reflexion. *Zeitschrift für Pädagogik* 47/4, pp. 517-537
http://www.pedocs.de/volltexte/2012/4299/pdf/ZfPaed_2001_4_Hornstein_Erziehu ng_Bildung_Globalisierung_D_A.pdf
- HUIZINGA, J. (2009) *Homo ludens. Vom Ursprung der Kultur im Spiel*, ed. By Flitner, A. („Homo ludens“, 1939). Reinbek: Rowohlt
- LIEBAU, E./WAGNER, E./WYMAN, M. (eds.) (2013) *International Yearbook for Research in Arts Education* 1/2013, New York: Waxmann
- LIEBAU, E./WAGNER, E., WYMAN, M. (eds.) (2014) *International Yearbook for Research in Arts Education* 2/2014, New York: Waxmann
- MCCARTHY, K./ONDAATJE E./BROOKS, A./ SZANTO, A. (eds.) (2005) *A portrait of the visual arts: meeting the challenges of a new era*. Santa Monica: Rand Corporation
<http://www.rand.org/pubs/monographs/MG290.html>

- MORIN, E. (1999) *Seven Complex Lessons in Education for the Future*. Paris: UNESCO. Education on the move-UNESCO Publishing
<http://unesdoc.unesco.org/images/0011/001177/117740eo.pdf>
- OECD (1996) *The Knowledge-based Economy*, Paris: OECD Publishing
<http://www.oecd.org/sti/sci-tech/1913021.pdf>
- OECD (2015) *Schooling Redesigned: Towards Innovative Learning Systems, Educational Research and Innovation*. Paris: OECD Publishing
http://www.keepeek.com/Digital-Asset-Management/oecd/education/schooling-redesigned_9789264245914-en#page1
- PACE, E./AIELLO, P./PISCOPO, S./SIBILIO, M. (2015) Applying the Theory of Simplicity in Home Economics Education for the Acquisition of Transversal Competencies to Face Complexity. *International Journal of Learning, Teaching and Educational Research*, Vol. 11, No 2 (2015)
- PAUL, J. (1996) *Sämtliche Werke Abteilung I Band 6, Traktat: Selina oder über die Unsterblichkeit der Seele*. Frankfurt am Main: Zweitausendeins
<http://gutenberg.spiegel.de/buch/-6397/13>
- PUTZ-PLECKO, B. (2008) *Background report on cultural education: The promotion of cultural knowledge, creativity and intercultural understanding through education - Prepared for the Committee on Culture, Science and Education Initiated by Mrs. C. Muttonen – Parliamentary Assembly Council of Europe*, Vienna: University of Applied Arts/Vienna: di.'angewandte
http://dieangewandte.at/jart/prj3/angewandte/resources/dbcon_def/uploads/Universitaet/Berichte/EreportBparis0812.pdf
- POWER, C. (2000) Global Trends in Education. *International Education Journal* Vol 1, No 3, 2000, pp. 152 - 163
<http://ehlt.flinders.edu.au/education/iej/articles/v1n3/v1n3.pdf>

- REINWAND, V. (2012) Künstlerische Bildung – Ästhetische Bildung – Kulturelle Bildung. In: BOCKHORST, H. /REINWAND, V. /ZACHARIAS, W. (eds.). *Handbuch Kulturelle Bildung*. München: kopaed, pp. 108-114
- REINWAND-WEISS, V. (2015) Der richtige Weg. In: *Kultur bildet. Beiträge zur kulturellen Bildung. Ausgabe Nr. 7* 3/2015
http://kultur-bildet.de/sites/default/files/kultur_bildet_07_webversion.pdf
- SHARP, C./LE MÉTAIS, J. (2000) *The Arts, Creativity and Cultural Education : An International Perspective*. London: Qualifications and Curriculum Authority
<http://steam-notstem.com/wp-content/uploads/2010/11/finalreport.pdf>
- SHOR, I. (1992) EMPOWERING EDUCATION: CRITICAL TEACHING FOR SOCIAL CHANGE. Chicago: The University of Chicago Press
- UDHR (1948) *The Universal Declaration of Human Rights (UDHR)* is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948. Paris: United Nations Educational, Scientific and Cultural Organization
<http://www.un.org/en/universal-declaration-human-rights/>
- UN (2012) *Global Education First Initiative. The UN Secretary-General's Global Initiative on Education*
<http://iif.un.org/content/un-secretary-general-launches-major-new-education-initiative>
<http://www.globaleducationfirst.org/289.htm>
Brochure: http://www.globaleducationfirst.org/files/GEFI_Brochure_ENG.pdf
- UNESCO (1999) *UNESCO Appeal for the promotion of arts education and creativity at school to help construct a culture of peace*. Paris: United Nations Educational, Scientific and Cultural Organization
<http://www.unesco.org/bpi/eng/unescopress/1999/99-241e.shtml>

- UNESCO (2006) *UNESCO Road Map for Arts Education*. Paris: United Nations Educational, Scientific and Cultural Organization
http://portal.unesco.org/culture/en/ev.phpURL_ID=30335&URL_DO=DO_TOPIC&URL_SECTION=201.html
- UNESCO (2010a) *Citizenship Education for the 21st Century – Teaching and Learning for a sustainable future*
http://www.unesco.org/education/tlsf/mods/theme_b/mod07.html
http://www.unesco.org/education/tlsf/mods/theme_b/interact/mod07task03/appendix.htm
- UNESCO (2010b) *The Seoul Agenda: Goals for the Development of Arts Education*. Paris: United Nations Educational, Scientific and Cultural Organization
<http://www.unesco.org/new/en/culture/themes/creativity/arts-education/official-texts/development-goals/>
- UNESCO (2013) *Education for “Global Citizenship”. A Framework for Discussion*. Education Research and foresight 07/2013. Paris: United Nations Educational, Scientific and Cultural Organization
<http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/ED/pdf/PaperN7EducationGlobalCitizenship.pdf>
- UNESCO (2014) *UNESCO Global Citizenship Education Preparing learners for the challenges of the 21st century*. Paris: United Nations Educational, Scientific and Cultural Organization
<http://unesdoc.unesco.org/images/0022/002277/227729e.pdf>
- UNESCO (2015) *Rethinking Education. Towards a Global Common Good?* Paris: United Nations Educational, Scientific and Cultural Organization
<http://unesdoc.unesco.org/images/0023/002325/232555e.pdf>
- UNESCO (2016) Arts Education
<http://www.unesco.org/new/en/culture/themes/creativity/arts-education>

- UNICEF (2007) *Education for all. A framework for the realization of children's right to education and rights within education*. New York: United Nations Children's Fund
http://www.unicef.org/publications/files/A_Human_Rights_Based_Approach_to_Education_for_All.pdf
- WINNER, E. GOLDSTEIN, T., VINCENT-LANCRIN, S. (ed.) (2013) *Art for Art's sake? The impact of arts education. Educational research and innovation*. Paris: Organisation for economic co-operation and development- Centre for Educational research and innovation. Paris: OECD Publishing
http://www.keepeek.com/Digital-Asset-Management/oecd/education/art-for-art-s-sake_9789264180789-en#page1
- WULF, C./ MERKEL C. (eds.) (2002) *Globalisierung als Herausforderung der Erziehung. Theorien, Grundlagen, Fallstudien. European Studies in Education*. Vol. 15. New York: Waxmann
- WULF, C. (2006) *Anthropologie kultureller Vielfalt: interkulturelle Bildung in Zeiten der Globalisierung*. Essen: transcript

LOBBYING IN THE EUROPEAN PARLIAMENT. -‘REVOLVING DOOR’ AND ‘COOLING OFF’ PHENOMENA -

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Abstract: *Terms like ‘revolving door’ and ‘cooling-off’ are surrounding the world of EU Parliamentarians in search of protection, mainly to keep their image as good servants at the end of their careers. The “revolving door” – which appears to link the EU institutions directly to the private sector, allowing employees to move almost effortlessly between the two – is at the heart of the close relationship between the EU institutions and Brussels’ lobby industry. The existing legislation for these types of activities, damaging the EU transparency and public trust, is still limited to institutional codes of conduct. Of course, any revolving door restrictions put in place by the European Parliament will only work if they are enforced. According to transparency campaigners, this means empowering an independent entity under the auspices of the Parliament to look at whether potential conflicts of interest exist when ex-MEPs move into new professional roles.*

Key-words: European Parliament, lobbying activity, transparency, code of conduct, revolving door, ‘cooling-off’

Introductory remarks

There are reasons why MEPs are willing to deal with interest representatives, or lobbyists. Of importance are sources of information always at your disposal, the career offers at the end of the mandate and no relevant code of conduct as in the case of other EU institutions.

Taking account of the existence of other levels of authority, MEPs must ensure that their amendments and proposals are also based on contact with the beneficiaries of the

policies and that they have a certain amount of expertise in the matter concerned. The whole procedure becomes one of tracking and monitoring - the so-called “legislative footprints” - of the real level of influence of lobbyists on the decisions that are taken by the democratically elected representatives and administrations. Regulatory efforts and emerging good practice can be found also in the European Commission. Still it is a new initiative and it fails to provide comprehensive data that would inform EU citizens on who sought to influence which legislative act, how and with which human and financial resources and through which channels.

OECD defines the phenomenon of the revolving door as the movement of people into and out of key policymaking posts in the executive and legislative branches and regulatory agencies. This can lead to a common situation where those making policies are overly sympathetic to the needs particularly of business—either because they come from that world or they plan to move to the private sector after working in government (OECD, 2009, p. 8).

According to OECD’s report dedicated to this activity, there are four main types of ‘revolving door’:

- Industry to Government, through which the appointment of corporate executives to key posts in government or regulatory agencies raises the possibility of a pro-business bias in policy formulation and regulatory enforcement.
- Government-to-Industry, through which public officials or civil servants move to lucrative private-sector positions in which they may use their government experience and connections to unfairly benefit their new employer.
- Lobbyist-to-Government through which lobbyists move from the consultancy sector, think tanks or trade associations into advisory or decision making positions in government.
- Government-to-Lobbyist, through which former lawmakers and executive-branch officials become paid advocates and use inside connections to advance the interests of corporate clients (Ibid., p. 9).

The “revolving door” in the European Parliament

The European Parliament sets the pattern for an idealised type of behaviour between lobbyists and EU officials due to the introduced codes of conduct and its' Transparency Register since 1995, followed by the European Commission's in 2008. The increasing role of interest representatives triggered the importance of common codes of conduct and a joint European Transparency Register (2011); the need to recognize and share the same definitions at EU level of expressions like “group of interests”, “traffic of influence”, “revolving doors”, even “lobbyist” affects the future of lobbying activity in terms of a better regulation and an earned recognition.

Concerning EU institutions, European Commission is considered the centre of the lobbying universe. The EU Commissioners are very easy to reach and their codes of conduct easy to implement but not so easy to respect, creating a tumultuous life for the so-called interest representatives. The Lisbon Treaty, from 2009, increased considerably the Parliament's legislative power, making MEPs even more attractive to consultancy firms.

The “official” history of the European Parliament with the revolving door phenomena is relatively new, according to the mentioned document below.

Starting with the Bureau decision of 12 April 1999, consolidated in 2004 and 2009, European Parliament has granted to the Former Members certain facilities. Former Members are thus entitled to:

- ☐ enter Parliament's buildings in the three places of work and Parliament's information offices or regional information units in the Member States on production of a ‘former Member of the European Parliament’ badge, which they may obtain on request;
- ☐ use Parliament's restaurants and cafeterias in the three places of work;
- ☐ use Parliament's libraries/documentation centres and car parks in the three places of work;
- ☐ use of a ‘bureau de passage’ with telephone facilities for local calls in each of the three places of work, and access to Parliament's Intranet website.

However, former Members who act professionally as lobbyists or representatives directly linked to the EU decision-making process are not entitled to these facilities, for as

long as they engage in such activities (European Parliament Code of Conduct User's Guide, 2013, Article 6).

Any revolving door restrictions put in place by the EP will only work if they are enforced.

The Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union' (2013, Article 16) states that "officials intending to engage in an occupational activity, whether gainful or not, within two years of leaving the service shall inform their institution thereof using a specific form. If that activity is related to the work carried out by the official during the last three years of service and could lead to a conflict with the legitimate interests of the institution, the appointing authority may, having regard to the interests of the service, either forbid him from undertaking it or give its approval subject to any conditions it thinks fit. The appointing authority shall, after consulting the Joint Committee, notify its decision within 30 working days of being so informed. If no such notification has been made by the end of that period, this shall be deemed to constitute implicit acceptance. In the case of former senior officials as defined in implementing measures, the appointing authority shall, in principle, prohibit them, during the 12 months after leaving the service, from engaging in lobbying or advocacy vis-à-vis staff of their former institution for their business, clients or employers on matters for which they were responsible during the last three years in the service".

Admittedly, the EP isn't unaware of the value that 'cooling-off' periods can play to protect the integrity of the EU's institutions and their work in the public interest. Some campaigners believe that the current cooling off periods are insufficient and ought to be extended so as to reduce the revolving door in EU institutions (Chambers, February 2016: 9).

Stopping the revolving doors?

According to its official website, the Alliance for Lobbying Transparency and

Ethics Regulation (ALTER-EU) is a coalition of over 200 public interest groups and trade unions concerned with the increasing influence exerted by corporate lobbyists on the political agenda in Europe, the resulting loss of democracy in EU decision-making and the postponement, weakening, or blockage even, of urgently needed progress on social, environmental and consumer-protection reforms. The “Block the Revolving Door” Campaign was initiated by ALTER-EU in 2008, after a series of EU scandals proving the lack of effectiveness of “existing rules” regarding conflicts of interest and other ethics issues, and the desire to regulate post-employment issues or cases of “revolving doors”, when former EU officials desire to work as lobbyists.

The entire phenomenon of revolving door can be imagined as a carousel, the official image of the ALTER-EU Block the Revolving Door Campaign. Lobbyists and former EU officials have access to their still open territories, enjoying a large amount of experience, information and list of future clients.



The lack of meaningful restrictions on what work MEPs can do immediately after leaving office allow them to integrate into a lucrative lobbying role with no questions asked. The EP has little power to prevent conflicts of interest in this regard: the only thing it does prohibit is former-MEPs using Parliament premises to coordinate their lobbying work, to be clearer it simply tells them not to use their lifelong parliamentary access pass for lobbying purposes.

The revolving door rules in the MEP code of conduct are non-existent; there are no requirements to submit proposed new roles to the parliamentary authorities for authorisation (as commissioners must do); no cooling-off period on lobby or other problematic jobs; and no requirement to avoid the risk of conflicts of interest. Yet the former ex-MEPs are eligible to transitional allowances equivalent to one month's salary for every year they have been an MEP (Cann, March 2015). As transitional allowances are

intended to ensure that ex-MEPs do not need to take the first job that comes along once they have left office and to act as a buffer against possible conflicts of interest, it seems clear that this system is not working.

ALTER-EU comes with “Ten policy recommendations for a strengthened MEP Code of Conduct” which sets out a number of policy recommendations to Members of the European Parliament (MEPs) in relation to the suggested loopholes of the Code of Conduct. The parliamentary authorities are again asked to seek civil society input in order to apply this code as soon as possible but again no actual results. As the title already mentions, there are ten recommendations towards an enhanced transparency and ethics regulation to help establish the reputation of the new European Parliament.

According to ALTER-EU, one of the priority issues is to acknowledge that the risks of MEPs going through the revolving door when leaving office are real (Article 6). In order to prevent this risk of conflicts of interest, some practical steps could include the following: the transitional allowance received by MEPs when they leave office should be reduced when new paid work is accepted (as is the case with departing commissioners); Parliamentary authorities should closely monitor how former MEPs use their official European Parliament badges, including to prevent any risk of conflicts of interest arising (Cingotti, March 2015, p. 8)

RevolvingDoorWatch is a contribution to the ALTER-EU campaign to block the revolving door. RevolvingDoorWatch is a database of commissioners, MEPs and officials who have gone through the revolving door into lobby or industry jobs. Lobbyists who have taken jobs with the EU institutions are also featured. These cases raise big questions about whether the EU institutions are robust enough in recognising and acting upon the risk of conflicts of interest.

RevolvingDoorWatch exposes how the EU institutions - the Commission, Parliament, Council and agencies - fail to take effective action to block the revolving door. Brussels is home to one of the highest concentrations of political power in the world and the revolving door is one of the most important ways in which lobbyists can influence the political agenda in Brussels. When European decision-makers – Commissioners, MEPs,

officials - leave office and go into lobby jobs, or when lobbyists join the EU institutions, the risk of conflicts of interest can be great, undermining democratic, public-interest decision-making. It is the responsibility of the EU institutions to ensure that this does not happen. The EU institutions are not transparent about revolving doors, nor do they pro-actively publish information about how they monitor the revolving door.

The Transparency International EU also proposes a reform of the European Parliament Code of Conduct. One of its recommendations is to replace the existing Advisory Committee on the Conduct of MEPs with a Committee on the Conduct of Members comprising at least one member who has held high judicial office; at least one member who is a qualified auditor; at least one member who is a former MEP; at least one member with an outside perspective from preventing corruption in companies or from a civil society organisation working on parliamentary ethics and who are not sitting MEPs. In the event of possible breaches of the Code of Conduct by a Member of the European Parliament, the Advisory Committee shall examine the circumstances of the alleged breach, and may hear the Member concerned. On the basis of the conclusions of its findings, it shall make a decision. If, the Committee concludes that the Member concerned has breached the Code of Conduct, it shall, after hearing the Member, adopt a reasoned decision laying down a penalty, which it shall notify to the Member. The penalty may consist of one or more of the measures listed in Rule 166(3) ⁹ of the Rules of Procedure

⁹ Rule 166(3). Penalties: The penalty may consist of one or more of the following measures: (a) a reprimand; (b) forfeiture of entitlement to the daily subsistence allowance for a period of between two and ten days; (c) without prejudice to the right to vote in plenary, and subject, in this instance, to strict compliance with the Members' standards of conduct, temporary suspension from participation in all or some of the activities of Parliament for a period of between two and ten consecutive days on which Parliament or any of its bodies, committees or delegations meet; (d) submission to the Conference of Presidents, in accordance with Rule 21, of a proposal for the Member's suspension or removal from one or more of the offices held by the Member in Parliament.

(European Parliament, 2014, p. 91). The internal appeal procedures defined in Rule 167¹⁰ of the Rules of Procedure (*Ibid.*) shall be open to the Member concerned.

After the expiry of the time-limits laid down in Rule 167 of the Rules of the Procedure, any breach of the code of conduct and any penalty imposed on a Member shall be announced by the President in plenary and prominently published on Parliament's website for the remainder of the parliamentary term (Transparency International EU, February 2016)

'Cooling off' rules are a common response to dealing with post-employment conflicts, whereby a former public office holder or senior official is barred from undertaking tasks in the private sector that relate to their regulatory or representative duties. The EP should improve conflicts of interest policies for MEPs, bringing them at least to the standards of those elaborated by some of the member states (e.g. Slovenia) or other EU institutions like EU Commission. These policies should include consistent and clear revolving-door restrictions and on rules on contact with lobbyists: thereby placing obligations on both ex-MEPs-turned-lobbyists, and on sitting MEPs. In Slovenia, the MP's should abide by cooling-off periods before accepting jobs that may lead to conflicts of interests, but these rules are not always applied in practice. The main reason: the short lived nature of the electoral office. Still, the law is law across the Atlantic where legislators in 31 US states are subject to cooling-off periods running up to two years duration (Mulcahy, 2015, p. 40).

It may be worth revisiting the scope and scale of such post-employment rules, particularly as they appear to have been somewhat ineffective in retaining talent and expertise in public agencies. Some further deliberation is required on the length of cooling

¹⁰Rule 167. Internal appeal procedures: The Member concerned may lodge an internal appeal with the Bureau within two weeks of notification of the penalty imposed by the President. Such an appeal shall have the effect of suspending the application of that penalty. The Bureau may, not later than four weeks after the lodging of the appeal, annul, confirm or reduce the penalty imposed, without prejudice to the external rights of appeal open to the Member concerned. Should the Bureau fail to take a decision within the time limit laid down, the penalty shall be declared null and void.

off periods (these vary, from less than 12 months, to a fairly typical 2 year period, and in some cases more than 2 years): would a three, or five, year cooling off period serve the public interest? Perhaps a more effective way of retaining staff and expertise would be to disallow officials in financial regulators to work in the private sector in any compliance role related to their public service (OECD, 2009, p. 71).

Conclusions

European Union needs to begin increasing the lobbying transparency by including legislative definitions of lobbying activities and requiring that lobbyists disclose more information about government employment with the help of open dialogues.

It is extreme to know the so-called shortcomings of the presented situation and to maintain it despite the coalition of the civil society and the numerous campaigns against the revolving door phenomenon. Where is the difficulty in voting meaningful restrictions on what work MEPs can do immediately after leaving their office? These policies should include consistent and clear revolving-door restrictions and place obligations on both ex-MEPs-turned-lobbyists, and on sitting MEPs.

Central to such reforms are the imposition of “cooling-off” periods, during which an ex-public office holder is prohibited from lobby and advocacy activities directed towards their former institution, with respect to matters on which they formerly worked, but still, how handy to have a former MEP or two lobbying on your behalf? Such safeguards already exist in the EU’s vast infrastructure, but these measures are inconsistent and incoherent. It is true that except the EU Commissioners (18 months) and members of the EU Court of Justice (36 months), all senior EU civil servants are, from 2014, subject to a one-year cooling-off period. But is that enough?

Whether real or perceived, conflicts of interest among parliamentarians undermine the public’s trust in the EP’s work. That the controls to manage potential conflicts are not even in place only erodes this trust further. The reason is simple, the non-existence of a statutory definition and explanatory guide of the term conflict of interest in these type of cases. Many of the ex-MEPs accused of revolving doors activities, acknowledge providing

counselling to different association, without representing its interests at the EP thus without creating in their opinion any conflicts of interests. Just benefiting of a great opportunity to use the skills and expertise gained in twenty years of working on European policy and legislation...

References

- CANN, V. (2015) The revolving door: greasing the wheels of the TTIP lobby, *Corporate Europe Observatory*, 15th July, <http://corporateeurope.org/revolving-doors/2015/07/revolving-door-greasing-wheels-ttip-lobby> [20/05/2016]
- CANN, V. (2015) A penny for your thoughts: MEPs and the revolving door, *Euractiv*, 12 March, <http://www.euractiv.com/section/public-affairs/opinion/a-penny-for-your-thoughts-meps-and-the-revolving-door/> [20/05/2016]
- CHAMBERS, A. (2016) The Lobbying of the EU. How to achieve greater transparency, *Civitas: Institute for the Study of Civil Society*, February, pp.1-28, <http://www.civitas.org.uk/content/files/Anthony-Chambers-EU-lobbying.pdf> [20/06/2016]
- CINGOTTI, N. (2015) Ten policy recommendations for a strengthened MEP Code of Conduct, *ALTER-EU*, March, <http://alter-eu.org/sites/default/files/documents/MEP%20Code%20of%20Conduct%20policy%20recommendations.pdf> [05/06/2016]
- MANKO, R., THIEL, M., and BAUER, E. (2014) EU Transparency Register, *European Parliamentary Research Service*, December, PE 542.170, <http://www.europarl.europa.eu/EPRS/EPRS-Briefing-542170-European-Transparency-Register-FINAL.pdf> [05/06/2016]
- LAPIRA, T. M., HERSCHEL F. T. (2014) Revolving door lobbyists and interest representation, *Interest Groups & Advocacy* 3(1), January, <http://dx.doi.org/10.1057/iga.2013.16>

- MULCAHY, S. (2015) *Lobbying in Europe: Hidden Influence, Privileged Access*, Berlin: Transparency International, http://www.transparencyinternational.eu/wp-content/uploads/2015/04/Lobbying_web.pdf
- SGUEO, G. (2015) Transparency of Lobbying at EU Level, *European Parliamentary Research Service*, December, PE 572.803, pp. 1-8, [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/581950/EPRS_BRI\(2016\)581950_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/581950/EPRS_BRI(2016)581950_EN.pdf) [05/06/2016]
- TRANSPARENCY INTERNATIONAL EU (2014) The revolving door keeps on spinning its time for ex MEPs to cool off, *Transparency International EU*, 1 September, <http://www.transparencyinternational.eu/2014/09/the-revolving-door-keeps-on-spinning-its-time-for-ex-meps-to-cool-off/> [05/06/2016]
- TRANSPARENCY INTERNATIONAL EU (2015) *Transparency International's recommendations for a reform of the European Parliament Code of Conduct*, February, Brussels: Transparency International EU, <http://www.transparencyinternational.eu/wp-content/uploads/2016/02/TI-recommndations-for-EP-Code-of-Conduct-reform1.pdf>

Official Documents:

- EUROPEAN PARLIAMENT (2013) *Code of Conduct for Members of the European Parliament with respect to financial interests and conflicts of interest*, May, http://www.europarl.europa.eu/pdf/meps/201305_Code_of_conduct_EN.pdf
- EUROPEAN PARLIAMENT, EUROPEAN COMMISSION (2011) Agreement between the European Parliament and the European Commission on the establishment of a transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation, *Official Journal of the European Union*, L 191, 22 July, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2011:191:TOC>
- EUROPEAN PARLIAMENT, EUROPEAN COMMISSION (2014) Agreement between the European Parliament and the European Commission on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation, *Official Journal of the European Union*, L277/11, 19 September,

http://eur-lex.europa.eu/legal-content/en/ALL/?uri=uriserv:OJ.L_.2014.277.01.0011.01.ENG

- EUROPEAN PARLIAMENT, COUNCIL OF THE EUROPEAN UNION (2013) Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union, *Official Journal of the European Union*, L 287/15, 22 October, <http://eur-lex.europa.eu/legal-content/EN/NOT/?uri=CELEX:32013R1023>
- EUROPEAN PARLIAMENT (1999) Facilities Granted to Former Members of the European Parliament, *Bureau Decision of 12 April 1999*, PE422.534/BUR, http://www.transparencyinternational.eu/wp-content/uploads/2014/08/Facilities-granted-to-former-Members-of-the-European-Parliament_en.pdf
- EUROPEAN PARLIAMENT (2014) *Rules of Procedure, 8th parliamentary term*, July, <http://www.europarl.europa.eu/sipade/rulesleg8/Rulesleg8.EN.pdf>
- OECD (2009) *Revolving Doors, Accountability and Transparency - Emerging Regulatory Concerns and Policy Solutions in the Financial Crisis*, (Unclassified GOV/PGC/ETH (2009) 2), 5 May, Paris: OECD Conference Centre [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=GOV/PGC/ETH\(2009\)2&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=GOV/PGC/ETH(2009)2&docLanguage=En)

Other sources:

- <http://alter-eu.org/who-we-are> [05/06/2016]
- <http://alter-eu.org/block-the-revolving-door> [05/06/2016]