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PHD THESIS

- Abstract-

Models of subsidiarity and the impact on European integration process

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This paper aims to examine how the principle of subsidiarity is designed and applied to European integration. Today, it cannot be conceived even the EU without subsidiarity. Moreover, from this general objective, we found the need to analyze the principle of subsidiarity in relation with other actors, noting that subsidiarity proves to be a universal, natural principle of the human society organization.

Our study is based on the following observation: although it cannot be attributed only to Europe and its communitarian institutions, the principle of subsidiarity has become a common phrase associated most often with formal discourse on European integration after the Maastricht Treaty. The concept of subsidiarity is particularly important for understanding the phenomenon of European integration in combination with other concepts that require pragmatic approaches of using subsidiarity in the European context: federalism, supranationalism, proportionality, effectiveness, management, governance, legitimacy, decentralization, devolution, pluralism, democracy, democratic deficit. But while it speaks so often about subsidiarity, implementation of this principle is very often deficient, inefficient. Not accidentally, the term is commonly associated, as we see during our work, and another important concept, that of federalism, a aspiration constant and seemingly utopian one of the Community and subsequently of the European Union, since their beginnings. In our opinion, the failure of European federalism so far explains the imperfect application of subsidiarity as a working principle of the EU and semantic confusion with that the subsidiarity is often treated.

Deepening understanding the significance and implications of subsidiarity at EU level is necessary given that the EU is still looking for effective governance formula for integration challenges and pressures of globalization. Even the current global economic crisis - broke out in the United States of America - is a testament to the challenges and pressures facing the EU today. It suffice to recall the situation of Greece, a country that has adopted the Euro, compared to countries like Germany or France, too little disposed

to give up part of the privileges of their citizens for the sake of saving Greece. The paradox is that the destabilization of countries like Greece, Portugal or Ireland could endanger the very existence of the single currency and hence the European economic community. European solutions are no longer any local or national, in this crisis, but even springing from the EU should aim the levels closest to the citizen. All viable solutions must be based on the principles of political action and not vice versa. Although the urgency of the current problems requires swift action, in our opinion only solutions aimed at medium and long term will be successful. One of the principles that have proven over time is the principle of subsidiarity. In the context of administrative reform is intended to be implemented in Romania and other EU Member States, the benefits of applying this principle should not be disregarded. The principle of centralism, more or less democratic, seems to offer fewer solutions in a world increasingly interdependent and interconnected at transnational level.

Analysis of the principle of subsidiarity at EU level has preoccupied in recent decades much of the academic community interested in international relations. The essential reason is the use of the Community and subsequently the European Union as a case study in prolific intellectual debate, regarding international cooperation, role and functions of state and institutions, regulation of inter-institutional relations at various levels of administration, etc.. The debate involves a wide range of areas of expertise: law, history, philosophy, anthropology, sociology, political science and administration, economy etc., which gives a strong interdisciplinary character. The relevance of this topics is justified by the large number of scientific publications addressing the issue of subsidiarity in general and its application in the context of European integration in particular. Moreover, the principle is found in scientific research addressing issues related infrastructure such as history and theory of European integration, European Governance, European institutions, European democracy, etc.. The theme not required by the singularity. Conversely, the study of European integration can serve as a starting point for studying the evolution of non-European communities with integration

aspirations. In this vast literature addressing the subject, I found that the principle of subsidiarity, which underlies European integration, is not "patented", monopolized by Europeans. The principle has universalistic qualities, noted a long time for its liberal promoters. It is also found in the thinking of other peoples and societies. In fact, the concept is found in several philosophical, legal, political or socio-economic systems, in their reflections on the relationship between governors and governed, state and non-state, central, regional and local level.

The term "subsidiarity" is derived from the Latin *subsidiarius* (which adds additional, auxiliary, secondary) in the sense used in the European Union has its origins in German law and Catholic social thought and practice, although it is much older. However, the principle is found in one form or another, in the constitutions of many states. We see, in the second chapter of our thesis that subsidiarity is found in the reflections of many political philosophers concerned with achieving "common good", since Aristotle, Thomas Aquinas, Althusius, Hobbes, Bodin, culminating with the introduction of its latest doctrine Catholic before becoming a working principle of European construction pre-and post-Maastricht.

There is no precise and universally accepted definition of the subsidiarity principle, but can identify common denominators in all forms of application of subsidiarity. Trying a functional definition of subsidiarity we can say that it answers a crucial question for the good run of democracy around the world: how closer should be the national institutions to the citizen to preserve the effectiveness and legitimacy? Obviously, democracy not should to be idealized. There are no ideal functional forms in the real world. "The kingdom of God" should be separated from "the kingdom of Caesar," as we know from Augustine of Hippo. However, the principle of subsidiarity requires close as possible the decision-making to the ordinary citizen, so the first to serve the interests of the latter, not vice versa. Citizen concerns are primarily local, then regional, national or international.

Another essential question that the principle of subsidiarity answer is: how is divided power and responsibility between central and local government? Translated at the European Union level, the question would read: how is divided power and responsibility between the Community institutions and constituent parts (Member States) of a federal system or federal aspirations.

A comprehensive definition of the subsidiarity principle we identified in a report to the Committee on Local and Regional Democracy (CDLR) of the Council of Europe. After it signals the ambiguity of the concept, the report holds three meanings of the principle of subsidiarity:

- "A philosophical sense being rediscovered and which is likely to be refined to the point where you become one of the tools of analysis of contemporary societies, and probably one of the principles of the revolution authorizing their institutional;
- A legal sense, which still vacillating and clearer definitions of principle meets technical objections;
- A technical sense as a criterion for the analysis of the powers at the different levels of government and their possible redistribution."¹

This thesis is divided based on functional criteria, in six chapters, plus introduction, conclusion and bibliography. Principle of subsidiarity is approached from multiple angles, from the terminology and theoretical and methodological issues to its historical, historiography and philosophical evolution to reach the functional issues of this principle: how it is developed and applied in several national administrative systems and the European Community.

¹ Alain Delcamp, Massimo Balducci et. al. „Definition and Limits of the Principle of Subsidiarity”, Report for Committee on Local and Regional Democracy, No. 55, 1994. <https://wcd.coe.int/wcd/com.intranet.InstraServlet?Index=no&command=com.intranet.CmdBlobGet&IntranetImage=1276048&SecMode=1&DocId=1348640&Usage=2>

Chapter I, entitled "The principle of subsidiarity: theoretical and methodological issues", presents the main schools of study reflecting on the central concept of our work: federalism, con-federalism, transactionalism, neo-functionalism, multi-level governance, intergovernmentalism and intergovernmental liberalism. In our analysis on federalism, assessed three functional models implementing the principle of subsidiarity: decentralized federalism, centralized federalism and democratic federalism. Their choice is not random, because federalism, fundamental aspiration of European construction, from its beginnings, represents the best framework for implementing and testing the principle of subsidiarity.

Chapter II, "The evolution of the concept of subsidiarity" presents the concept of international relations in ancient precursors to modern Catholic social thought, but more recent European Charter of Local Autonomy.

Chapter III, entitled "Application of the subsidiarity principle at national: case studies" illustrates how the subsidiarity principle is applied in several national states. I didn't selected only European countries, but also non-European, Canadian seemed as relevant, the principle being a particular concern in this state of North America. Moreover, a strict Eurocentric perspective would poverty, obviously, our scientific approach, depriving him of the very pluralistic essence of the principle of subsidiarity. Moreover, Canada has, by the existence of Quebec, many elements that make comparable EU states.

Chapter IV, entitled "Application of the subsidiarity principle in the law in Romania" is a more nuanced case study of application of the central concept of our thesis in law of a Member State of the European Union, Romania. Clearly, application of this principle in our country is a major concern for the author, not only by personal reasons, but also by our desire to promote and even provoke critical debate on subsidiarity in Romania and to integrate our efforts in the European debates on this topic.

Fifth Chapter addresses directly the problem exposed in our thesis title: how the principle of subsidiarity is applied in the European Union. To answer this question we examined both primary and secondary EU law on subsidiarity, and many bibliographic sources addressing this issue, trying to highlight the most important developments in terms of community or the principle of the early European construction to the Lisbon Treaty.

Chapter VI, "Globalization, subsidiarity and global governance" attempts to reconcile the principle of subsidiarity with the dominant phenomena of recent decades, such as globalization and integration. We start from the observation, often emphasized throughout this paper, that subsidiarity is a principle of universal application, and current developments of humanity seems to favor an international management based on the principles of subsidiarity and good governance, regardless of the magnitude of the actors involved.

Premise that started this thesis is that subsidiarity is a principle of social organization necessary for the state to be developed and the highest level of the European Union to ensure effective communication of parts. At the same time, we believe that subsidiarity by itself cannot determine the functionality, since this is a principle because it needs a organicist extent that we see in the application of proportionality.

Our study is based on an interdisciplinary methodology, specific to the social and political sciences. We use specific techniques and methods for history, law, sociology, economics, theory and practice of international relations and political science.

Our research is mainly qualitative, based on techniques such as content analysis, text analysis, descriptive analysis, comparative politics (comparison case studies). In these chapters we outline possible scenarios of European integration and global governance based on the application of subsidiarity in the short, medium and long term, using prediction and prospection.

The work leverages a variety of primary and secondary sources, from official documents of the European Communities (the pre-Maastricht) and more recently the European Union (the post-Maastricht). Also, we used the special literature of International Relations and European studies, including a wide variety of books, articles and specialized studies dealing with the focus of the thesis and related topics such as governance and European governance and European integration history. Much of the literature is from databases such as Quest, JSTOR or SAGE Publications, whose access has allowed us to update information on the topic, especially in terms of theoretical and conceptual contemporary debates.

In terms of sources dealing with the correlation of principle of subsidiarity with legislative and administrative developments in Romania, directly, research guides us to special works on constitutional and administrative law (treaties, summaries, manuals). Concerning the documents, the Romanian Constitution (1991, 2003) provides the constitutional framework for the division of powers, competences and responsibilities of political and societal actors in Romania and a landmark in the analysis of the government legislation. Finally, it was necessary to review administrative legislation (laws, Decisions of the Government, Emergency Ordinances) as the primary source, found in the "Monitorul Oficial". Also, some studies and articles published in professional journals were a landmark in the debate on this topic. (*Revista Transilvană de Științe Administrative*, *Buletinul de Informare Legislativă*).

We presented in this thesis several models for expression of subsidiarity and I could see that the difference between them was at its heart the forms of state and constitutional history, which led to an adjustment and interpretation of this principle every time. Communication between actors involved in decision making has developed differently.

Becoming a political tool, subsidiarity receives different uses, sometimes contradictory, depending on the current that promotes: federalists see in it a solution to relieve anxieties caused by excessive centralization of political power and its practical

drawbacks, but a solution that allows further federalization; inter-governmentalists see in it a means to prevent precisely the relevant political community federation, whether it is a State or the European Union. According to Jean-Michel Josselin, when talking about federalism, one of the main problems that arise is related to the definition of the rights and prerogatives agents. This problem leads to questions about the makers. Who are these: people or states? The same author states that the main problem for the European Union is that there remains a difficulty in choosing between confederation and federation in terms of institutional structure.

Amid these debates, multi-level governance approach is relevant by the flexibility in addressing the links between different levels of government.

It is clear however that, in essence, as the principle of divisions of powers was an instrument of democratization now become traditional, so the principle of subsidiarity is an instrument of democratization by dividing power between different hierarchical levels of social and political organization and close decisions of their recipients.

Regarding the governance system of the European Union, the principle of subsidiarity refers to the decision transfer to the level closest to the citizen. The European Union will become in time a federal union of character entities that meet the cultural and political diversity and the rights of communities locally, regionally and nationally. Difficult issues will remain in defining, implementing and monitoring the application of rules which will put into force the principle of subsidiarity, both at national and EU level. Delimitation of competences between levels shall be designed to ensure acceptable economic and social cohesion. To define this acceptable, it introduced the principle of proportionality. There are already a number of interpretations and customizations (implementation) of the principle of subsidiarity in each state. It started from the delegation of powers from higher levels to lower ones in order to increase efficiency, and it was proposed variants of decentralization and other criteria, more or less subjective.

Concerning the debate on subsidiarity within the Convention on the Future of Europe and the intergovernmental conferences in 2003-2004 and 2007, it noted a fundamental aspect to be considered in future debates on European integration. We refer to the Convention method, not necessarily brought together representatives of national governments but rather members of national parliaments. This method allowed reflections exceeded the rigors of intergovernmental negotiations and allowed delegates to explore options beyond the particular interests of states.

If this principle has longtime been perceived as one which should facilitate a direct relationship between the EU institutions and European citizens, recent years have shown the possibility of its application in a complex manner, making use of all levels of representation. In this logic, we considered necessary a presentation of the skills transfer at the EU level, national legislative procedures and the manner in which the national parliamentary control is exercised in the European affairs field.

Correlation of the principle of subsidiarity with other basic principles such as proportionality, competition, democracy, ethics, and sustainable development is an issue that could have a wide debate in Romania, both at professionals and the citizens' level. The success of European integration will depend largely on the ability of Romania to consolidate political and administrative system. The current manifestation of the integrative process of Romania in the European Union is proving to be an inefficient both in terms of institutional actors involved and the policies developed. We consider a need for clear delineation of responsibilities between bureaucratic actors implementing European policies on national and local level and those who develop Romania's EU positions. Given that there are institutions which doubled its European representation duties and the national implementation, Romania cannot become a credible member of the EU. A clear indication of the skills on all levels of government is necessary.

Disputed or objectionable as it is, the principle of subsidiarity is one of the natural principles of social construction. It explains the role of the individual in society and the role of institutions in shaping individual personality and identity. It can be applied to

almost any level of decision making from a firm or corporation to global society. There is no universally applicable formula. We can, at most, to start from the most popular applications - such as the European Union - in our attempt to identify the essence. The idea of subsidiarity remains a social ideal almost unattainable, because it is almost impossible to achieve a perfect balance in a dynamic system as a whole and reporting between parties, between the central and lower administration. The difficulties are increased by the globalization, the speed and scale of events and their growing complexity. As transnational phenomena tend to dominate the world agenda, it is assumed that the process of centralization / concentration at the center of the decision will continue in the future with unforeseen consequences for humanity.