DOES THE EUROPEAN GOVERNANCE STRENGTHEN AS A RESULT OF THE REFORM PROCESS ADOPTED BY THE TREATY OF LISBON?

Adrian-Stelian DUMITRU, PhD Candidate
National University of Political Studies and Public Administration
Bucharest/Romania

Abstract

The importance of the Lisbon Treaty has been and is still widely debated in the academic environment. The insufficiency of the European Union model required adapting the Union to the reality of a 27 members that would bring it closer to its citizens, deepen democracy, increase efficiency and prepare the EU for the future as a global player. The discussion about governance arises in this context of the need to increase the transparency of the decision-making process and the implementation of public policies in a Union with different levels of decision-making. The objectives of ensuring the connection of citizens with democratic institutions so that they feel represented was an initial condition for more relevant and effective policies. In this article, I intend to first analyse the concept of governance and then I will focus on the mechanisms by which it has been strengthened once the new provisions of the Lisbon Treaty were implemented, with an emphasis on citizens' initiative, the role of national parliaments, the role of regions and local authorities, finally presenting the figures from the end of 2019 that show the confidence of citizens in the EU, compared to 2009 before the reform. We will see that more than 10 years after the entry into force of the Lisbon Treaty, citizens' confidence in the EU reaches a modest threshold of 43% and 2% higher when it comes to democracy - 45% of citizens agree that their voice matters in the EU.

1. INTRODUCTORY CONSIDERATIONS

1.1. General considerations

Today, after almost 70 years since the creation of the first forms of integration, we can argue that the European Union has developed as a dynamic process of integration. This evolution has been possible by regularly revision of the Treaties. On one side, the Treaties deepened the European project by wider diffusion to more and more fields. On the other side, these Treaties were enforcing democratization over the policy-making process through granting to European Parliament a wider decisional and control power.

The Treaty of Lisbon introduces the structural reforms needed to continue the building of political Europe in the EU's transformative process. The Treaty addresses the weaknesses of the EU: the inefficiency, accentuated in the context of an enlarged EU, the democratic deficit and the lack of the tools necessary to obtain the status of a real actor of world politics.

European governance was strongly supported as a result of the debate on this topic. Since the early 2000s, the European Commission has launched a document called the White Paper that deals with rules, procedures and practices that influence how powers are exercised within the EU. The aim is to adopt new forms of governance that will bring the EU closer to its citizens, make it more efficient, strengthen the legitimacy of its institutions and democracy. This governance must be manifested through the development and implementation of more efficient and consistent public policies, within which civil society organizations collaborate with EU institutions.

European governance also implies improving the quality of European legislation, making it more effective and simpler. Moreover, the EU must contribute to the debate on global governance and play an important role in improving the functioning of international institutions. By synthesizing these

ideas and comparing their contents with the provisions of the Lisbon Treaty, it is observed that they have enough points in common as we will see further.

1.2. Objectives

Given the many faces of 'governance' meaning, how can I understand this term by narrowing the scope to political and administrative sciences? Are there any strategies to define governance that are commonly accepted?

After giving an answer to the above questions I move to governance meanings at EU level. So, I intend to understand what does governance means for the EU? How did the debate appear and which objectives were implemented over the years? Furthermore, I am interested also to emphasize the critics that the EU White Paper raised in the academic area.

Next, I look at the reform made by the Treaty of Lisbon. I intend to see what are the innovations included in the Treaty regarding citizens' participation, National Parliaments role and region and local authorities' functions within policy-making process.

The finale objective is to give an answer to the question that arises right off the title: has trust in the EU increased over the years since the Treaty of Lisbon entered into force? What is the opinion of the EU citizens about the importance granted to their 'voice' by the EU? What is the percentage of those who agreed their voice counts in 2009 compared to 2019? Does the satisfaction with the way democracy works in the EU increased since 2009? Or EU citizens are still not satisfied with the way democracy works? To all these questions I try to identify an answer so that I can conclude if the Treaty of Lisbon made significant changes for increasing transparency, efficiency and democracy in general.

1.3. Paper structure and methodology

The paper is structured in three sections. The first section is dedicated to literature review. In order to understand what this fashioned term 'governance'

mean, I analyse its understandings within the different branches of the political and administrative sciences. Furthermore, after we get acquainted with governance term, a broader look will be channelled to European Union governance. The European Commission's White Paper is hereby analysed in detail, thus observing the broad lines of today's EU governance tools.

In the second section of the paper, I look at the reform made through the Treaty of Lisbon. I focus on the innovation that this reform Treaty brings to the European Union's decision-making and policy-making processes in order to achieve a more democratic and efficient Union. As such, I choose to present three main ways by which the EU wishes to check the fulfilment of this objectives: (1) the novel citizen participation in the EU policy-making system; (2) the role of the National Parliament endowed with particular tools to oversee national competences; and (3) the role of the regions and local authorities in controlling the application of the subsidiarity principle.

With respect to the EU citizens opinion about the institutions, policies and importance accorded to their voice by the EU, in the third and final section, I present the results of the most recent survey on those issues. I am interested in general satisfaction with the way democracy works in the Union and the level of trust in the EU.

Regarding methodology tools, in the elaboration of the paper I used as a working method the analytical method when it comes about the literature review and analyses of primary sources such as the EU Commission's White Paper, The Treaty on European Union, the Treaty on Functioning of the European Union etc. and analyses of public reports published by the European Commission services.

2. GOVERNANCE: A BROAD CONCEPT

2.1. Governance and its meanings

The scale and complexity of the European integration process determines the academic world to attribute a wide and thorough research of all the sources that can explain the evolution of the European Union. The policy-making system of

the EU has never been static, over time there have typically been patterns of gradual evolution and episodes of experimentation, interspersed with moments of explicit institutional change through reforms to the treaties (Pollack, Wallace and Young 2010, 483).

Governance, in turn, is a broad concept conveyed, but there is no consensus on its area of applicability. Thus, at present, the diversity of the meanings of governance is systematically analyzed not only at the practical level, but also theoretically, being a term whose valences are often modified as Bouckaert (2017, 45) mentions.

The literature on governance has exploded in recent years (Pollack 2010, 35). Bartolini (2011, 2) emphasize that the term is used in almost any field where there is an amalgam of competencies and attributions that create complex decision-making structures; wherever we refer to the involvement of both public and private actors; where the decision is based on different levels of government; from the existing rules within private companies to representative associations. These characteristics are reinforced by Jacob Torfing, B. Guy Peters, Jon Pierre and Eva Sørensen (2012, 9) according to whom governance is often associated with increased interaction between public decision makers and relevant stakeholders, competent and knowledge-based decision making, policy innovative solutions, flexible and coordinated policy implementation and democratic ideals on inclusion, legitimacy and ownership. Also, in association with the term "governance", in its use, we find the proliferation of adjectives such as: multi-level, multi-tiered, global, network governance, modern, good, new etc. They have the role of specifying the field in which the precise context is applied, but it does not help us to understand the meaning of the governance itself.

These varied conceptions of governance do not have a core of unanimously accepted characteristics, so it is often defined by identifying dichotomies: "governance" vs. "governing", "top-down governance" vs. "bottom-up governance", "hard" vs. "low" governance, "self-governance and "network" v. "hierarchy and bureaucracy", "private" vs. "public", "flexibility, learning and adaptation" vs. "Institutional rigidity", "deliberation, argumentation and

voluntary acceptance" vs. "formal control and authority" (Bartolini 2011, 2). Of course, these dichotomies are not mutually exclusive and neither exhaustive.

Bartolini (2011, 2) considers that "we cannot and should not use this term just because it points to a series of new developments and structures and decision-making processes whose importance and innovation are undeniable". Governance theory has great potential for exploring phenomena of interest to researchers and practitioners in the European Union, for internal-global political links, transnational cooperation and various forms of public-private exchange.

First, the competing ideologies have long placed excessive confidence either in the ability to solve the problems of governments facing the production of collective goods, or in the ability of markets, civil society and individuals to cooperate spontaneously in achieving the same goods. Governance practices and theory are part of the large spaces between this ideological contest, providing both a challenge for them and the analytical potential to overcome their limited descriptive capacity and cognitive ability (Bartolini 2011, 2).

Second, the use of the notion of governance covers as a generic label most of the centrifugal tendencies of power in relation to the nation-state, regardless of their orientation, towards the local level or towards the suprastatal/supranational level. Referring to this, Bartolini discusses the corrosion of the role played by central governmental institutions (parliaments, governments, bureaucrats) and central political actors (parties and party unions) and the decline of public confidence in them. The dissatisfaction of the population and an increased degree of cynicism about the relevance and effectiveness of political institutions and leaders are visible in almost all our societies, and the evolution of the EU as a new center of policy-making has led to new dimensions of these disapprovals.

The decline of citizens' trust in national governments comes as proof of their failure to meet the expectations of the population. However, citizens still have expectations about the services that the public sector and partner organizations have to offer. This dilemma has forced central decision-makers to look for alternatives to the traditional forms of governance and, since the 1990s, new forms of governance have been adopted as an essential part of the solution which also includes an increased reliance on competitive forms of market regulation.

Usually there is no discussion of major challenges faced by the state, but only the circumvention of the statocentric vision is emphasized and the existence of a significant number of other supra- or sub-state actors is at least as important in different decision-making contexts; therefore, it is about recognizing the existence of a different relationship with governing through the state (Ion 2013, 72). In brief, the emergence of "governance" as a phenomenon itself is related to the broad discussions on the current situation of legitimacy, which I mentioned earlier, and the efficiency of the sovereign nation-state. The incorporation of governance is thus based on criticism of what we call "*modus operandi*" of traditional forms of government (Torfing et al. 2012, 9).

Contemporary researchers tend to define governance as either "the aggregation of a collective desire that results from a diversity of interests" (politics), "a system of rules and norms that outline the actions of political and social actors" (polity), or a political coordination of economic and social relationships based on public policy instruments that involve cooperation such as: good practices, standards, certifications and benchmarking. However, the various attempts to define governance fail to truly understand its distinctiveness because it does not show what governance adds to traditional and well-established notions in the politics-polity-policy triad.

Alternatives to these definitions are found in the field of governance studies. First, the World Bank (2007) defines governance as "the process of selecting those with authority, the ability of the government to effectively manage resources and implement broad policies, and the respect of citizens and governments for the institutions that govern the interactions between them". The obvious problem with this definition is that it "betrays" the fundamental idea that governance implies a problematization of the role and nature of unicentric forms of action.

Second, Jessop (2002, 52) defines governance as "any form of coordination of interdependent social relations - ranging from simple dyadic interactions to complex social divisions of work", talking about "the heterarchy of reflexive self-organization". This definition tends to associate governance with civil society. The problem raised by this defining strategy is that it implies a certain degree of undesirable normativism as a result of the implicit assumption that governance

is more consensual, egalitarian, trustworthy and deliberative than hierarchies and markets.

The latter characteristics are due to the reproduction of the intrinsic values of civil society. Regarding the heterarchy, important are - besides self-organization and interdependence - the foundations offered by "dialogue and resource sharing" in order to achieve common goals and to resolve the divergences that appear between the actors in different positions of power (Jessop 2002, 52).

Third, Kooiman (2003) and Klijn (2008) tend to equate governance with forms of network governance. These are defined as a hybrid of hierarchy and market or as a distinct way of governing additional hierarchies and markets. The governance referred to by Kooiman (2003, 4) is a descriptive concept applied to a system characterized by diversity (multiplication of the number and types of actors), complexity (multiplication of action levels) and dynamism (fluctuating character of the interactions between actors), system in that "knowledge and information no longer represent a monopoly for a single category of actors, which is why classical governance can no longer "legitimately and effectively" address all new challenges. Even though networks are clearly an integral part of governance, the conflict between them creates a far too narrow definition that excludes those forms of leadership, coordination and control offered by established horizontal networks.

Finally, Bevir and Rhodes (2007) tend to regard governance as a new neoliberal linguistic game that leads to different interpretations and institutionalization in different political and cultural contexts. The problem with this post-fundamentalist view is that it becomes difficult to set limits to the concept of governance; governance becomes everything and thus nothing (Torfing et al. 2012, 13-14).

Existing definition strategies either define governance strictly, or leave the definition open to an unlimited number of contextual interpretations. To avoid these problems, Torfing et al. (2012, 14) proposes the definition of governance as "the process of leading society and economy through collective action and in accordance with certain common objectives". Although governance in this general sense of the term can take many different forms, it is not related to any specific institutional form of governance, be it state, market, civil society or

network. This generic definition insists that governance is the process of governing and regulating society and the economy and that the process is based on collective action and seeks to achieve certain commonly accepted goals.

In the field of public policy making, governance has often been associated with legal and formal coordination by existing governments at different levels, but in the new and emerging reality, unilateral action is increasingly complemented and even replaced by "interactive forms of governance". "Where directing, controlling and coordinating are rather the results of more hands than the government's «steel fist»" (Torfing et al. 2012, 14). Torfing (2012, 14) considers that, in terms of public policies, governance is "the complex process by which a plurality of social actors and policies with different interests interact in order to formulate, promote and achieve common goals by mobilizing, exchanging and launching ideas, rules and resources".

This definition highlights three important features of interactive governance, as Torfing calls it. First, it refers to a complex process rather than more or less unitary or a set of formal structures and institutions connected in a single framework.

Second, the process is driven by a collective ambition to define and achieve common goals in the presence of divergent interests and preferences (Torfing et al. 2012, 14). In private markets, economic actors aim to make a profit, while in governance, social and political actors aim to define and achieve common goals that will in turn produce public value - despite the fact that they can have (and most of the time) have different and often conflicting interests, desires and beliefs. The resulting interdependence forces public and private actors to interact in order to identify common solutions that solve emerging problems and explores new opportunities, thus contributing to some extent to the supply of the interests of different stakeholders.

Thirdly, the process is decentralized in the sense that the common objectives are formulated and acquired through interactions negotiated in a plurality of actors from the state, the economy and civil society. Therefore, even though governments often play a crucial role as facilitators and leaders of the interaction in the process of public policy making, there is no privileged center in this process, only a number of competitive and arena actors, each with its important

contribution: resources, experience, ideas (Torfing et al. 2012, 15). From this perspective, civil society and the market are not an external environment for the operation of the government, but are subsystems populated with groups, associations and organizations that are actively involved in formulating and achieving common goals.

As we can see from the information gathered so far, there are many possibilities to analyze governance within the different branches of the political and administrative sciences, but the term is used in other disciplines and sub-disciplines as well.

2.2. EU governance

The debate on the idea of European governance within the EU came in the extremely dynamic context of the turn of the century, when some European decision-makers wanted to change the European institutional scaffold so that it was in line with new developments and political and sectorial challenges (Ion 2013, 95).

For the European Commission, the discussion on governance was to be primarily concerned with how "the Union uses the powers provided to it by citizens" or with existing solutions in order to increase the transparency of the policy-making process, through the involvement in this mechanism of as many elements of civil society as possible (European Commission 2001, 3). The objectives were to ensure that democratic institutions and citizens' representatives, both at national and European level, try to connect Europe with its citizens. This was the "initial condition for more effective and relevant policies" (European Commission 2001, 3). The Commission identified the need for reform of European governance as one of the four strategic objectives adopted at the beginning of 2000.

The political developments since then have highlighted that "The Union faces a double challenge: it is not just urgent measures to adapt governance under existing treaties, but also for a broader debate on Europe's future" from the

perspective of the upcoming intergovernmental conference to be held (European Commission 2001, 3).

This was underlined because the EU had to begin to adapt its institutions and to establish greater coherence in its policies so that it would be easier to identify what it does and what it represents. It was considered that a more coherent Union would be stronger regionally and a better leader in the world. At the same time, the enlargement of the EU was being discussed, which attracted measures in order to meet the challenge posed by it.

In this context, the proposals presented by the European Commission in the White Paper of European Governance regarding the achievement of the above mentioned objective were aimed at:

1. Increased citizen participation in the process of public policy making and greater EU openness to citizens;
2. Better policies, regulations and outcomes (increasing the quality of policy implementation);
3. Global governance;
4. Redefining the role of institutions (European Commission 2001, 4-6).

The Commission document also discussed the principles of good governance:

a) the opening of the European institutions (as processes, but also as information and language) to the other actors: Member States, citizens, the aim being to increase the confidence in the European institutions;

b) the participation of as many types of actors as possible in the process of implementing "quality, relevant and efficient" policies; Member States are considered the main administrative level charged with increasing involvement. The aim was to trust the resulting policies, in the idea of respecting them;

c) the responsibility better defined for all the actors involved in the decision-making process, regardless of the administrative level at which they are located or the type of influence held by the decision-makers and participants;

d) the efficiency of the policies, ensured by the consistency of the results with the existing need, as well as by their timely delivery. The idea of

proportionality (of the measures taken) and subsidiarity[1] (with reference to the level of intervention) was extremely important;

e) policy coherence, which was intended to take into account the diversified and dynamic context of their implementation (European Commission 2001, 10).

Summarizing the ideas set out above, for the European Commission, governance designates rules, procedures and behaviours that influence how powers are exercised at European level, especially in terms of openness [of European institutions to other actors], participation of [actors], responsibility [of actors], effectiveness and consistency [of policies] (European Commission 2001, 8).

Therefore, according to official EU documents, the debate on European governance took into account "all the rules, procedures and practices that affect how powers are exercised within the EU", the new modes of governance that the Union wants (as OMC[2] type) being quadruple oriented towards: i. the proximity to the citizens (combating the problem of the democratic deficit), ii. increasing efficiency (through better public policies and by associating several categories of stakeholders, especially citizens) in the decision-making process, iii. strengthening democracy in Europe (by increasing the quality of the European legislative act, especially in terms of simplicity and efficiency) and iv. strengthening the legitimacy of the institutions (by engaging in the debate on world governance and by helping to improve the functioning of international institutions (Ion 2013, 97).

The White Paper might in fact be interpreted as a statement of intent by the Commission that "wants to be evaluated on standards different from those applicable to the governments of its Member States" but Schimitter is sceptical about the legitimacy of these standards (referring to proposals for increasing the transparency of the decision-making act and to the principles of good governance) and to the possibility of putting them into practice (Schmitter 2006, 161).

Ion (2013, 96) considers that the document has long been a declaration of intent and would probably have remained at this stage if the Lisbon Treaty had not entered into force, thus resolving some of the wishes contained in the Paper. The

author gives the example of the Community method, which, according to the Commission, represents the standard for ensuring the legitimacy and efficiency of decision-making, by "filtering" at two levels the interests of the parties involved, which is why it was proposed to connect it to the needs of a Union that was constantly developing because it offered equal attributes to the two co-workers, as well as the possibility of "allowing the Commission to assume full executive responsibility"; this aspect was also related to the problems regarding the unclear distribution of competences between the supranational and national levels (European Commission 2001, 34-35). In general, the feedback to the White Paper was written in a sceptical note, whether it came from other European institutions (in response to the Paper, the European Parliament considers that "the core of democracy is represented by the EP and the national parliaments, not by the civil society groups" (Eising 2007, 209) or from specialists (Ion 2013, 97).

Despite its innovative character, at least at the programmatic level, the Paper - praised for building the image of a "confident commission in its own strengths, but modest, capable of playing a complex and caring role in different modes of governance" - has been criticized by analysts or by European decision-makers, especially in matters of informal governance (Wincott 2003, 236).

Ion (2013, 97) points out that the low impact that this White Paper had from the beginning was also caused by a seemingly minor detail, but which many researchers consider relevant: the publication of the document in July, during which time neither the other European decision-makers nor the media paid attention to it; moreover, the notion of governance was not clear to many, considering that "this word does not exist in several languages" (Phinnemore and McGowan 2005, 233). Ion augments that the definition of governance, as it appears in the document, does not provide any clarification on it, being rather a description of good manners that those involved in public policy making should know and practice it in order to not be deemed "ill-mannered" (Ion 2013, 97).

The document is often charged also because it hides a decision-making reality, however, characterized by poor involvement of non-state actors or, in the contexts where this involvement was encouraged by the Commission, by restricted access to either the specialist segment or actors who possess enough

resources to remain competitive and decisively influential (Ion 2013, 98). Thus, we discuss a difficulty of "political nature and regarding the role attributed to the democratic mechanisms of deliberation in advanced democracies and their relation with representative institutions" (Giorgi 2006, 30-31). The fact that after 2001 the Commission did not insist on the idea of governance, led Jordan and Schout to consider that it "does not really want to move too far from the status quo", recalling a new characterization of the governance made by the Commission in a 2002 document, a concept seen this time as a "silent revolution" of the community method (Jordan and Schout 2006, 34).

To conclude this section and comparing its content with the observations presented above, it is noted that the official discourse of the European Commission and the theoretical analyses of governance have enough points in common (for example, the need to involve other categories of actors in the decision-making process in order to increase legitimacy. and its efficiency, etc.), but it is rather difficult to delve into a political document such as the Commission's.

3. THE LISBON REFORM

The innovations in institutional matters included in the Lisbon Treaty are, most likely, the most important reform of the institutional architecture since the creation of the Communities. It represents the EU's response to a dual challenge and necessity: on the one hand, the further democratization of the European decision-making system, strengthening its participatory character and transparency; on the other hand, adapting the institutional system designed for six Member States to the increasing number of Member States, while guaranteeing an effective Union under these conditions.

The Laeken Declaration also decided that the entire institutional pillar should be reconsidered in order to achieve a more democratic, transparent and efficient Union. Aldecoa-Luzarrága and Guinea Llorente (2011, 158) underline that the first objective of the Convention was to combat the so-called democratic deficit in order to bring the institutions closer to the citizens and to improve their

transparency. As regards the second objective, the aim was to make the EU more efficient, with the awareness that in an EU with 25-27 member states, its success depended on the decision-making capacity. That is why it was essential to strengthen political leadership, to build institutions capable of properly defining strategic objectives and translating them into concrete actions.

It should be noted that in the European treaties prior to the reform process concluded in the Lisbon Treaty, there is no similar provision that explains the rules of the game of the European political system. However, with the introduction of Title II, we see the reconsideration of the role of citizens in the EU. Thus, as mentioned by Aldecoa-Luzarrága and Guinea Llorente (2011: 113), on the one hand they are considered subjects of law in front of European public power, and on the other hand, they are political actors, legitimizing public power at European level, power which in turn is exercised on their behalf and with their participation.

Therefore, the EU and its Member States undertake to respect the principle of democracy as provided in art. 2 and 9-12 of the TEU. By this we mean both representative democracy and participatory democracy.

3.1. Strengthening the democratic procedures of citizen participation in the EU policy-making

Regarding representative democracy, Bărbulescu (2015, 514) observes a progressive democratization of the EU, especially after, since the 1970s, the members of the European Parliament are elected by universal suffrage. Also, referring to the EU as a representative democracy, he mentions that the citizens of the Member States, in their European apartness, are, on the one hand, directly represented in the European Parliament through elections organized every five years by universal suffrage and, on the other hand, indirectly represented by the European Council, at the level of heads of state or government, but also of the Council, at the level of ministers and members of the government of each state.

When we talk about participatory democracy, a novelty referred to in Article 11 is the possibility for citizens to submit a legislative proposal to the Commission

through the popular initiative of at least one million citizens from several Member States. The introduction of this mechanism of direct democracy is very interesting, its procedures being further developed based on art. 24 of the TFEU by adopting the Regulation of the European Parliament and of the Council no. 211/2011 on the citizens' initiative detailing the conditions under which this right of European citizens can be exercised. It should be noted that, compared to the citizens' legislative initiative under the national constitutional law of the Member States, the legal effect of the initiative is only to invite the institution with the legislative initiative right to submit a proposal.

The introduction in the treaties of the provision regarding participatory democracy constitutes the practices already existing in European governance. Constitutionalization has, in Aldecoa-Luzarrága and Guinea Llorente's view (2011, 116) no doubt of fundamental importance, because it gives legal certainty at the highest level: consultation and citizen participation in decision-making are no longer dependent on the goodwill of the European institutions, but is becoming a cornerstone of European policy.

Participatory democracy in the EU therefore offers citizens and representative associations the opportunity to express themselves in relation to EU actions. It also stipulates the obligation of institutions to maintain dialogue with civil society and, in particular, that of the Commission to conduct such consultations.

Referring to the White Paper on Governance, Aldecoa-Luzarrága and Guinea Llorente (2011, 115) say that participatory democracy is already a reality of European policy and applicable in many of its member states. However, there are two novelties: on one hand, its explanation as a defining principle of the system and, on the other hand, its constitutionalization. All this makes it a *sine qua non* condition of a quality EU democracy.

When we talk about European democracy, we often talk about its inadequacies, associating it with the democratic deficit. This is a concept used mainly to emphasize that the European Union is inaccessible to the average citizen and that this is mainly due to the cumbersome, slow and complex operating mode. Therefore, says Barbulescu (2015, 515), the perception is that of an institutional system dominated by an institution that has both legislative and executive

powers (EU Council) and another institution that is rather bureaucratic and without democratic legitimacy (the European Commission).

The issue of democratic legitimacy has been raised at every stage of the process of European integration, the general tendency being to permanently increase European democracy and democratization. Referring to this, Bărbulescu (2015, 515) mentions that the more the democratic deficit was called, the steps taken were noted and more democracy was required. That is why the author called this process "the democratization of European democracy".

Title II - represented by the EU's democratic principles, defines the rules of democratic functioning and, therefore, legitimizes the European political system in front of the European citizen. These rules of play are rather explicit, reaffirming principles that have been progressively strengthened as the EU evolves. The two principles, explicit in relation to the previous treaties, reflect, on the one hand, the legitimacy that the system gives the participation of the European Parliament as a direct representative of the citizens and, on the other, the legitimation of European governance through the participation of civil society. Thus, the European democracy defined by the Treaty of Lisbon is an advanced democracy that complements traditional - representative - democracy with the principle of civil society participation, increasingly accepted in Western democracies as an indispensable complement to democratic functioning.

3.2. Strengthening the role of National Parliaments that become known as "guardians of national competences"

From the point of view of the institutional system, the most important political novelty, as a result of the constitutional process, is the incorporation of national parliaments in making joint decisions. In this way, National Parliaments become responsible for controlling the exercise of European powers, being also empowered to watch over their transfer. This is an extraordinary novelty, even if we think that, until then, the role of national parliaments in the EU has been practically non-existent, as stated by Aldecoa-Luzarrága and Guinea Llorente (2011, 117).

But how does this novelty strengthen European governance and what is its connection with the citizens of the Member States in their European otherness - as we mentioned earlier? The role of national parliaments appears to be important when we discuss in the same spectrum the term of "legitimacy" mentioned above. For Lindseth (2017, 37) legitimacy is a protective concept in law and politics. In general terms, legitimacy refers to the way in which social and political actors have to deal with a system of government worthy of their acceptance, loyalty and respect. In this way, legitimacy can offer a degree of stability and sustainability to the forms of organization and social leadership. But how actors actually experience a system can change not only in social or political context, but also in time.

The issue of legitimacy at EU level has been and is still being addressed quite often. In the debates on the legitimacy of the EU, Ion (2013, 192) mentions that two sets of responses have been quite well defined: some that insist on the importance of input legitimacy and others for which the legitimacy of the outputs is very significant in this equation. The author refers to the opinion of Benz and Papadopoulos (2006) who considers that necessarily the input legitimacy of the governance process of public policy implementation is not at all negligible if we look at the considerable output legitimacy (efficiency) that otherwise would not have existed (Ion 2014, 192).

As regards the inputs into this political system, national parliaments find an important place by increasing their role with the Lisbon Treaty. Lindseth (2017, 43) believe that once we look at NPs as instruments of legitimacy in EU policy-making, we begin to appreciate how NPs have proven to be both 'resilient' and 'resigned' in the process of European integration.

On one side, can be argue that NPs have been resigned in the face of functional demands for delegation and autonomy in EU affairs. On the other side, despite this inevitable degree of resignation, NPs have lately also proven to be quite resilient, indeed assertive, in providing mediated legitimacy to EU governance says Lindseth (2017, 43).

In Lindseth (2017, 43) opinion, the expansion of supranational regulatory power has demanded some degree of mediated legitimacy through national parliamentary scrutiny, even as national executive oversight has remained the

predominant source of legitimation. The most important novelty remains the participation of national parliaments in the procedure of political control of subsidiarity: Early Warning Mechanism (EWM). The introduction of the EWM by the Lisbon Treaty (Protocol no. 2 on the application of the principles of subsidiarity and proportionality) was significant insofar as it gave national parliaments a central role in watching over compliance of proposed legislation with the principle of subsidiarity. In the EWM, each national parliament may – within eight weeks of transmission of the proposal –issue a reasoned opinion, setting out why the national parliament (or chamber thereof) considers a proposal as violating subsidiarity (Matei and Dumitru 2020, 3).

According to this procedure, if one third of the national parliaments argue that the legislative proposal presented by the Commission is not sufficiently justified, it will have to reconsider it. This initial "yellow card" was reinforced by the Lisbon Treaty by introducing the possibility that, if a majority of national parliaments present to the Council and the European Parliament an argued position on the violation of the principle of subsidiarity and this is supported by 55% of the members of the Council or by a majority of votes in the European Parliament, the Commission is obliged to withdraw its proposal.

But, as Matei and Dumitru (2020, 4) underscore, the most important political innovation related to the European institutional system is the incorporation of the National Parliaments in it. The National Parliaments are assigned, on one hand, the function of controlling the exercise of European competences and, on the other, the function of overseeing the transfer of new ones. The incorporation of the National Parliaments into the European functioning represents an absolute novelty, well received by some, but doubtful for others, given the fears related to the functioning of the EU.

Supporters of this incorporation emphasize its contribution to increasing democratic control in the EU, its value in terms of EU legitimacy (Martín 2005, 53-79). Detractors, for their part, fear that an already slow decision-making process will be complicated and delayed without, in return, correcting the democratic deficit, given that, in their opinion, few National Parliaments have an interest in the European polity system (Davies 2003, 686-698; Maurer 2003).

The relevant role of the National Parliaments in controlling subsidiarity is one of the main contributions of the constitutional debate to the definition of the European political model, but it is difficult to evaluate it at this time (Matei and Dumitru 2020, 5). A priori, it seems that it will strengthen the democratic character of the Union and that, in addition, it could develop the cooperative character of European federalism through the participation of the Member States not only at governmental level, but also at parliamentary level (Aldecoa Luzárraga and Guinea Llorente 2011, 181).

For Borońska-Hryniewiecka (2017, 69) the role of parliaments as guardians of subsidiarity has a strong legitimacy component to it since, she argues, it grants them the opportunity to ensure that EU action is necessary, brings added value over and above what could be achieved by member states' action alone and - the former two being satisfied - that the decisions are taken as closely as possible to the citizens in accordance with the Treaty provisions.

Everything will depend, of course, on the National Parliaments interest in this activity and on their reaction speed, so that the strong sense represents the added value, the democratization of the system, and not the delay of the decision-making process (Aldecoa Luzárraga and Guinea Llorente 2011, 181). If national parliaments want to perform a meaningful representative function in the highly complex EU governance structure, they should invest further in complementing the EP's influence in EU policy-making. In this respect, Borońska-Hryniewiecka (2017, 80) believes that the EP - acting in the capacity of its indirect legislative initiative - could be viewed as a power multiplier for national parliaments by, for example, adding more institutional weight to their own initiatives.

Concluding, the principle of subsidiarity, and most importantly the introduction of the EWM, have certainly contributed to the enhancement of relations between national parliaments and EU institutions (Matei and Dumitru 2020, 13). As Matei and Dumitru (2020, 13) argue, national parliaments are now active participants in the day-to-day legislative politics of the EU. These changes would encourage national parliaments to remain active participants in the EWM and the broader political dialogue and hopefully contribute to making it attractive to those who do not engage in this system at present.

3.3. The role of regions and local authorities in controlling the application of the subsidiarity principle

The recognition and guarantee of the competences of the regions represented one of the stakes "behind" the principle of subsidiarity and the introduction of the political and judicial mechanism of its fulfilment. This is in response to the regions' request from the Maastricht, that the principle of subsidiarity should not only be a criterion for the delimitation of competences between the Union and the Member States, but should be applied at all European political levels, i.e. to include regions and local authorities.

Bărbulescu (2015, 257) recalls that the introduction of the elaboration of the competences catalogue on the agenda of the constitutional process was due to the pressure of the German states who saw in this exercise a way to protect their competences in the face of the tendency to be "absorbed by the European level".

Thus, the Treaty of the European Union recognizes, for the first time, the application of the principle of subsidiarity at the level of regions and local authorities, giving them satisfaction. The Protocol on Subsidiarity, which details the application of this principle and the mechanisms of political and judicial control, reserves an important role for the regions and local authorities. In this regard, Article 2 of the said Protocol expressly establishes the obligation of the European Commission to consult the regions and communities before making a legislative proposal whenever appropriate. Referring to this, Aldecoa Luzárraga and Guinea Llorente (2011, 182) state that, in essence, it is a consolidated practice in European governance - alongside that of consolidating interest groups and civil society - which is now being formalized at the highest level.

In addition, the protocol provides for the active legitimation of the Committee of the Regions before the European Court of Justice: the committee may appeal to the Court if it finds that the application of the principle of subsidiarity has been violated under the matters established by the Treaty as within its competence. This appeal may also be introduced by a Member State, at the request of the national parliament or only one of its chambers, which may even be that of the regional representatives. In other words, as claimed by Bărbulescu (2015, 258), according to the Lisbon Treaty, local regions and local authorities have legal

possibilities, even if indirect, to appeal against European legislative acts that violate the principle of subsidiarity.

We can therefore conclude that the Treaty of Lisbon requires significant progress in equipping European regions with instruments that allow them to defend their competences in the face of unjustified interference of national institutions. Undoubtedly, the proper functioning of these instruments depends, to a large extent, on the existence of internal procedures at Member State level to favour such an action.

4. HAS TRUST IN THE EU INCREASED OVER THE YEARS SINCE LISBON TREATY ENTERED INTO FORCE?

In concluding an analysis of the entire process resulting from the Lisbon Treaty, Aldecoa Luzárraga and Guinea Llorente (2011, 273) talk about the EU's readiness to leap forward with the launch of the instruments and policies of the new reform. Anticipating the news has since produced an atmosphere of optimism and hope even before its application. The general belief that the Lisbon Treaty brings many beneficial changes and that, after years of application, the European Union will no longer be the same, has already been extended.

So today, more than 10 years after the entry into force of the provisions of the Treaty of Lisbon, what is the opinion of EU citizens about the institutions, policies and importance accorded to their "voice" by the Union? Has the reform introduced by the new treaty produced the results expected by EU citizens?

According to Standard Eurobarometer 92 (Autumn 2019) more than four Europeans in ten tend to trust the European Union (43%). With the exception of spring 2019, this is the highest level since autumn 2010. Trust in the EU is nine percentage points higher than trust in national governments and trust in national parliaments (both 34%).

When it comes to democracy in the EU, Figure no. 1 shows that 45% of EU citizens now agree that their voice counts in the EU, after a sharp 11-point

decrease compared to the spring 2019 Standard Eurobarometer. The current result reverses a continuous upward trend in agreement between spring 2016 and spring 2019 (from 38% up to 56%), with a return to the level seen in spring 2018. The majority of Europeans now disagree (50%) (Standard Eurobarometer 92, 10).

By the time the Treaty of Lisbon was supposed to enter into force, that is 2009, the percentage of those who agreed that their voice counts in the EU was about 38% into a continuous increase since then. As such, at the beginning of 2019, 56% of EU citizens agreed that their voice counts in the EU – being the highest level ever – as we can see in the Figure no. 1 bellow.
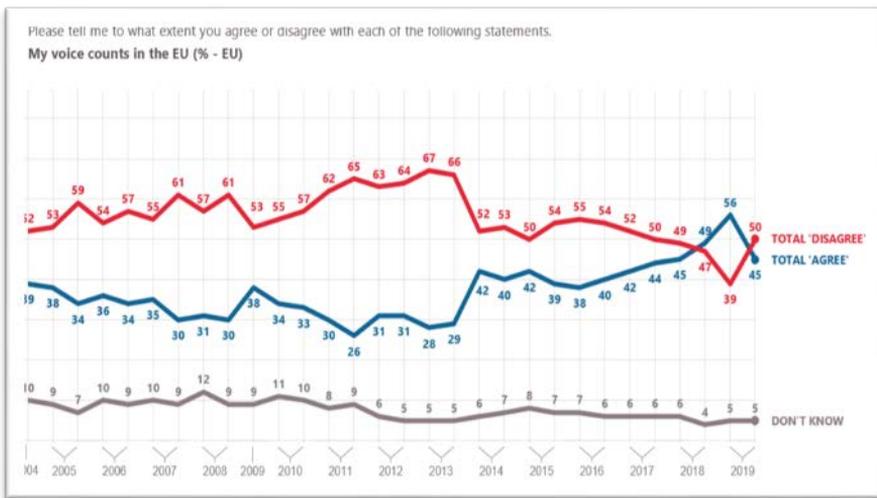
Figure 1. Percentage of citizens who believes their voice counts in the EU (agree/disagree)
Source: Standard Eurobarometer 92: 10

In 17 Member States a majority of respondents agree their voice counts in the EU, led by Denmark (72%), Sweden (69%) and the Netherlands (63%). These countries are followed by Croatia, Germany, Austria, Luxembourg, Poland, Portugal, Ireland, Finland, Romania and Hungary where a majority over 50%

also agree with the statement. By contrast, in ten countries a majority disagree that their voice counts in the EU, with proportions ranging from 72% in Greece, 68% in Estonia and 66% in Italy to 54% in Spain, 55% in Lithuania and 56% in France (Standard Eurobarometer 92, 11).

Regarding satisfaction with the way democracy works in the EU, more than half of Europeans say they are satisfied (52%). While satisfaction had increased continuously since spring 2016, the upward trend has halted, with a 3-percentage point fall since spring 2019. However, satisfaction is still at its second highest level since 2009. In parallel, the proportion of respondents who are "not satisfied" with the way democracy works in the EU has gained four percentage points to 40% (Standard Eurobarometer 92, 12).

In 24 Member States (down from 27 since spring 2019), a majority of respondents are satisfied with the way democracy works in the EU, with the highest proportions in Denmark, Ireland (both 73%), Luxembourg and Poland (both 67%) and Lithuania (66%). At the other end of the scale, satisfaction is less widespread in Malta (48%), Spain (49%) and Slovakia (50%). There are four countries where a majority of respondents are "not satisfied" with the way democracy works in the EU: Greece (62%), France (48%), Italy (46%) and the United Kingdom (44%). Since spring 2019, satisfaction with the way democracy works in the EU has decreased in 24 Member States, led by Malta (48%, -13 percentage points), Finland (59%, -8), Portugal (65%, -7), Cyprus (53%, -7) and Italy (45%, -7). It has increased only in Romania (62%, +3) and Czechia (56%, +2), and remains unchanged in Bulgaria and Luxembourg. As a consequence of these evolutions, the majority opinion has changed from satisfied to dissatisfied in France, Italy and the United Kingdom (Standard Eurobarometer 92, 13).

5. FINAL REMARKS

This paper has analysed and assessed three major tools of ensuring the connection of citizens with democratic institutions so that they feel represented in the post-Lisbon European political framework. I have described their extent and assessed their possible impact on policymakers and citizenry. The EU has

been prepared to make a step forward once the new instruments and policies were established by the Treaty of Lisbon. But, as any other treaty, it allows a maximalist or minimalist enforcement depending on political will of the Member States.

EU governance theorists frequently express a normative concern with the democratic deficit in the Union. As we have seen from our analysis of governance literature, assertion assumed also by Pollack (2010, 39), much of the governance literature is given over to proposal for increasing the democratic accountability and the governance capacity of the EU. Whereas in the past EU institutions had relied primarily on output legitimacy[3], once the Treaty of Lisbon entered into force, there were augmented calls to increase the input legitimacy[4].

Citizen participation in European political life has been gradually augmented. European Citizens' Initiative is probably the most innovative aspect in terms of participatory democracy introduced by the Treaty of Lisbon. But, as I mentioned about the minimalist enforcement, Pérez de las Heras (2017, 364) claims that the legislation-initiating function of this tool has not been yet fulfilled. She believes that in order to fully exploit its capacity, there is a need of improving and simplifying the Citizens's Initiative, which may require Treaty amendments as well as changes to secondary legislation. As we have seen, the Citizens' Initiative allows EU citizens to request the Commission to make a new legislative proposal ''for the purpose of implementing the Treaties''. The implementation of this provision has also attracted a lot of criticism pointing that (1) the EU Commission can decide whether or not to act on a successful CI, (2) the EU Commission has ultimate control over the content of any new legislative proposal and (3) only proposals which implement the Treaties are acceptable – any proposal that would change the Treaties provisions is rejected in advance (Bevir and Phillips 2017, 724; Bellamy and Kröger 2014, 453).

The new provisions of the Treaty of Lisbon gave National Parliaments a central role in watching over compliance of proposed legislation with the principle of subsidiarity. Thus, National Parliaments are increasingly called to play a relevant role in building a European *demos*. Pérez de las Heras (2017, 364) states that the EWM for subsidiarity control introduced by the Treaty of Lisbon has not

met the expectations of bringing the EU closer to its citizens and making the Commission vertically accountable to national parliaments. Instead, the "green card" initiative provides the national legislators with a platform for joint policy proposals, which has the potential of translating the parliamentary engagement into co-responsibility for EU governance. Yet, NPs are encouraged to invest further in translating Europe to their voters, while better complementing the European Parliament's influence in EU policy-making.

In respect to local and regional level role in EU the policy-making process, we can argue that there is visibly a progress in recognition of local and regional perspective. Although, not what was envisaged initially. For this purpose, the Treaty on European Union recognizes regional identity when it requires at article 4.2. that "Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government." This provision is strengthened when we are looking at the EU principles: "Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level" (art. 5.3 TEU).

Figures from the Standard Eurobarometer 92 (Autumn 2019) shows both general trust of citizens and the concept of EU democracy on the edge.

Given our assessment of democratic legitimacy, we can expect that more and stronger political strategies and instruments will be called for and devised that correspond to citizens' expectations. If the EU wishes to retain citizen's support, it needs to improve in this regard.

NOTES

1. The subsidiarity principle applies to areas where the Union's competence is not exclusive. According to the Treaty on European

Union (TEU), it requires that "the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level".

2. According to the White Paper on European Governance, which we discussed in this paper, the Open method of coordination (OMC) "is a way to encourage cooperation, exchange of best practices and acceptance of common goals and guidelines for Member States, sometimes taking into account national action plans (...). It is based on regular monitoring of progress towards these objectives, allowing Member States to compare their efforts and to learn from the experience of others. (...) The open method of coordination should be a complement rather than a substitute for community action" (European Commission, 2001: 21-22).

3. I.e. the efficiency or popularity of EU policy outputs (Pollack 2010, 39).

4. I.e. the democratic accountability of EU institutions to the electorate (Pollack 2010, 39).

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REFERENCES

- Bartolini, Stefano. 2011. „New Modes of European Governance. An Introduction". In *New Modes of Governance in Europe: Governing in the shadow*

of Hierarchy, eds. Adrienne Heritier şi Martin Rhodes. pp. 1-18. Palgrave Macmillan.

- Bărbulescu, Iordan Gheorghe. 2015. *Noua Europă: Identitate şi model european* (vol.1) [The New Europe: Identity and European model] Iaşi: Polirom.

- Bellamy, R. and Kröger, S. 2014. "Domesticating the democratic deficit? The role of national parliaments and parties in the EU's system of governance" in *Parliamentary Affairs*. 67 (2): pp. 437–457.

- Bevir, Mark and Phillips, Ryan. 2017. "EU democracy and the Treaty of Lisbon" in *Comparative European Politics*. 15, pp. 705–728. doi:10.1057/s41295-016-0078-2.

- Bevir, Mark and R.A.W Rhodes. 2007. Decentred Theory, Change and Network Governance. in *Theories of Democratic Network Governance*, eds. Eva Sorensen and Jacob Torfing, pp.77-91. Palgrave Macmillan.

- Bouckaert, Geert. 2017. Taking stock of "governance": A predominantly European perspective. in *Governance*, 30: 45-52. doi 10.1111/gove.12259.

- *Consolidated version of the Treaty on European Union*, OJ C 326, 26.10.2012, p. 13–390.

- *Consolidated version of the Treaty on the Functioning of the European Union*, OJ C 326, 26.10.2012, p. 47–390.

- Borrás, Susana and Anders Ejrnaes. 2011. "The legitimacy of new modes of governance in the EU: Studying national stakeholder's support". In *European Union Politics*, vol. 12, 1, pp. 107-126.

- Borońska-Hryniewiecka, Karolina and Monaghan Elizabeth. 2017."The European Citizens' Initiative as Democratic Legitimacy-Enhancing Tool: Toward a Broader Conceptualization" in Pérez de las Heras Beatriz (ed.). *Democratic Legitimacy in the European Union and Global Governance. Building a European Demos*. Palgrave Macmillan.

- Davies, Gareth. 2003. "The post-Laeken division of competences", *European Law Review*, vol. 28, no. 5. pp. 686-698.

- Eising, Rainer.2007. Interest Groups and the European Union. In *European Union Politics*, ed. Michelle Cini, 2nd ed. pp. 202-221. Oxford: Oxford University Press.

- European Commission. 2001. *European Governance. A white paper. Bruxelles*, 25 July. Accessed in 24.04.2019. http://europa.eu/rapid/press-release_DOC-01-10_en.htm.
- European Union. *Standard Eurobarometer 92 – Autumn 2019. Public opinion in the European Union*. November 2019.
- Giorgi, Liana. 2006. "Democratization and the European Union" in *Democracy in the European Union: Towards the Emergence of a Public Sphere*, eds. Giorgi, L., von Homeyer, Ingmar and Wayne Parsons. London: Routledge.
- Ion, Oana-Andreea. 2013. *Guvernanţa Uniunii Europene: abordări actuale* [Governance of the European Union: current approaches]. Iaşi: Polirom.
- Jessop, Bob. 2002. *The future of the Capitalist State*. Polity Press.
- Jordan, Andrew and Adrian Schout. 2006. *The Coordination of the European Union. Exploring the Capacities of Networked Governance*. Oxford: Oxford University Press.
- Klijn, Erik-Hans. 2008. "Governance and Governance Networks in Europe. An assessment of ten years of research on the theme" in *Public Management Review* vol. 10 (4). pp. 505-525.
- Kooiman, Jan. 2003. *Governing as governance*. Sage Publications.
- Lindseth, Peter. 2017. "National Parliaments and Mediated Legitimacy in the EU: Theory and History" in *National Parliaments After the Lisbon Treaty and the Euro Crisis. Resilience or Resignation?* ed. Davor Jančić. Oxford University Press: New York.
- Luzárraga, Francisco Aldecoa and Mercedes Guinea Llorente. 2011. *Europa viitorului: Tratatul de la Lisabona* [The future Europe: the Lisbon Treaty]. Iaşi: Polirom.
- Martín, Araceli. 2005. "El control del principio de subsidiariedad" in La constitucionalizacion del proceso de integratíon europea, *Colecctión Escuela Diplomática* no 9, Madrid. pp. 53-79;
- Matei, Ani and Dumitru, Adrian Stelian. 2020. "The Subsidiarity Principle and National Parliaments Role: From Formal Need to Real Use of Powers" in *Adm. Sci*. 10, 24.

- Maurer, Andreas. 2003. "From the Eus Constitutional Convention to the Intergovernmental Conference. The Balance between Constitutional Principles and National Preferences", German Institute for International and Security Affairs, *SWP Comments* no 8, June.
- Pérez de las Heras, Beatriz. 2017. *Democratic Legitimacy in the European Union and Global Governance. Building a European Demos*. Palgrave Macmillan.
- Phinnemore, David and McGowan, Lee. 2005. *A Dictionary of the European Union*. Taylor&Francis.
- Pollack, Mark. A. 2010. "Theorizing EU Policy-Making" in *Policy-Making in the European Union*. eds. Hellen Wallace, Mark A. Pollack and Alasdair R. Young. 6th ed. Oxford: Oxford University Press. pp. 16-43.
- Pollack, Mark. A., Wallace, Hellen and Young, Alasdair R. 2010. "EU Policy-Making in Challenging Times. Adversity, Adaptability and Resilience" in *Policy-Making in the European Union*. eds. Hellen Wallace, Mark A. Pollack and Alasdair R. Young. 6th ed. Oxford: Oxford University Press. pp. 482-500.
- Schmitter, Ph. C. 2006. "Governance in the European Union. A viable mechanism for future legitimation?" in *Governance and Democracy. Comparing national, European and international experiences*, eds. Arthur Benz and Yannis Papadopoulos, pp. 158-175. London; New York: Routledge.
- Torfing, J., Peters, B. G., Pierre, J., şi E. Sørsensen, E. 2012. *Interactive Governance: Advancing the Paradigm*. Oxford: Oxford University Press.
- Wincott, D. 2003. Backing into the future? „Informality and the proliferation of governance modes (and policy participants) in the EU". In *Informal Governance in the European Union*, eds. Thomas Christiansen şi Simona Piattoni. pp. 226-236. Cheltenham; Northampton: Edward Elgar Publishing Limited.