Challenges of the Harmonization Process of the Fiscal Policies at the European Union Level

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Abstract. *In the domain of the fiscal politics characteristic to the unionist entities, the challenges of the harmonization process are multiple. The American model, which has situated the idea of the development of the federal state on the established principles of the participative federation, has represented the first step in this direction. The apparition of the European Union represents a new challenge in the domain of the state suzerainty and common politics. The article tries to answer to the question related to the possibility of application of a coherent fiscal policy at federal level.*

Key words: tax harmonization; tax competition; coordination; fiscal disparities; stabilization policy.

The necessity of tax harmonization of the fiscal politics at European level is indisputable, but the problem is often wrongly approached because there is a tendency to confuse the harmonization with uniformization. The adversaries of the European cause invoke the fiscal disparities existent between different countries to affirm that the process of integration would be impossible. The example of the federal systems as it is the one in the United States shows however that a unique market and a unique currency are completely compatible with the important differences that exist between the politics from the Member States.

In the domain of the fiscal policy, and also in the distribution of competences between the European Union and the Member States, we must mention the principle of subsidiary as well as the tax identification which necessitate a more ample harmonization. According to the principle of subsidiary, the Community must only interfere if the objectives of the aimed action cannot be realized by the Member States. In fact, the dimension of the public sector and of the social protection systems vary a lot from one country to another, for example the level of mandatory sampling reached 33.4% from the GIP (Gross Internal Product) in Portugal, respectively 51.9% in Denmark.

With all that, when the necessity of the tax harmonization is not contested, the harmonization of the social protection systems (constitution of a "social European space") is often considered premature. On the other side, the application of the Monetary and Economical Union which results from the Maastricht Treaty reduces a lot the handling margin that the Member States dispose of. Deprived of an essential attribute of sovereignty by the acceptance of the unique currency, the states are also confronted with a reduced liberty in the domain of the budgetary policy, as the deficits must not exceed 3% from GIP.

Under these conditions, in the fiscal policy domain, the autonomy of the states remains reserved, at least from the juridical point of view. The decisions in the fiscal matter must still be taken at the national level and not at European level, which limits a lot the intervention possibilities of the European authorities. The tax levy, which is voted by the national parliaments, represents the "rough core" of the sovereignty of the state.

We must remind the considerable progresses realized by harmonization means, especially during the last few years, with the specification that decisive progresses will not be possible if they are not accompanied by a reform of the institutions.

Significant progresses were registered especially in the domain of indirect taxes, which corresponds to the spirit of the signatories of the Rome Treaty according to whom: there is not enough dissolution of the customs rights between the member states, there must also be eliminate the fiscal frontiers which maintain a division between the national markets.

Not only that all the Member States apply the value added tax, from which one part aliments the proper resources of the community budget, but they also apply it at an uniform trim.

In the United States, there are not only important quota differences, but also trim differences.

Regarding the harmonization of the value added tax, the European states have registered progresses. If they could not agree on the quotas proposed in 1987 by the Commission (between 4 and 9% for the reduced quota of the VAT and between 14 and 10% for the normal quota of the VAT) fixation, in 1992, of a normal minimum quota of the VAT of 15% has represented a progress.

A new regime of the VAT and of the excises (which aims products like alcohol, tobacco or fuels) has been applied beginning with 1 January 1993.

The consumers can buy without limits what they want from the other member states, with the condition that they buy for personal consumption and not for commercialization. At the basis of this reform is the replacement of controls on VAT which took place at the frontiers, with a new system of cooperation between the fiscal administrations of the European Union. This administrative cooperation is based on an informatics network which unites the national fiscal administrations between them and allows the systematic data exchanges necessary in the battle against fiscal fraud. The reform allowed a reduction of formalities which were on the charge of the enterprises.

Regarding the direct taxes, the results are not the expected ones. The connections between the member states remain governed by a labyrinth of bilateral conventions which maintain a considerable number of variations and anomalies.

Certain progresses were still made in the matter of direct taxation of the enterprises: an European directive was adopted in June 1990 to suppress the double taxations in case of merge and of frontier transfer of dividends by the enterprises, and this constitutes the basis of the European taxation of the enterprises.

The aimed objective is that the enterprises can buy, sell, invest and cooperate between them in all the European Union without excessive national obstacles or major fiscal distortions. For this to happen, it is not indispensable to exist in all the European Union the same tax on the societies, with the same quotas or the same rules of determination of the trim. What matters is that there should be a progressive convergence of the taxation systems.

The harmonization of revenues taxation should focus on the taxation of the capital, of the production factors with weak mobility, as there is work, without needing an immediate fiscal harmonization. The majority of households only place a small part of their economies in chattels personal. The real estates, the life insurance contracts are their most important placements. The risk of delocalization of the economy, if it is real, does only comprise a relatively small portion of the global economy.

Since 1 January 1990, any European resident can own currency accounts and place freely his economies in any other country in the Union.

A European Directive regarding the taxation of the economies entered in force on the 1 July 2005. It provisions automatic exchanges of information regarding the revenues realized by Europeans in the states of the Union where they are not residents, which allows their taxation in the origin country. This directive has as a purpose the elimination of discriminations between residents and non-residents in the treatment of revenues realized from economies.

A fifteen years period of negotiations was necessary to reach this agreement, which only succeeded grace to the application of a derogatory regime for the countries who do not accept giving up the banking secret: Luxembourg, Belgium and Austria, which are exempted from participating at the exchanges of information while the concurrent countries, especially Switzerland, refuse to suspend the banking secret.

In the trade-off, these countries apply a retention to the source on the revenues from economies placed in their banks by non-residents. The tax will be bigger and bigger, as it passes progressively from 15% between 2005 and 2008 at 20% between 2008 and 2011 and at 35% after 2011. 75% from this tax will be paid by these countries to the resident country of the one economizes.

Since February 1989, the European Commission proposed the instauration of a retention to the source of 15% on the interests paid for the residents of the Union. The agreement could not have been concluded because of the opposition of the Lower Countries, Spain, Luxembourg, Germany and Great Britain. This subject has been resumed in 1998 to reach in 2005 the compromise mentioned above. The adopted directive approaches a little the Interest Equalization Tax (tax of equitable distribution of interests), adopted in the United States in 1963, which allowed important issues of capital outside the American territory. The risk of capital flows and delocalization of the economies outside Europe, due to those dispositions, cannot be excluded.

Besides the progresses which were already registered in the process of harmonization, there is a series of problems that need to be solved.

Thereby, in the matter of VAT, the current regime has a temporary character. During 1996 an analysis of the situation should have allowed the decision of passing, in 1997, at the definitive regime, that of taxation of the exportations from the origin country. In fact, this measure could not be applied on the appointed date and the transition period has been extended for an indefinite duration. We are currently confronting with a hybrid system, which is a source of difficulties for the enterprises. The elimination of the physical frontiers had as effect the transfer of the customs work towards the enterprises, obligating them to a certain number of administrative measures for which they were not prepared. The enterprises report directly on the statements of the business figures the intercommunity deliveries and acquisitions. They deposit a recapitulative state of their sales, which results from the statistic document for the exterior commerce.

Despite the reduction of certain formalities, new obligations are imposed to the enterprises and the controls are now made a posteriori and not a priori.

The fiscal authorities are in front of a dilemma: they either let fraud develop, either they consolidate the controls and risk to provoke a rejection of Europe from the contributors.

The taxation of the goods and services in the origin country has a symbolic value and this objective, founded on the hypothesis up until now inapplicable of a unification of the taxation quotas on the consumption practiced in the member countries, corresponds to the concepts of the signatories of the Rome Treaty. In such a system, the assimilation of the European market to an interior market will allow the reduction of customs check-ups. This thing will increase the fiscal revenues from the Member States whose commercial balances in rapport to the other countries of the European Union overflow in the detriment of those who register a deficit.

If the disparities of the VAT quotas persist between the Member States, the institution of a taxation in the origin country risks to make less competitive the enterprises from the member countries which apply the biggest taxes. Under these conditions, we might ask the question if the unanimity of the Member States can be done based on the adoption of such a system. They risk to be less disposed to accept the administrative complications and the unpredictable modifications of the VAT collections which result from such a reform.

Moreover, even if a rapprochement of the VAT quotas would be possible, the application of a different regime for the goods and services exchanged within the European Union and for those exchanged with third countries would be a source of difficulties for the fiscal administrations. In the end, the principle of taxation in the origin country cannot be applied to the excises, as their level differs very much from one country to another. As the products subjected to excises (alcohol, tobacco and fuels) are generally subjected to the VAT as well, the common application of the VAT in the origin country and of the excise in the destination country will create delicate problems in matter of evaluation, fixation of the transfer price for the multinational enterprises and of distribution of the fiscal revenues.

The current transitory regime risks lasting for more time than it was provisioned, but it is not an obstacle in the pursuit of the European integration. In many countries with federal structure, especially in the United States, the sales between states are not taxed in the origin country, but this does not detain the interior market to function without the necessity of customs check-ups.

Regarding the tax on societies, the fiscal concurrence led to a certain rapprochement of the taxation quotas between the European countries. Instead we can observe a great differentiation of the manner of determination of the trim.

All the states use the digressive amortization as a fiscal simulation instrument but there are no considerable differences between the amortization regimes in France, Germany, Great Britain and Italy.

Regarding the provisions regime, the German enterprises are advantaged in rapport with the French and British enterprises, as they can deduct from their benefits all the losses or the changes they estimate, while the French enterprises must present justifications in this sense and the British enterprises want to interdict this type of provisions.

If, in ensemble, the French enterprises appear subjected to the mandatory extractions bigger than their German or British competitors, this thing is explained especially by the balance of the social subscriptions in charge of the employers and not by that of the taxation.

In September 2004, the European Commission has decided the creation of a work group charged to study the means of harmonization of the taxation trim on the societies. The aimed objective consists of the creation of a unique trim for the societies present in multiple countries as well as the attribution to each state of a part from this trim, calculated according to the business figure realized on the territory of the respective state. The harmonization of the trim can begin from the part of the quoted societies, which, after 1 January 2005, must apply the international accounting norms IAS (International Accounting Standards).

This decision of the Commission confronted with the opposition manifested by Great Britain and Ireland, but also by three new member states: Malta, Slovakia and Estonia. These states oppose to any cooperation in view of

such a harmonization, and consider that the solution comes from the fiscal competition which must operate without obstacles. However, it is hardly possible that we can observe progresses in the harmonization of the taxation trim on the societies in the near future.

The most relevant example is that of the United States which needed a few decades for the member states to register notable progresses in this domain. Europe is still far from adopting such a system.

If at the end of 2000 Romania was situated on the last place in the domain of adopting the community acquis from the 12 candidate states, in the period 2001-2003 it registered progresses in this direction by occupying the fourth place. We must mention the fact that the translation and adoption of the community legislation is not enough, they need to be completed with its implementation and application.

The integration of the national market in the economical, social and cultural economic space represents a lasting process, whose realization needs the elaboration of a global and perspective strategy on the structural evolution of the Romanian economy.

The harmonization of the Romanian legislation with the community one in matter of indirect taxes represents a commitment which must be respected. The European Union has the right to take decisions regarding the harmonization of the legislation for the member states regarding the indirect taxes, insofar as this process is necessary for the insurance of the creation and function of the internal market.

The influence of the European Union on the taxation in the economies in transition, especially in the candidate countries, is realised by the community acquis which chart the institutional reforms and aim the VAT and the excises.

Thereby, by the association Agreement of Romania to the European Union, it is provisioned that, as a main condition of the integration, the harmonization of the present and future legislation of our country with the community one, especially in the domain of indirect taxation.

In this sense there was elaborated the national Strategy of preparation for the adhesion of Romania to the European Union and among the established objectives appeared the perfection of the fiscal system and the adaptation of the instruments, methods and financial legislation to the requirements of the Unique Market and of the Monetary European Union, as well as the observance of the neutrality principles and of the moderation of fiscal pressure.

The observance of the neutrality principle imposes the resignation of the fiscal facilities which distort the competitive relationships on the market and stimulate the tax evasion. Regarding the exchanges realized with the member states of the European Union, the insurance of neutrality of the fiscal system supposes the elimination of the fiscal obstacle and guarantee of the competition.

The observance of the principle of moderation of the fiscal pressure exercised on the individual decisions in the work domain, of the economization, of the consumption and of the investments, implies the compression of the state intervention in economy, as well as the relaxation of the fiscal policy.

After the initiation, beginning with 1 January 1993 of the Unique European market, there were adopted certain measures which pursued the rapprochement of the fiscal systems. If we consider the long term evolution, it is necessary to take into account the example of the American market, where the fiscal competition between the states contributes to the harmonization of the taxation quotas, although important disparities still persist.

Beyond the European or American frame, the globalization has, in ensemble, a positive impact on the evolution of the fiscal systems by the entrainment of the fiscal reforms from the last years, the extension of the trim and the reduction of the taxation quotas, as well as by the reduction of distortions produces by taxation.

Currently the fiscal policy is analysed in the context of globalization which supposes a greater autonomy of the stares in this domain.

The globalization process simulates the states by creating an international fiscal competition, to permanently evaluate the fiscal systems and to act if it is necessary by adjustments in the purpose of amelioration of the fiscal climate in the domain of investments or by reduction of obstacles that the mobility of capitals is confronted with.

Major contributors, as the multinational companies, have an economical importance that allows them to realize the strategies for fiscal optimization and the operation under the conditions of the competition manifested between the states.

The fiscal competition between states as well as the competition manifested between enterprises presents certain advantages:

- allows a certain harmonization of the taxation;
- detains the fiscal pressure to reach intolerable levels.

The same as the competition between enterprises, the competition manifested between states can have destroying effects if it is not the object of equitable “game rules”.

If, at national level, the governments have the possibility to interfere for the establishment of rules to be respected, at international level such a situation does not exist.

In the European Union, the states use different fiscal instruments for the attraction of foreign investors. They try to favour the resident enterprises in rapport with the foreign competitors but in the same time they try to attract foreign investors on their territory in order to insure a stable taxation basis.

The disloyal competition from the sphere of taxes and levies can influence negatively the fiscal revenues of the member states, while loyal competition constitutes the basic component of the Unique Market as it can lead to the appearance of certain advantages for the population, as would be the offering by the governments of public services at lower pieces, supported by them.

The fiscal competition and the interactions between the fiscal systems can produce effects considered by certain states as being harmful. The states who present structural deficiencies as unfavourable geographical position with insufficient natural resources, consider that the special fiscal regimes are necessary to compensate the absences. Such a case is that of Ireland who justifies the specific taxation of the societies by the need to compensate the deficiencies resulted from its geographical position in rapport with the European competitors as Belgium, the states from the Eastern Europe or the states in south-east Asia, but these arguments are contested by its partners.

The fiscal competition is beneficiary because it allows the reduction of costs for public services and leads to efficient fiscal systems, but it also presents the risk of overvaluation of the taxation basis respectively of degradation of the quality of public services. It all depends on the role of the state and implicitly of the public sector.

According to the liberal appreciations, the fiscal competition is useful in the measure in which it allows the limitation of expansion of the public sector, which has the tendency to increase the expenses and its interventions in an excessive manner.

According to the positive concept of the public intervention, the collective decisions must pursue the maximization of welfare of the citizens and in consequence the fiscal competition cannot be an inefficient factor because it leads to improper public services.

The fiscal pressure due to the fiscal competition can affect especially the mobile elements of the taxable matter as it is the capital.

In order to avoid the abstraction of the capital or fraud, the states are obligated to reduce the taxation quotas, this phenomenon being qualified as fiscal degradation or erosion of the taxable basis.

As the perception of taxes on the revenues from mobile activities has become more difficult, the states risk, if they want to maintain the level of the existent public services, to be obligated to increase the taxes on work, consumption and non mobile activities.

There are, in most countries, dispositions which diminish the taxation basis and which can reach beyond what is necessary for the application of the objectives exposed by the fiscal policy.

The risk of distortions produced by the fiscal competition is reflected by the non-transparent treatment given to the contributors or by the possibility of negotiation with the fiscal administrations for the fixation of the transfer prices or for the obtaining of certain advantages. If the preferential fiscal regime constitutes the main reason of the investment decisions in a certain country, this thing can help at the identification of the fiscal regimes which are potentially harmful.

The industrialized countries are confronting with a dilemma: they have reached in a collective matter the point where they cannot offer provoking fiscal dispositions, but each of them considers it has the obligation to offer them in order to keep the competitive level towards its partners.

A special category of states is represented by the "fiscal paradises", notion which makes the distinction between the states which are not able to finance their own public services without applying taxes on the revenues or use reduced quotas and the states which are based on the important retentions from the revenues taxes.

The states from the first category have no interest in trying to end the dropping overbidding in the matter of the revenue tax; they contribute at the erosion of the collections obtained from this tax in the other countries. In exchange, the countries from the second category perceive important fiscal collections which are compromised by the degradable fiscal competition, and therefore there are more chances for them to accept the participation at an action organized to fight against this type of competition.

The fiscal paradises generally support the existent global financial infrastructure, by contributing to the facilitation of the mobility of the capital and the amelioration of the liquidity of the financial markets.

As the countries which are not parts of the fiscal paradises have freed and unregulated equally their capital markets, the potential advantages which resulted from the existence of the fiscal paradise are compensated by the unfavourable effects.

Certain fiscal paradises have legislations that detain the fiscal institutions from communicating to the fiscal authorities information on their investors. With all the progress registered in the matter of access to information, certain fiscal paradises have concluded conventions of administrative assistance with other states in matter of criminal law, which allow the exchange of information regarding the offences in the fiscal domain.

The attraction of these fiscal paradises is capable of being reinforced by the tight connections they can have with other countries which are not fiscal paradises.

Hereby, a fiscal paradise which constitutes a territory that depends from a country freely beneficiate from the infrastructures that the respective country offers, especially in the diplomatic and financial domains. Besides that, the investors who operate in the fiscal paradises when they are residents of the countries with "normal" taxation profit

from the public expenses effectuated in their origin country avoiding to contribute to their financing.

In the European Union, the Council has adopted on the 1 December 1997 the code of good conduct in the fiscal domain by which it guaranteed a minimum level of taxation.

Regarding the OCDE member states, they have adopted, in April 1998, 29 recommendations destined to the fight against the harmful fiscal competition, some of them being respected by national and bilateral measures.

The expansion of the European Union in 2004 has contributed to the consolidation of the fiscal competition; in this sense we must specify that on the ensemble of the European Union the medium quota of taxation of the profits was in march 2004 of 31%, while at the level of the new member states it registered a quota of only 19%. In 2006 the quota of the profit tax was of 33% in France, of 30% in Great Britain and of 28% in Sweden.

Regarding the new member states only Malta is an exception from the rule by using a quota of profit tax of 35%, while Poland uses a quota of profit tax of 19%, Slovakia of 19%, Hungary of 16%, Latvia and Lithuania of 15%, Cyprus of 10%.

For the creation of a more competitive image, many member states of the European Union have reduced, besides certain components of the social assistance, the profit tax. In this sense, Belgium has diminished this tax from 40,17% to 34% and has announced that it will exclude the dividends from the profit tax, by considering them part of the benefits distributed in the interior of a firm. The reason, more or less declared, is to attract the multinationals. The states which are at a medium level, respectively between the states with high taxation and those with reduces taxation, are making efforts to fit into the second category.

From the combination between the "fiscal dumping", that is talked about in the member states of the European Union, and the "fiscal protectionism", that the Europeans say it is practiced in the United States, we can clearly understand one thing: taxes and levies are an excellent lever of influencing the competition on the global level.

We can conclude that the fiscal systems must be subjected to a fiscal harmonization rather than to the accentuation of competition between them, in the purpose of creating a corresponding frame for the development of capital fluxes, work force and merchandise.

The dilemma regarding the tax competition and tax harmonization is topical in the European Union, because of the existence of a unique monetary policy which implies the use of a unique currency; presently at the level of the European Union we can talk about a harmonized fiscal policy and not of an unified one.

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