

## Single market fragmentation. The influence of the public decision system's features upon the national decision system: A case study of the Romanian Eco-duty<sup>(1)</sup>

**Lucica MATEI**

National University of Political Studies and Public Administration, Bucharest  
lmatei@snsa.ro

**Teodora I. DINU**

National University of Political Studies and Public Administration, Bucharest  
tdinu@snsa.ro

**Abstract.** *The concern for improving the functioning of the single market pertains both to the European decision authorities and to those of the Member States of the European Union. If we take into account the specificities of the European space development (Nedergaard, 2007, Matei and Matei, 2012) in understanding the single market building, as the effect of both the enlargement and the institutional evolution of the EU, of the public management practices and their specific legislation (European institutions), we believe that the integrated political approach of the single market is the fundamental condition of its existence. In support of those assertions we underline:*

- 1) *The specificity of the European decision-making system, the existence of three levels of decision – supra-systemic, systemic and under-systemic built under the European Treaties.*
- 2) *The distribution of powers between the European and national level, of the Member States based on the principles of action.*
- 3) *The European Regulatory Policy.*
- 4) *The convergence of the economic policies and the long term social impact, highlighting the involvement of the relevant actors in the single market.*

*The improvement of the single market functioning by removing the administrative obstacles that restrict the exercise of one or more of the four fundamental freedoms of the EU, is the European priority and is found in the documents such as Europe 2020, COM(2012) 756/14.12.2012, COM(2012)164/4.4.2012.*

*The problem regarding the movement of goods and citizens pertaining to the existence of barriers affecting the cross-border activities, despite of the single market shall be analyzed in relation to the problem of vehicles pollution. The pollution is on the priority list of the European Union (Treaty establishing the European Community*

*(Art. 174/130r – EC Treaty establishing the polluter pays principle (PPP)). Therefore, the European Union is entitled to adopt measures under Article 114 TFEU in order to ensure the proper functioning of the single market for vehicles.*

*The multilevel governance system of climate policy presents both opportunities and challenges for policy makers [...] the capacity of decision makers operating at any one level can be enhanced or (more frequently) constrained by the policies at other levels (National Research Council, 2010: 318), e.g. the case of the Romanian tax-register (Dinu, 2011: pp. 25-39). The same problem pertaining to the subsidiarity and the environment is underlined by Pelkmans (2003: p. 53) namely whether competencies should be assigned on the European Union's level with regard to following a certain environmental policy. Pelkmans best emphasises the core of the problem in the case of the trans-frontiers negative externalities (most of them are from the environmental field): should the European Union have an exclusive competence considering the fact that the EU countries have different national characteristics? It would probably not happen mainly because at least a part of the environmental problems are local, regional or national, and their differences are best considered on those administrative levels.*

*The paper refers to whether there is a correspondence between the procedural part of the decision-making (correlating the national and the European level) and the formal part consisting in a formula that weights the elements that the research finds important. In the paper the pollution issue is analyzed from the perspective of vehicles EU market fragmentation caused by the different implementation by the Member States of the taxes specific car-duties, as a result of the particular decision-making procedure. The duties and taxes are not harmonized at EU level, the Member States being free to exercise their tax powers on vehicles in accordance with the EU legislation. The lack of harmonization triggers such a "technical" fragmentation of the single market.*

*Romania does not have a broad experience in this area (as it is also a New Member State) or if it has it is one that has confirmed our lack of expertise (e.g. the case of the eco-duty) – e.g. the formula establishing the method of calculus for the eco-duty has led to its suspension in the past for reason of conflict between decision level and stakeholders (Dinu, 2011: pp. 25-39), as it does not take into account both the contextual variables and the technical indicators.*

*This paper focuses on testing this research question by going in-depth of the public decisions on which the eco-duty is based. There are several stakeholders involved, which only strengthens our hypothesis according to which not only the national and European level authorities craft the eco-duty, but also the bargaining power of duty payers versus car producers/dealers and the representing state authorities (Ministry of Environment and Climate Changes, Ministry of Public Finances) may have a strong impact upon the eco-duty design.*

**Keywords:** single market, public decision, regulation.

**JEL Classification:** H41.

**REL Classification:** 13B, 20D.

### The multilevel governance system of climate policy

In order to substantiate the *importance* of the problem nowadays, the aim of the paper is to review the research in the field of public decision-making pertaining to negative externalities, choice of alternative actions directed towards the institutions on both regional and central or local level. The negative externalities give a focus to this research due to their role in the economic theory of subsidiarity developed as part of the multilevel governance. In this regard, the negative (trans-frontiers) externalities represent an assigning criterion based on the subsidiarity principle, especially referring to the `beggar-thy-neighbour` policies, namely air or water pollution and commercial protection (Pelkmans, 2006: p. 5).

The *question* raised in this particular case mainly concerns one of the state's four functions, namely the distribution function, which embodies the decisions made to ensure equity, social justice and income distribution. Aiming at such a sensitive issue like equity, it can be said that in fact the public decision-making pertaining to this distribution function is strongly influenced by the political factor, more than other decision stages like building knowledge on public sector activities and organisation design (financing method, expenditures and local and central duties), anticipating the consequences (the effects of a tax on return – price increase, wage cut, increasing the retirement age), or assessing the alternatives (Matei, 2006: p. 63). These stages apply for all public decisions taken in the framework of the other state's functions. For example, in the case of the allocative function, due to the fact that the public decisions pertaining to this function aim at the government's intervention in the market's allocative function so to correct its negative effects (*e.g.* negative externalities), the stage referring to consequences' anticipation proves to be quite important (Matei, 2003: pp. 26-27). A similar situation can also be found in the decision context of the stability function, which intervenes in case of macroeconomic imbalances seen in the case of inflation, unemployment, economic downturn, deficits of the trade balance and balance of payments etc. (Ailenei, 2002: p. 29). In turn, the public decisions pertaining to the regulatory function aimed at reducing the tendencies towards monopoly or, in the context of this research, the negative externalities refer to setting limits for the discretionary behaviour and freedom of individuals by imposing certain rules (through a functional juridical system), thus emphasising the decision-making stage that aims at building knowledge on the public sector activities and organization.

Going back to the public decision-making, no matter to which state function pertains to, the decision variables specific to the field where the decision is applied are difficult to be defined. In the public decisions' case the problems at

stake are specific to both the private sector (efficient allocation, productivity, performance (Constantin et al., 2011)) and to the issues that only concern the public field (provision of public goods and services, collective choice, externalities). All in all, the public decision-makers dilemmas can be formulated as follows: What is to be produced? How is to be produced? For whom is it to be produced? How are these decisions made? (Stiglitz, 1999: p. 14). Therefore, the influence of each variable become important, be it contextual (organisational culture, strategy, stakeholders, legislation, and so on) or which intervenes in the decision efficiency (economic and social status, technical parameters, so on and so forth). Thus, the answer to the first question (What is to be produced?) lies in the resource allocation, underlined in the field literature with the help of the Production Possibility Frontier (PPF) instrument. The second dilemma must search its answers in the combination of the production factors (labour, land and capital) captured by the governmental policies (e.g. the environmental policy adopted as a response to a specific negative externality may affect at least one C (namely, Choice of technology). The target group (For whom is it to be produced?) is defined by the distribution, which is equally influenced by the fiscal policy (e.g. eco-duty) or by the public goods provided so to satisfy the needs of certain groups – free rider problem (e.g. the Romanian Jalopy Program) (Dinu, 2011: pp. 32-37). The decisions are collectively made (`tragedy of the commons`) and, as mentioned above, have different stages: building knowledge on the public sector activities and organisation, anticipating the consequences, assessing the alternatives and the influence of the political factor (Matei and Dinu, 2011).

The problem's elements of difficulty lay within the implementation of the policies avoiding or correcting the negative externalities. The multilevel governance system of climate policy presents both opportunities and challenges for policy makers [...] the capacity of decision makers operating at any one level can be enhanced or (more frequently) constrained by the policies at other levels (National Research Council, 2010: 318), e.g. the case of the Romanian tax-register (Dinu, 2011: pp. 25-39). The same problem pertaining to the subsidiarity and the environment is underlined by Pelkmans (2003: p. 53) namely whether competencies should be assigned on the European Union's level with regard to following a certain environmental policy. Pelkmans best emphasises the core of the problem in the case of the trans-frontiers negative externalities (most of them are from the environmental field): should the European Union have an exclusive competence considering the fact that the EU countries have different national characteristics? It would probably not happen mainly because at least a part of the environmental problems are local, regional or national, and their differences are best considered on those administrative levels (see Table 1).

**Table 1.** *EU Subsidiarity Test*

Step 1: verify whether the issue at stake falls under shared or (EU) exclusive powers	The power is shared, as the Member States are free to apply taxes other than VAT on passenger cars as long as these taxes are in line with the general principles of EU law. Vehicle taxation is not harmonised at EU level (Harmonisation in the field of indirect taxes has been difficult to achieve due to the unanimity requirement under Article 113 TFEU). This entails that Member States enjoy a wide level of freedom in determining whether to apply registration taxes on vehicles that are intended to be used on their territory and also in determining the level of taxation (SWD(2012) 429 final: 8).
Step 2: the 'need-to-act' in common; is regulation at national level ineffective (1 <sup>st</sup> criterion) or too costly because of scale or externalities (2 <sup>nd</sup> criterion)?	<i>1<sup>st</sup> criterion:</i> the multitude of different and un-coordinated thresholds and technical triggers for different levels of taxation such as engine size, fuel used or CO 2 emissions (be it for registration or circulation taxes) further complicates the already diverse market conditions for car producers triggering a tax-induced fragmentation of the Single Market, which results in tax-induced cross-border trade as well (COM(2012)756: 2). <i>Therefore, there is a 'need-to-act' in common.</i>
Step 3: can the common action avoid centralization at EU level? For example, by cooperative action among some or all member states, or by coordination, or by jointly accepting constraints on national regulation.	The national tax schemes are fragmented. Nevertheless, through the Communication and the SWD aimed at clarifying the EU rules on vehicle taxation, explaining rights and obligations of Member States, citizens and businesses the citizens and businesses are more aware of their rights and their obligations in various situations, thus triggering certain national regulatory changes (see Table 2).
Step 4: centralization at EU level is justified if step 3 is not credible.	NA

**Source:** adapted after Pelkmans (2012), *The Economics of Single Market Regulation*, p. 11.

**Table 2.** *National regulatory changes triggered by certain European decisions*

<b>National regulatory changes pertaining to the registration tax (car eco-duty)</b>	
Emergency Governmental Ordinance no. 50 of April 21, 2008	Establishing the pollution duty for vehicles
Governmental Decision no. 686 of June 24, 2008	Approving the methodological norms for enforcing the EGO no. 50/2008
<b>Selected European decisions that triggered national regulatory changes pertaining to the registration tax (car eco-duty)</b>	
Consolidated Version of the Treaty on the Functioning of the European Union, Article 110, March 30, 2010	No Member State shall impose, directly or indirectly, on the products of other Member States any internal taxation of any kind in excess of that imposed directly or indirectly on similar domestic products. Furthermore, no Member State shall impose on the products of other Member States any internal taxation of such a nature as to afford indirect protection to other products.
Judgment in Case C-402/09 Tatu v The Romanian State represented by the Ministry of Finance and Economy and Others, April 7, 2011	The pollution tax introduced by Romanian legislation, levied on vehicles on first registration in Romania, is contrary to EU law
Communication from the commission to the European Parliament, the council and the European Economic and Social Committee COM(2012)756 of 14.12.2012	Strengthening the Single Market by removing cross-border tax obstacles for passenger cars

National regulatory changes pertaining to the registration tax (car eco-duty)	
Commission Staff Working Document SWD(2012) 429 final of 14.12.2012	Principles of taxation of motor vehicles according to EU law as interpreted by the Court of Justice
Emergency Governmental Ordinance no. 9 of February 9, 2013	Establishing the environmental stamp (eco-duty) for vehicles
Governmental Decision no. 88 of March 13, 2013	Approving the methodological norms for enforcing the EGO no. 9/2013
Order of Minister no. 296 of March 15, 2013	Approving the procedure for establishing the amount representing the eco-duty for vehicles
Order of Minister no. 490/407 of March 29, 2013	Approving the procedure for refunding certain amounts established by EGO no. 9/2013

**Source:** developed by the authors based on information gathered from <http://ec.europa.eu> and <http://europa.eu> and from [http://www.afm.ro/legislatie\\_acte\\_normative.php](http://www.afm.ro/legislatie_acte_normative.php), last accessed on August 5, 2013.

Therefore, the same author reveals that when establishing the objectives, one must distinguish between three levels of externalities: bi- or trilateral, community and world. This approach of the collateral effect (externalities) narrows in a way the limits of the field research. It takes us to the above stages, namely cooperation, and when that fails (and it usually does when there are more than two actors involved) it comes down to the bargaining powers (Dinu, 2011: pp. 28-30). In fact, the integration process is led by the collateral effects from a policy field to another (Molle, 2009: p. 34), as we shall present the case of the collateral effect from the fiscal policy to the environmental one.

The overall objective of the paper is to map the public decision-making for a particular market failure (externalities or spill-overs) by appealing to the instruments provided by the multilevel governance vision and its subsidiarity principle so to provide a more efficient relationship between the costs and the benefits of a solid environmental policy. This must provide a correspondence between the procedural part of the decision-making (correlating the national and the European level) and the formal part consisting in a formula that weights the elements that the research finds important (e.g. the formula establishing the method of calculus for the eco-duty has led to its suspension for reason of conflict between decision level and stakeholders, as it does not take into account both the contextual variables and the technical indicators).

The *challenge* is to foray into both the field literature and the case study archives pertaining to the particular case of the eco-duties on both national and European Union level, following *actions* like establishing fiscal rules either to give in to the bargaining power of the negative externalities' `producer' or to the bargaining power of the negative externalities' `consumer`, thus reaching the *result* of keeping the cost of regulation to a minimum level so the market failure does not turned into a regulation failure.

The case of the negative externalities was picked out of the six situations in which the markets are not Pareto efficient: 1) Failure of competition, 2) Public goods,

3) Externalities, 4) Incomplete markets, 5) Failure of information and 6) Unemployment, inflation and imbalance – firstly because of its topicality and the intense debates that has been triggering in the EU-27 (Community guidelines on State aid for environmental protection 2008/C 82/01; Treaty establishing the European Community (Nice consolidated version) - Part Three: Community policies - Title XIX: Environment - Article 174 - Article 130r - EC Treaty (Maastricht consolidated version) establishing the Polluter Pays Principle (PPP), and so on) and, secondly, for sensitive issue that the most well-known negative externality (pollution) has proven to be. The reason for its highly sensitive feature, which in fact allows the intervention, refers to both sides of a failure. One is that the best possible result was not reached followed by the necessity to act, and the other is that the actors involved are unable to cooperate.

Insofar as markets can fail, appropriate regulation or subsidies or some other policy intervention (like EU common policies) will have to overcome or remove the market failure at the common level of government. Of course, this assumes that the EU level of government (with all its complex decision-making) can act benevolently in the EU public interest (Pelkmans, 2012: p. 2).

In most cases of market failures, however, government has to intervene. Yet, due to the imprecise nature and extent of market failures, regulatory intervention may well turn out to be too weak, too strong or otherwise not fully appropriate. Therefore, even if one strictly adheres to the EU public interest approach, there is nevertheless a risk, when regulating, of getting it wrong. The EU public interest will be badly served when market failures would be replaced by ‘regulatory’ or ‘government failures’ (Pelkmans, 2012: p. 4).

### The influence of the public decision system’s features upon the national decision system

The multitude of different and un-coordinated thresholds and technical triggers for different levels of taxation such as engine size, fuel used or CO<sub>2</sub> emissions (be it for registration or circulation taxes) further complicates the already diverse market conditions for car producers triggering a *tax-induced fragmentation* of the Single Market, which results in tax-induced cross-border trade as well (COM(2012)756 of 14.12.2012).

Despite the pressure coming from the car manufacturers, this type of market fragmentation continues to be fostered by the European realm as the Member States did not unanimously agreed upon a 2005 proposal on passenger car related taxes (COM(2005)261 of 5.7.2005). Therefore, not only there is no harmonisation at EU level of car registration and circulation taxes, but also they often use different thresholds (pertaining to the environmental elements) resulting in

(sometimes huge) differences in the tax levied. This absence of harmonisation, thus, triggers a 'technical' fragmentation of the Single Market.

Often, the thresholds have been set according to national market characteristics or national policy ambitions valid at the time of their introduction, and also having net revenue implications of successive reforms in mind (COM(2012)756: 8).

The European Union has always underlined the importance of introducing objective criteria in the car registration and circulation taxes, such as CO<sub>2</sub> emissions, and not technology-specific criteria, such as engine size or engine power (see Table 3).

**Table 3.** Tax-induced market fragmentation

Country (EU 27)	Registration tax	Eco-duty upon registration	Taxes are based on:
Belgium	Taxe de mise en circulation	Eco-Malus (Région Wallonne)	Engine power, expressed either in fiscal horsepower or in kilowatt (kW)
Bulgaria			
Czech Republic			
Denmark	Motor vehicle registration duty		Price inclusive of VAT and fuel efficiency
Germany			
Estonia			
Ireland	Vehicle Registration Tax (VRT)		
Greece	Registration tax	Luxury tax	Price inclusive of VAT
Spain	Impuesto Especial sobre Determinados Medios de Transporte		Price exclusive of VAT Rate depending on the CO <sub>2</sub> - emissions
France	Taxe sur les certificats d'immatriculation des véhicules	Taxe additionnelle à la taxe sur les certificats d'immatriculation Malus applicable aux voitures particulières polluantes	Horsepower. The formula: CO <sub>2</sub> /45 + (kW/40) 1.6 Levied by the regions There is also a CO <sub>2</sub> -based bonus-malus system. A malus (tax) is due above 140 g/km CO <sub>2</sub>
Italy	Imposta provinciale di trascrizione	Imposta di bollo e imposta sul valore aggiunto	Rates depend on the type and the capacity of the vehicle
Cyprus	Registration tax	Excise duty	Cc and CO <sub>2</sub> - emissions
Latvia	Motor vehicle registration tax		CO <sub>2</sub> -emissions
Lithuania			
Luxembourg			
Hungary	Registration tax		Cc. The tax rate is based on the type of fuel and environmental features
Malta	Motor Vehicle Registration Tax		Registration value
Netherlands	Belasting van personenauto's en motorrijwielen		11,1% of the net catalogue price and depending on fuel type and CO <sub>2</sub> emissions. From 2013 the registration tax is only based on CO <sub>2</sub> emissions
Austria		Normverbrauchsabgabe	Consumer price exclusive of VAT

Country (EU 27)	Registration tax	Eco-duty upon registration	Taxes are based on:
Poland		Excise duty levied on vehicles before first registration on territory of Poland.	Price
Portugal	Tax on Motor Vehicles – Imposto Sobre Veículos (ISV)		Cc and CO 2 emissions
Romania	Registration tax (Taxa de Înmatriculare → Timbru de mediu)	Car pollution tax (taxa pe poluare pentru autovehicule)	Cc, pollution norm of the vehicle and vehicle type
Slovenia	Motor Vehicle Tax		Selling price exclusive of VAT. The tax rate is determined according to environmental criteria (CO 2, Euro emission standards) and engine fuel. For diesel motor vehicles also Particulate Matter (PM) emissions
Slovakia			
Finland	Car Tax		Price inclusive of VAT and this tax
Sweden			
United Kingdom			

**Source:** developed by the authors based on information gathered from SWD (2012) 429 final: pp. 21-29.

The problem arising when using the inappropriate criteria can force the Car manufacturers - wherever economically meaningful - to adjust their supply to these design features of car taxes, notably by supplying cars to their main markets that remain just below certain thresholds, such as providing cars with engine sizes of 1599 cm<sup>3</sup> or 1999 cm<sup>3</sup>.

One may look at this as customisation but, as it was also emphasised by the European Commission on June 6, 2012 in its final report on the Competitiveness and Sustainable Growth of the Automotive Industry in the European Union (CARS 21 High Level Group) the potential economies of scale of a Single Market with around annually 13 million new cars being registered cannot be exploited in full, having a negative impact both on the competitiveness of the industry and the effectiveness of incentive schemes. The cost of cars is also raised as a result. This is because a fragmented system induces car manufacturers to waste resources on fine-tuning cars to different thresholds, and reduces the cost-effectiveness of European climate policy.

Moreover, the thresholds should be regularly updated to keep pressure to buy a clean and efficient vehicle. From this perspective it is suggested that Member States examine in a Working Group how the criteria they use as a basis for calculating registration and circulation taxes can be better coordinated, so that the technical fragmentation of the EU car market is reduced, economies of scale are exploited, and environmental goals are reached in a cost-effective manner. It is also to be noted that the Commission services are currently preparing guidelines for Member

States wishing to introduce financial incentives in line with the European strategy (COM(2010)186 of 28.4.2010) on clean and energy-efficient vehicles.

In case Tatu (*Judgment of 7 April 2011, case C-402/09 Ioan Tatu v Statul român prin Ministerul Finanțelor și Economiei and Others, paragraphs 52 and 53*), the Court clarified that although Member States have the power to make new tax arrangements, such powers are not unlimited. In this respect Article 110 TFEU would be deprived of meaning and purpose if Member States could introduce new taxes which had the purpose or the effect of discouraging the sale of imported products in favour of the sale of similar domestic products available on the domestic market which have been placed on the market before those taxes entered into force (SWD(2012) 429 final: 10).

### The case study

In order to ensure the environmental protection by developing certain programs and projects for improving the air quality and to better fit the boundaries provided by the European legislation in the field, the Romanian authorities established in 2008 an eco-duty that soon became the perfect example for both the difficulties of addressing such a sensitive issue like cost covering for negative externalities and European v national decision-making bias.

For the analyzed period (2008-2013) there were several stakeholders that reinforced the fact that the applicability of the theoretic concept of public decision has specific characteristics as it pertains to each of the state's powers (legislative, executive and judicial). In practice, the decision takes different forms: managerial on the level of the executive power, political on the level of the legislative power and legal on the level of the judicial power. These approaches are not separate, but they are embodied by the tri-dimensional view (managerial, administrative and political) of the public decision, as it follows: the government, as a representative of the executive power applies the political decision coming from the legislative level and observes the other adopted decisions (see Table 4).

**Table 4.** *The public decisions pertaining to establishing the eco-duty*

Year	Emergency Governmental Ordinance	Constitutional Court Decision	Law	Decision on ...
2008	No. 50			Establishing the eco-duty for vehicles
	No. 208			Replacing annexes 1,2 and 3
	No. 218			Replacing annexes 1,2 and 3
		No. 1344		Art. 11 of EGO 50/2008 -rejected
2009	No.7			Modifying art. 8(1), replacing annexes 1, 2 and 4
		No. 586		Art. 1 – rejected
		No. 499		Art. 11 – rejected

Year	Emergency Governmental Ordinance	Constitutional Court Decision	Law	Decision on ...
		No. 802		EGO 50/2008 and art. 11 – rejected
		No. 834		Art. 11 – rejected
		No. 1178		EGO 50/2008 and art. 4(a) – rejected
			No. 329	Modifying art. 1, 3(2b), 3(3-5), introducing art. 3(2f)
			No. 335	Rejecting EGO 208/2008
		No. 1596		Art. 4(1) and 11 – rejected
2010		No. 65		Art(s). 3(5) – rejected
		No. 137		Art. 4(a) – rejected
		No. 239		Art. 4(a) – rejected
		No. 408		Art(s). 3(2), 4(a) and 9(1) – rejected
		No. 500		Art. 4(a) – rejected
		No. 550		Art. 4(a) – rejected
		No. 1119		Art. 4 – rejected
		No. 1152		Art. 11 – rejected
		No. 1160		Art(s). 1 and 3(1) – rejected
		No. 1249		Art. 4(a) – rejected
	No. 118			Modifying art. 3(2d), 3(6), 5(2), 6(1a(1,2),2c), introducing art. 4(c), replacing annexes 1-3
		No. 1599		Art(s). 3(2), 4(a) and 9(1) – rejected
2011			No. 142	Approving EGO 7/2009
		No. 668		Art(s). 4(a) and annexes 1-4 – rejected
		No. 669		Art(s). 1 and 3 – rejected
		No. 673		Art. 4(a) – rejected
		No. 738		EGO 50/2008 – rejected
		No. 802		EGO 50/2008 – rejected and art(s). 1 and 3(1)
		No. 1088		Art(s). 1 and 3 – rejected
		No. 903		Art. 4(a) – rejected
		No. 921		Art. 4(a, b) – rejected
		No. 1241		Art(s). 3(2), 4(a) and 9(1) – rejected
2012			No. 9	Abrogating EGO 50/2008
		No. 1		Suspending art(s). 2(i), 4(2), 5(1) until January 1, 2013
			No. 185	Approving EGO 1/2012
2013		No. 9		Establishing the environmental stamp for vehicles

**Source:** developed by the authors based on information retrieved from [http://www.afm.ro/legislatie\\_acte\\_normative.php](http://www.afm.ro/legislatie_acte_normative.php), last accessed on August 5, 2013.

There are three key moments that the analysis must take into account with respect to the changes they trigger for the cost covering of the matter at hand. The first one refers to establishing the eco-duty in 2008, the second one refers to the law passed in 2012 that abrogated the previous eco-duty, and the third one to the environmental stamp (the new eco-duty). If the first key moment provides the state with considerable funds to cover the costs build by this particular negative externality, the second key moment drastically cuts the funding for 2012. After implementing the EU recommendations, the 2013 moment should reinstate balance pertaining to covering the costs of the negative externality, but the issues cannot as the fiscal year is not over (see Table 5).

**Table 5.** *Balancing the eco-duty revenue v eco program funding*

Fiscal Year	Fiscal revenue from the eco-duty for vehicles <i>Thousands lei</i>	Expenditures for environmental protection programs and projects <i>Thousands lei</i>
Pollution duty for vehicles		
2009	1.644.150	1.143.305
2010	1.658.502	1.889.884
2011	2.057.508	2.397.703
Duty for pollution emissions (Law no. 9/2012)		
2012	275.000	824.935
Environmental stamp		
2013	365.263	556.000

**Source:** developed by the authors based on information retrieved from [http://www.afm.ro/informatii\\_publice\\_bvc\\_2010.php](http://www.afm.ro/informatii_publice_bvc_2010.php), last accessed on August 5, 2013.

The paper's aim is to identify the way in which the public administration succeeds in not only identifying the proper method of covering the costs induced by the negative externalities (in this case, the vehicles' pollution) but also to build the **consumers' awareness** regarding this issue. In doing that, the public administration should clearly put forward the programs and projects that the taxpayers are financing when paying the eco-duty.

When the eco-duty was first established (July 1, 2008) the normative act established that the gathered duties must finance programs and projects for environmental protection. When analyzing the 2009 budget of the Fund for the Environment (administered by the Environmental Fund Administration (EFA) under the Ministry of the Environment and Climate Change) we find specific reference to the environmental programs and projects finance in accordance with EGO no. 50/2008 on the establishment of pollution duty for vehicles. Nevertheless, this is not the case for the 2010-2013 budgets. The programs and projects developed by EFA are listed altogether, without underlining those meant for redistributing the eco-duty revenue (see Table 6).

**Table 6.** *The amounts allocated for each program or project (2009-2013)*

Environmental Programs and Projects	Allocated amount <i>Thousands lei</i>				
	2009	2010	2011	2012	2013
Program for stimulating the national car fleet renewal	228.000	228.000	544.484	114.000	166.000
National program for improving the environmental quality by creating green areas in municipalities	200.000	230.000	197.500	70.000	25.000
Projects for replacing and completing the classic heating systems with systems using solar, geo-thermal and wind power	310.000	310.000	197.899	90.000	40.000
Projects for renewable energy production	305.055	50.000			
Projects for afforestation	100.250	152.279	69.500	50.000	30.000
Projects for revegetation	0	0	0		
Projects for creating bicycle lanes	0	0	5.000		

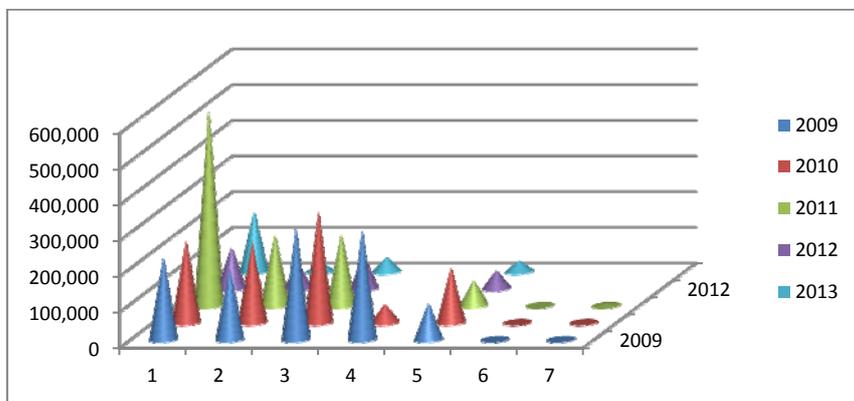
Environmental Programs and Projects	Allocated amount				
	<i>Thousands lei</i>				
Program for pollution prevention		24.210			
Program on diminishing the impact upon the atmosphere, water, soil		100.000	27.800	13.937	1.256
Program on noise reduction		0	0		
Program on using clean technologies		0			
Program on waste management		239.000	112.200	41.132	1.250
Program on water resources protection		105.927	200.000	200.000	90.854
Program on integrated zonal coastal management		15.000	0		10.000
Program on biodiversity conservation		3.000	981	378	2.380
Program on managing the protected natural areas		2.350			
Program on Education and awareness on environmental protection		9.853	20.731	14.348	8.560
Program on renewable energy production growth		150.000	230.000	94.081	25.000
Program on greenhouse gas reduction		0			
Program on reconstruction and sustainable forest management		265			
Program on mining tailings closure		50.000	20.000	41.950	100.000
Program on works for preventing and diminishing the effects of dangerous meteorological phenomena		70.000	620.000	51.100	40.000
Program for stimulating the national agricultural machines fleet renewal		100.000	51.608		
Project on rebuilding the contaminated historical sites		0	50.000		
Projects on risk reduction for dangerous meteorological phenomena		40.000			
Projects on asbestos roofs replacement		10.000	0		
Program for monitoring, studying and researching the environmental protection field			25.000	19.009	4.500
Program on risk maps development for water basins			0		
Program on developing and optimizing the National Network for Air Quality Monitoring			20.000	20.000	10.000
Program for promoting the clean and efficient energy vehicles			5.000	5.000	1.200

**Source:** developed by the authors based on information retrieved from [http://www.afm.ro/informatii\\_publice\\_bvc\\_2010.php](http://www.afm.ro/informatii_publice_bvc_2010.php), last accessed on August 5, 2013.

With respect to the consumer awareness, only the 2008 budget reflects the importance of underlining the need to balance the eco-duty revenue and the programs' funding. The budget clearly specifies that a number of seven programs and projects were financed in accordance with the Emergency Governmental Ordinance no. 50/2008 on establishing the eco-duty for vehicles (see Figure 1):

- 1) Program for stimulating the national car fleet renewal.
- 2) National program for improving the environmental quality by creating green areas in municipalities.
- 3) Projects for replacing and completing the classic heating systems with systems using solar, geo-thermal and wind power.
- 4) Projects for renewable energy production.
- 5) Projects for afforestation.
- 6) Projects for revegetation.
- 7) Projects for creating bicycle lanes.

**Figure 1.** *The seven programs and projects funded through the eco-duty collection*



**Source:** developed by the authors based on information retrieved from [http://www.afm.ro/informatii\\_publice\\_bvc\\_2010.php](http://www.afm.ro/informatii_publice_bvc_2010.php), last accessed on August 5, 2013.

If those seven programs and projects were developed after carefully considering the costs of pollution and the proper fields where the gathered funds should be reallocated – and thus properly pricing externalities – or if there was only luck of the draw, is not emphasized by the other budgets (2010-2013). All the other programs and projects developed for that remaining period were funded under the “Environmental protection expenditures” chapter, without any specific reference to the eco-duty revenues.

## Findings

The 2013 normative act (EGO 9.2013) ensured the compliance with the European Commission recommendations (in accordance with the ‘need-to-act’ in common – see Table 1) from COM(2012) 756, which establishes that the eco-duty on vehicles should not be based on specific technological criteria, but on objective performance criteria (e.g. CO<sub>2</sub> emissions). The national authorities also reinforced that the legislative turmoil that preceded this normative act had not only a negative impact upon the financing of programs and projects for environmental protection, but also a direct impact upon the population by severely limiting the vehicles trade.

An important finding refers to the lack of synergy between the national and European decision-making. The analysis revealed that the initial establishing of the eco-duty in 2008 did not take into account the already existent EU recommendations pertaining to avoiding a multitude of different and un-coordinated thresholds and technical triggers for different levels of taxation such as engine size, fuel used or CO<sub>2</sub> emissions (be it for registration or circulation taxes), which would only further complicate the already diverse market conditions

for car producers triggering a tax-induced fragmentation of the Single Market, which results in tax-induced cross-border trade as well. Therefore, this lack of synergy delayed a proper eco-duty setting, leading to negative legal consequences (e.g. Case C-402/09, see Table 2) and a five-year decisional „fog” (from 2008 until 2013 when the eco-duty was reestablished – see Table 4).

In technical terms, the change involved shifting the focus of the car producers from dealing with the real issue (CO<sub>2</sub> emissions) to readjusting the engine sizes to 1599 cm<sup>3</sup> or 1999 cm<sup>3</sup>, according to the established thresholds and only deepened the market fragmentation. The initial formula of the eco-duty (in 2008) referred to five variables:

- 1) A = the combined value of CO<sub>2</sub> emissions (grams/km);
- 2) B = the specific duty (euro/1 gram of CO<sub>2</sub>);
- 3) C = engine size (Cc);
- 4) D = specific duty on Cc;
- 5) E = duty rate reduction.

$$\text{The amount to be paid} = [(A \times B \times 30\%) + (C \times D \times 70\%)] \times (100 - E)\%$$

The current formula (established by EGO 9/2013) shifting the focus back to the CO<sub>2</sub> emissions, considering the following three variables for the eco-duty calculus:

- 1) A = the CO<sub>2</sub> emissions level, expressed in grams/km;
- 2) B = the value of the CO<sub>2</sub> emissions, expressed in euro/1 gram;
- 3) C = environmental stamp reduction.

$$\text{The amount to be paid} = [A \times B \times (100 - C)] / 100$$

The public decision on negative externalities’ coverage, made in accordance with the economic approach of subsidiarity in the multilevel governance provides a balanced solution for all interested parties – citizens, economic agents (car dealers and producers) and the government. Covering the social costs created by the negative externalities should be in line with both the national and European decisions, but, at the same time, suspending that duty (like in 2012, see Table 5) when it is conflictive is not an answer; it would leave the social costs uncovered as the funds for environmental programs and projects are mainly raised through this eco-duty (see Table 5).

---

#### Note

---

- <sup>(1)</sup> The paper has been accepted and presented at the Annual Conference of the European Group for Public Administration (September, 2013, Edinburgh, Scotland – UK), PSG XVI: “Public and nonprofit marketing”.

---

## References

---

- Dinu, I.T. (2011). "Public decision's implications upon the Pricing Possibility Slope of the Prospective Public Services (PPS) – the case of the Romanian tax register", *International Review on Public and Nonprofit Marketing*, vol. 8, no. 1, pp. 25-39
- Matei A., Matei L. (2012). *The European Administration. Models, Processes and Empirical Assessment*, LAP, Germany
- Nedergaard, P. (2007). *European Union Administration: Legitimacy and Efficiency*, Martinus Nijhoff Publishers
- Pelkmans J. (2003). *Integrare europeană. Metode și analiză economică*, Institutul European din România
- Pelkmans J. (2012). "The Economics of Single Market Regulation, Bruges European Economics Policy Briefings", retrieved from <https://www.coleurope.eu/sites/default/files/research-paper/beep25.pdf> on April 10, 2013
- Commission Staff Working Document SWD (2012). 429 final, *Principles of taxation of motor vehicles according to EU law as interpreted by the Court of Justice*, retrieved from [http://ec.europa.eu/taxation\\_customs/resources/documents/taxation/other\\_taxes/passenger\\_car/swd\\_2012\\_429\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/taxation/other_taxes/passenger_car/swd_2012_429_en.pdf), on April 12, 2013
- Communication from the commission to the European Parliament, the Council and the European Economic and Social Committee COM (2012). 756 final, *Strengthening the Single Market by removing cross-border tax obstacles for passenger cars*, retrieved from [http://ec.europa.eu/taxation\\_customs/resources/documents/taxation/other\\_taxes/passenger\\_car/com\\_2012\\_756\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/taxation/other_taxes/passenger_car/com_2012_756_en.pdf), on April 12, 2013
- European Commission (2012). *Competitiveness and Sustainable Growth of the Automotive Industry in the European Union* (CARS 21 High Level Group), retrieved from [http://ec.europa.eu/enterprise/sectors/automotive/files/cars-21-final-report-2012\\_en.pdf](http://ec.europa.eu/enterprise/sectors/automotive/files/cars-21-final-report-2012_en.pdf), on April 20, 2013
- Judgment of the Court (First Chamber) case C-402/09 (2011) *Ioan Tatu v Statul român prin Ministerul Finanțelor și Economiei and Others*, retrieved from <http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d0f130d583c8ee8e28d241b3829fdbcd368f19c9.e34KaxiLc3eQc40LaxqMbN4OahmQe0?text=&docid=81056&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=6323567>, on April 10, 2013
- Governmental Emergency Ordinance no. 9/2013 on the environmental stamp for vehicles published in the Romanian Official Gazette, Part I, no.119 of March 4, 2013
- National Research Council (2010). *Advancing the Science of Climate Change, America's climate choices*, National Academies Press, pp. 318-319
- [http://www.afm.ro/informatii\\_publice\\_bvc\\_2010.php](http://www.afm.ro/informatii_publice_bvc_2010.php)
- [http://www.afm.ro/legislatie\\_acte\\_normative.php](http://www.afm.ro/legislatie_acte_normative.php)