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A Lead Provided by Bookmarks - Intelligent Browsers

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Abstract: Browsers are applications that allow Internet access. A defining characteristic is their unidirectionality: Navigator-> Internet. The purpose of this article is to support the idea of Intelligent Browsers that is defined by bidirectional: Navigator-> Internet and Internet-> Navigator. The fundamental idea is that the Internet contains huge resources of knowledge, but they are "passive". The purpose of this article is to propose the "activation" of this knowledge so that they, through "Intelligent Browsers", to become from Sitting Ducks to Active Mentors. Following this idea, the present article proposes changes to Bookmarks function, from the current status of Favorites to Recommendations. The article presents an analysis of the utility of this function (by presenting a research of web browsing behaviors) and in particular finds that the significance of this utility has decreased lately (to the point of becoming almost useless, as will be shown), in terms data-information-knowledge. Finally, it presents the idea of a project which aims to be an applied approach that anticipates the findings of this study and the concept of Intelligent Browsers (or Active Browsers) required in the context of the Big Data concept.

Keywords: recording search sequence; bookmarks; active data; passive data; redundancy

1 Introduction

Web 2.0 revolution and the explosion of mobile communications have changed the way we relate to internet and how we access it. On one hand the concept of user-content, on the other hand small size display required by mobile technologies "requested" more intuitive, more convenient and faster interfaces.

"Automation" process for certain actions based on reasons to reduce redundant movements included a "tendency to anticipate" users' intentions, an application of behavioural insights gained by graphical user interface architects.

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2 Why Atavisms Survive?

The user has been "liberated" as many technical obligations to feel free to create content. One of eliminated redundancies was, generally speaking, query about user's intentions that GUI "architects" noticed that users actually declared by repeated actions. In this anticipations list Bookmarks Facility has appeared that lately has morphed into Bookmark Function.

A facility became function. Bookmarks Facility is a tool that allows user to voluntarily store and classify links. Bookmark Function is called automatically adjusted setting using information from History (recording all accessed links) depending on their weight and automatically performs a memory most commonly accessed links. Until now user has adjusted browser, now browser adapts himself. The Bookmark Function is the browser who "looks" at the user and which "learn" him. From a hidden feature in browser Menu, Bookmark Function arrived in the address bar, pervasive, being a director concept.

However, the Bookmarks Facility has not disappeared. It lies hidden in the Menu, an atavism of the "architects" could not discard. The question is why? And the answer is simple: because It is used. The conclusion is that the Bookmark Function is different from Bookmarks Facility.

3 Residents and Navigators

The Facility and The Function satisfy each different kind of public. This segmentation became obvious when, with the birth of Web 2.0 as space inhabited by the content creators users, who began increasingly to impose The Network use as an "appliance". They "demanded" automation and short access procedures. Impatient and unidirectional, content creators living in network rather than browsing. Their places are Facebook, Youtube, World of Warcraft, etc. Favorite addresses should no longer be "marked" in Bookmarks because they are few and repetitive. The first letter of your favorite location address 'name' claim entire address: "y" + Enter go directly to Youtube, "f" + Enter directly into Facebook.

To the opposite of this new generation of inhabitants have still remained still Seafarers Network. Function Bookmark is Inhabitant's and Facility Bookmarks is Seafarer's.

4 "Hic suntdracones"

At this point of defining Navigator profile, we meet the concept of Big Data, in both quantitative and qualitative complexity acceptance. Here we face for the first time two semantic misunderstandings: the first comes from the perception that the Searching Engines are Finder Engines, and the second come from Facility Bookmarks association with the Search Engines (eg Google) or Data Bank (eg Wikipedia).

Navigator seeks information. The searching is usually conducted using a Search Engine or directly in a Data Bank. Finding is extrinsic teleology of the Search. Therefore The Engine Search is perceived as The Engine Finder. Finding's Phantasm lures Navigator away to unmapped areas. In his journey, The Navigator marks in Bookmarks interesting places that he leaves behind. His notes appear during the search but not mark "The Find" but "findings". As magpie collects shiny objects, and bibliophile collects books, so Navigator adds bookmarks for potential further benefits.

Subsequently, these collections of bookmarks classified in folders or not, prove to be huge: tens and hundreds of folders, each containing tens or hundreds of links. Thus the whole collection of bookmarks is useless.

5 A Search Sequence (definitions and conventions)[1]

The idea that solving caducity of Facility Bookmarks will reveal the actual observation a Search and Marking process led to scoring a first operation of an act of Search:

(1) Bookmark World Web > (2) Social bookmarking > (3) Tag Knowledge > (4) Knowledge management > (5) Knowledge base > (6) Knowledge base system > (7)Ontology (information science) @ > (8) Semantic Web #

(7) @ > (9)Data mining & >(10) Machine learning
> (11) Data Pre-processing > (12) Garbage in , Garbage out > (13) Misnomer > (14) Buzzword > (15) Knowledge extraction > (16)Unstructured data &
(16) & > (17) Natural language Processing
> (18) Text analytics
> (19) Noisy text analytics @&
> (20) Part-of-speech tagging @&
> (21) UIMA
(19) @& > (22) Noisy unstructured @
> (23) Parsing
(22) @ > (24) Noise
(20) @&> (25) Corpus linguistics
> (26) Brown corpus
> (27) & Hidden Markov models > (28) Statistical Markov model

The act itself of scoring a sequence search led to the identification of defining Concepts[2] and called for the establishment of the Conventions[3]:

5.1 Notational

> - Jump to Search
& - Node of Searches
@ - Point of Return
- Search Closure
@& - Return and Node

5.2 Concepts

Jump to Search

A Jump to Search is a leap from a single page to another. A Jump to Search can be an effective jump, i.e. leaving the current page by following a hyperlink, or may be a new Tab (without closing the

[1]Conceptualization process is in progress and will probably undergo changes due to what is presented in the article.
[2] Identified Concepts are more or less specific to a particular Search Style. The author assumed that they have a weight that can pass as generally valid regardless of style but this will be studied.
[3] Most likely in this study is the addition of sign (*) to represent (A Marked Link) in Bookmarks, along with specifying the directory where has been marked. It's also predictable addition of the sign (&@) representing (Node and Return) because it seems to be a difference between this situation and the reverse one (Reverse and Node) symbolized by convention (@&).

source page, and, in this case, can be either a sign that page was not fully read at the time of the jump or was not thorough, whether it has potential to become Node of Search) opened in the browser, from a hyperlink or from a simple word (in this case you can select the word and search in Google using the right mouse implicit function). Closed pages from which jump is initiated are usually not marked in Bookmarks.

Node of Search

The Node of Search page is a Jump to Search page that is not left and from which at least two Tabs are opened. Usually these pages are marked in Bookmarks.

Search Closure

A Search Closure is a page from which the Jump is no longer performed. Usually these are not marked in Bookmarks and are followed by turning points.

Points of Return

The Turning Point is usually a page (a Tab) to which the user returns, either due to closures or from another page which contains a notion explained in a previous Tab. Points of Return can also be Nodes of Search. Usually these pages are bookmarked.

6 RSP

Analyzing some recorded Search Sequences, generated the idea of a "unit" Registration Search Sequences (RSP - Record Searching Path). "The Device" is basically a plugin installed in any browser interface displays, with a RSP button which, once activated when initiating a "Searching Sequence", generates a "Report"[1] (or more) that contains:

6.1 Homogeneous Data (time dependent data)

1)The order of search: a chronological sequence search.

2) The length of Search: Total (from opening declaration to closing declaration<may take longer periods of time), Sessions (can be one or more sessions per day), Remaining (time spend on a page).

6.2 Hererogeneous Data (data whos depending on User)

1) Jump to Search;

2) Node of Search;

3) Point of Return;

4) Search Closure;

5) Quality of Jumps, Nodes, Points and Closures;

6) Fluency;

7) Sources of Search;

8) The Interest.

[1] Report can be viewed by the User or can be used for augmentation in RSP search processes

6.3 Quality of Jumps, Nodes, Points and Closures

Qualities are attributes that define the elements of a Sequence of Search.

Jump to Search Quality is defined by the position of the Word of Salt in a Salt Page and by Weight of Concept represented by that word in searching process. The purpose of Search can be announced before RSP will be started (but this requires adding this option and the existence of a clear idea of the Seeker) or can be automatically defined by the RSP at the end of the sequence). Defining the purpose and lead to evidence of registration of the concepts covered axiology depending on which one can appreciate their importance ("weight").

Node of Search Quality is defined by the number of jumps generated, by the quality of these jumps (like Referrals system used by Google), by the relation between Jump Page and Landing Page(related, complementary or different) and by Weight of Node (assessed as Quality of Jump).

Point of Return Quality is taxonomical and sets the attribute to be or be not published after a Closure. Significance of returning at a certain Tabs is also a subject that can be analyzed by RSP.

Search Closure Quality is defined by justification of closing from Search Finality point of view.

6.4 Fluency

Searches are discursive (coherently follow one subject) or discursive (follow many subjects not necessarily related).

6.5 Sources of Search

Source of Search (e.g. Google, Wikipedia, etc.), Sources quality, meaning of choices. All of these are elements that define users' culture.

6.6 The Interest

Marked pages, unmarked pages, time spent on each one.

7 Future Developments

In the first instance recorded list of attributes may increase as the "RPS" progresses. Then will develop different "deliverables" and ways to analyze this information. Records and test results can be viewed by the Navigator and /or used directly by RPS for search augmentation becoming RSPA (Record Path Searching augmented).

Records results can be materialized in Direct Deliverables (or Simple) or Indirect Deliverables (or Compound).

Direct Deliverables are RSP data recorded and used as such: Sequence listings, Charts.

Indirect Deliverables are generated from Analysis. Analyses are processing one or more Direct Deliverables. One of the most interesting analysis is Style of Searching.

7.1 Style of Searching

Style of Searching is the result of several information provided by RSP, which identifies different heuristics of Seafarers and will materialize from recording and analysis of the actions that they will undertake in the search process. Reading a full page text and returning to certain concepts or at the first interesting concept opening another Tab? Opening a Tab at every interesting concept witch will

they met and covering later reading those pages? Are the tools and structure of sites used where it discovers an article?[1] From which location will start searching (Google, Wikipedia, etc.)?The search starts from a keyboard input, they follow a hyperlink or a word from a text is selected and then looked after it using the contextual menu (right click)? ...and so on…

7.2 Other Indirect Deliverables:

Recommendation of a taxonomy when Seafares decide to mark a page. Adding Notes Over a directory that contains relevant passages or keywords contained in that directory. Seafares may need to make different notes, and these notes to be assigned in a Project. A search can be defined by several Search Sessions and Bookmarks will unify automatically in the same folder....

8 Related and Complementary Directions

8.1 Intelligent Browsers[2]

Classic browsers are Windows through which The User looks in the Net. It is a unidirectional browser. A new breed of browser, will include RSPA incorporated in Bookmarks Facility. It will be an interface thru which User see the Net and his self. Will be a bidirectional browser, equal Windows and Mirror.

Unlike Windows Browsers, who also react at Users navigation habits, memorizing them and self-setting, but not more that car's intelligent system doing (memorizing seat preferences, steering wheel position, preserving but doing nothing to improve driver abilities), Mirror Browsers[3] analyze User actions and suggest solutions to improve his actions (to be more efficient in finding, storing and remembering).

Consequence of Shift paradigm generated by RSPA, Active Browser (Mirror Browser) is a browser which acts, a browser which reveals. The Shift[4] is shown in the very moment in which RSPA convert data which who interact from Passive Data in Active Data.

8.2 Passive Data

Passive Data is data which "sit" in Network waiting to be found. They do not play any role in this "meeting" with the Seeker (Navigator). The consequence of this feature (passivity), academic taxonomies that are able to "dictate" currently Bookmarks organization. They are instances of movable types are guttenbergiene reflexes. This model of the world, proposing unique collection of categorized concepts, which are then used in different configurations.

8.3 Active Data

Active data are closer to how concepts are and "move" the human mind in cognition processes. They do not expect any dynamic "agent" to use them; They act themselves as a necessary solution for a mind problem. Active Data is like iron filings near a magnet. It is an active part of the "meeting"; is "information charged".

[1] Wikipedia uses an architecture consisting of Menus, Table of contents, Taxonomies, References, etc. Contents are formalized and contain elements that can be used as "tools" (i.e. Category "Criticism").
[2] The concept of Intelligent Browser is used since 2006 but includes features found in current browsers.
[3] The metaphor naming this type of browseris borrowed from the terminology imposed by Jacques Lacan.
[4] Paradigm Shift occurs, according to Thomas Kuhn, when "production" of new concepts reach a critical mass which requires the development of new categories.

8.4 Redundancy

In Active Data mindset, RSPA will not hesitate to propose redundant bookmarks. A page will appear not in one directory but every concepts present from a page might be relevant.

Redundant elements, removed by the Window Browsers is recovered now, encouraged and speculated in Mirror Browsers as a defining attribute of Active Data. It establishes the concept of "information whit charge" as agent of movement and Active Data.

9 Conclusions

Search is a sequential process, excursive or discursive. As a unit, the Search Sequence is new kind of information, different that acts who compose it, information by itself.

Search Sequence Registration open fields of study in several disciplines (Behaviorism, Sociology and Anthropology <Styles Search>, Cognitivism<bookmarking as an extension of memory>, Epistemology, Linguistics and Philosophy of Language <Redundancy, Passive Data, Active Data, Charged Information>) and base for various IT projects (Intelligent Browser, Active Bookmarks, etc.).

Inventing a tool to bring to the light something hidden is a legitimate and valuable act. The discovery itself has no more value that has shovel for archaeologist. Electronic microscope, telescope, rocket or submarine, all of this and more as RSP, are nothing but tools that bring researchers in the proximity of what is hidden and exciting.

10 Acknowledgement

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What Online – Democracy do we need? Findings and Perspectives on Web 2.0 Applications in Communication with Swiss Authorities

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Abstract: Given the Web 2.0 and the existence of Social Media, a new area of interest is pointed out: Political Communication, in form of permanent, media-friendly, both individualized as also in from of mass – communication network (1. Introduction). Given the large number of online citizens, but also the significant differences between the populations, new challenges arose in recent years, especially regarding experiments and pilot projects (2. The online citizenship and their agencies). A scheduled online communication with authorities typically has as result, not only the interactive networking with citizens, as also their obligations and opportunities. It is important to take into account also the danger, that is added to it (3 Outlines of the situation analysis). Must the opportunities be exploited? Are various strategic options important to be taken into account? Or are the principles of an integrated, well organized communication-planning, to be fixed as a priority? (4. Strategies digital networking and Web 2.0). Thoroughly, the digital networking of the authorities aims to actually promote democracy and to offer its services at its best conditions. When analyzing their situation, administrations typically find that existing online activities constitute a solid base for further activities, and that there are both incentives to intensify the dialogue especially with young citizens and professionals as threats by doing so. If the opportunities are to be used, decisions on different strategic options are required; they have to be selected and combined according to the principles of integrated communication planning and with respect to the full range of administrative communication. By these principles, democratic interaction and participation can be supported. This study aims to , prove that it is possible to avoid expensive empty runs, whereas opportunities for democratic debate on the "Cyber Democracy" are to be created. The implementation of official Web 2.0 activities requires a stepwise strategic approach. In this case, the content integration is particularly important, but online democracy should not further produce any other fragmentation of the public contribution. In this way, official web 2.0 strategies can interact and allow not only citizens to take part, but also promote their participation. Finally the demand would be actually seen as a facilitation.

Keywords: Web 2.0; Social Media; government communication; Political Communication; Integrated communications

1. Introduction

The use of "cyberspace forces » is a must-have for democratically controlled authorities, in accordance to normative reasons. The presence and however, this new public nature requires appropriate strategies of negotiation, coalition-building and competition (Kamps, 2007: 310 ff.): Authorities are dependent not only on the use of new digital networking, but are also particularly challenged by "Governance by Web 2.0" and its sophisticated approach.

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On the one hand, the question in the title thus addresses to the crosslinking ratio between authorities and citizens, and, on the other hand, is based on the interactive usable digital technology (Web 2.0 and Social Media). The title does not focus so much on the real existence of an online democracy than on the strategic perspectives of the positioning of authorities in the sphere of Web 2.0. The core of this problem is placed on putting special emphasis on the democratic functionality of networking strategies. First, a summary of the starting position, will be presented. Not only Internet use of citizens, as also the reactions to Swiss authorities are covered within. Based on this sketch, strategic perspectives of positioning the authorities in the area of Web 2.0, will be triggered. The strengths, weak points, as also the available opportunities, will be pointed out. Finally, the expectations of the singular citizen will be enumerated and analyzed.

The approach is based on the documentary and interpretative method of reconstructive social and organizational research (Bohnsack, 2008; Vogd, 2009). The basis consists of participative observation and group discussions in the context of research-based advice and also literature-analysis (Vogd, 2009: 46-52). Of particular importance is the comparative approach - which relies on the fact that there are not only different constructions of governmental actors that interact with each other, but also the contact to the knowledge horizon of the relevant academic research regarding action perspectives, is to be determined. In this way, we try to analyse each "transformation knowledge" in terms of transdisciplinary action research. In exchange, it is stated that not only diagnostic but also problem-solving presents its impact between research and practice (Perrin, 2012, p. 6).

Overall, a reconstructive organizational and transdisciplinary action research for communication with the authorities will always be tied to its locality (Bohnsack, 2008, pp. 13-30) and will be problem-based (Perrin, 2012: 5-6). It is recommended to note, that in the field of online communication, the research is rapidly changing and empirical findings in each case can vary in very different contexts of investigation. Thus, they are generated using different methodological approaches (Emmer & Wolling, 2010, p. 41; Kaczmirek & Raabe, 2010). In this respect, the contribution is therefore best to be seen as an assessment, which has its boundaries of space and time.

2. The Online Citizenship and its Agencies

2.1. Big Gender, Education and Age Differences

In view of media use and statistic approaches, it is stated, as follows: A majority of 75 percent of the 14-year-old citizens or older, in the Swiss, has become one of the so-called "Heavy users", namely, they use the Internet at least once a day (Swiss Federal Statistical Office, 2010 Secondary analyzes in Wenzinger, 2010). In this case, the higher the level of education, the more intense falls from its use. The Swiss online citizenship participation is represented thus by a majority of male users. Therefore, around 82 percent are male users, while the rate of females relies only at 67 percent. With regard to age, senior citizens use the Internet at a significantly lower rate than the younger ones.

Statistical data on the use of Web 2.0 by means of social media applications must be used with great caution. The reality is subject to a rapid change, and the use of research knows no uniform metrics and methods. With reservations can media make nevertheless use of some information on trends and orders of magnitude on the social within the ever-growing "Internet community". The most popular means of this dispute is Facebook: users and users of this service made in the year 2010, more than a third of the total population (Google Ad Planner, 2010), so they were by far the largest "canton" in

Switzerland - even if only in virtual form. Meanwhile, their number probably increased again (Hutter, 2011). In the other Social Media penetration, in the same year, the rate was significantly lower (on Daily Motion it was in 2010 at 3.5 percent, the microblog Twitter at 3.1 percent, see Google Ad Planner, 2010).

2.2. Differentiated Actions of the Authorities

How do the Swiss authorities react to these changes? Given the above mentioned outlined developments they see at the same time the chances of a "Cyber Democracy" such as the dangers of a new fragmentation against the political public (Emmer & Wolling, 2010: 45). According to the accounts of E-Government leaders sat down two years ago, a third of the population, however, more than two thirds of the cantonal administrations and the Federal agencies voted against the use of Social Media - now there are likely more to be (GfS Bern, 2010: 65-67). At the same time, respondents, shared their opinion regarding a strategy for the use of the Internet, namely for "E-Government". According to their statements, only one-fifth of the municipalities and only a good half of the federal agencies, but at least three-quarters of the cantons (GfS Bern, 2010, p. 4) benefited from this facility.

The last few years were for online democracy therefore mainly experimental and pilot years. At the end of 2011, this was also confirmed in a survey by 71 communication representatives from authorities and public administration. 56 percent of them said they use Social Media in their organization actively; half of which said they are still in the experimental phase (Bernet & Keel, 2012). Surely, as the most widely used application, that was pointed out in this survey, is Facebook.

3. Outlines of the Situation Analysis

3.1. Typical Elements of Location Decisions

From the above qualitative study and the research-based consulting projects of IAM Institute of Applied Media Studies (www.linguistik.zhaw.ch/de/linguistik/iam/beratung) typical features regarding location regulatory provisions in relation to their digital crosslinking ratio of the citizens can be pointed out. In the moments of site selection and cooperation with external experts, also named "focal points", it becomes visible "what the normal state seeks through its organization and which control and regulation systems are at its disposal" (Vogd, 2009: 42). Therefore, such moments are considered "natural experiments" (ibid.). The data for the process of interpretation, the type of education and comparative capability of providing analyzes are aimed to be pointed out through this experiment.

One of the strengths of authorities regarding the digital networking is typically established by web presence in an informational and governmental services aligned form ("Web 1.0" and "E-Government" -Services). In addition, governments cannot respond or react as fast as privates could to new communication trends.

Weaknesses typically includes the problem of orientation and navigation on the official websites and the lack of dialogue options. Whereas, in the area of E-Government structures were created in the recent years. Meanwhile, the Web 2.0 Service is unclear or differs from department to department, regarding regulated jurisdictions. The prospect of dialogue with citizens appears as a great opportunity from the authorities point of view. Especially with younger people and professionals the process gets even more intense. Risks typically arise from the fact that the expectations of online citizens regarding rapid responses and reactions of authorities cannot always be met, since these are still to be discussed

within the heavy bureaucracy system. At the same time such a loss of quality in the official online communication is a considerable reputational risk, since any form of official communication with the democratic subject brings to controversy, that can be publicly known or made and criticized in the online area (Stücheli-Herlach, 2010).

3.2. Key questions for strategic approaches

Given the complex output layers, the strategy development for the digital, interactive networking of public authorities with citizens is to be described as a sophisticated one. Only an appropriately differentiated approach in the usual sequence of environmental analysis, goal setting, planning and evaluation is appropriate in this regard (Behrent, 2008; Zerfass, 2010, pp. 319-383; Stücheli-Herlach, 2012a: chap. 3, 10. 4). We provide ten key questions for this process and specify these for regulatory networks in the sphere of Web 2.0:

I. What is the goal?

Definition of the relationship between the government and the communication strategy and the derivation of an online strategy

II. Whit whom do we want to talk, and who wants to speak with us?

Definition of stakeholders and selection of direct dialogue groups

III. What do we offer?

Concepts of the content and presentation forms on the basis of the authority-specific potential

IV. How do we listen?

Development of a monitoring system incl. resources and responsibilities

V. What is the benefit?

Definition of an authority-specific and a user-specific added value compared to alternatives

VI. What are the risks?

Identifying their weaknesses and threats, definition of preparatory and accompanying

measures

VII. How do we ensure the dialogue?

Definition of communication rules, incentives and sanctions

VIII. How to take action?

Definition of leadership-, advice- and execution processes, as well as identifying the external partnerships

for this; Development of hypertext structures of their own online offer

(Content Management, links)

IX. How do we cope with the work?

Planning of time-, money- and material resources and securing the necessary

know-how

X. How do we measure success?

Planning of the evaluation steps and definition of the criteria.

4. Strategies of Digital Networking in Web 2.0

4.1 Strategic Options

The core of any sustainable strategy provides a coherent link between the target system, on the one hand, and the shape and the contents of the communication services, on the other hand. In order to define this relationship, various strategic options for digital networking agencies in Web 2.0 must be taken into account.

On the basis of the three categories of online communication, namely: information, interaction and participation (Emmer & Wolling, 2010, pp. 42- 47; Emmer & Bräuer, 2010, p. 312), the following strategic principles for e-democracy communication can be defined: temporal integration, formal and instrumental integration and substantive integration.

4.2 Temporal Integration

The temporal integration of communication between authorities requires that planning horizons and dramaturgies across multiple and single legislative periods, should be better organized and thoroughly time-balanced.

The application shows that the planning of an official Web 2.0 offer can only function gradually, chronologically and step by step. Important here are the fundamental decisions with long-term validity at the level of making political leadership. Temporally and thematically limited experiments and later, pilot tests, are later on this basis, not only inevitable, but also legitimate: this is an opportunity not only for the time-oriented administrative actions, but also political and democratic evaluation. In addition, a certain variety of Web 2.0 services within one and the same city, cantonal or department management is unavoidable: The interaction- and communion purposes can not be achieved without declining some of the different needs of the individual dialogue groups.

4.3 Formal and Instrumental Integration

The formal and instrumental integration of communication with authorities requires the insurance of providing a recognizable and uniform design of communication boards. In addition, a mutual coordination of different instruments is to be expected. In the use of the application it is proven, that the basis of each official online communication a website is. In this regard, there are different Social Media application methods possible, each in different ways. Personal, subjective and interactive - but always embedded in the hypertextual landscape of the official web presence.

Satellite applications are suitable to news services such as Twitter, for example, as medial basis on thematic dossiers to specific policy areas or to individual projects. It is always crucial to take into account various media sources, such as: wikis, blogs and live streams, because of the large differences in usage, included within the online citizenship. These will not replace, but only add to the classic media release, the printed ballot information and the personal appearance of the authorities members to assemblies.

4.4 Substantive Integration

The substantive integration of communication requires authorities to vote on topics and functions of individual instruments, as well as on their mediated successive messages.

This application is particularly challenging, but it is combined to single strategic options and follows the democratic functionality and the according offers. These objectives can be described, one the one hand, through a communication strategy, and on the other, by Public Storytelling.

5. Conclusion

a) Communication Strategy: Presentation of research and experiencing it is the use of web-based interaction and forms of intervention of high importance. Dialogue groups discuss on the objectives, procedures and specific positive manipulation powers are set into the picture. As a result, such measures are later to be documented and discussed from a democratic point of view (see, for example, Albrecht / West Holm, 2008: 54). This process is thereby called "Communication Strategy".

The differences between a petition and an abutting on consent blog post, must be taught, based on the classic right of appeal by a kind of "communication to appeal". Without these aspects, the basic principle of democracy, namely the transparency, would not be ensured and the trust of the citizens in the new method of communication would be quickly lost. However, prerequisite for this transparency is the prior internal clarification of objectives and the integration of Web 2.0 services in the administrative structures and procedures. Finally, their anchoring and reflection in legislative programs and contracts should be aimed.

b) Public Storytelling: The faster and individualized networking in the digital public area runs, the more important overarching same-sided boundaries between regulatory topics, offers, projects and activities are. They ensure that the extension of communication with authorities, has as only purpose, reaching a higher rate of democratization and is not about further fragmentation. The visibility, clarity and connectivity is therefore dependent on its narrative structure. Their production and reproduction requires narrativization, namely Public Storytelling (basics at Viehöver, 2006; Arnold, Dressel & Viehöver, 2012; Applications for journalism and organizational communication generally at Perrin et al, 2010a, 2010b and. Applications on the Communication with authorities at Stücheli-Herlach 2012a).

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Analysis on the Taxation in the EU Member States

Ana Alexandru[1]

Abstract: The purpose of this paper is to perform an analysis on the tax revenue collected by the Member States. The analysis takes into account the period 2000-2013 and highlights the main reasons reforms Member States' tax systems

Keywords: taxation; fiscal revenues; tax rate

JEL Classification: H20; H25; E62

1 Introduction

In 2012, the level of taxation in EU-28 was 39.4% of GDP. The level of taxation in the EU is high compared to countries like Russia 35.6%, and New Zealand, 31.8%. Countries which are less developed usually have a relatively low weight. High tax rate in the EU is not new; it makes its presence felt since the last third of the 20 century. In that time, the role of the public sector was expanded, this led to a large increase in tax rate 1970, and to a lesser extent, in the 1980s and early 1990. Member states have adopted several packages of measures for fiscal consolidation after the first Treaty of Maastricht and the Stability and Growth Pact. In many Member States, it is possible to widen the tax base to increase revenue collection potential, opportunity to reduce the tax rate or simplify the taxation. Many standard taxation systems have various exemptions, allowances, reduced tariffs and other tax systems known as "tax expenditures" This cannot always be justified, may not be the most effective tools for social goals. Member States have a more effective strategy in terms of raising legal tax rates. In some states, the process of consolidation was mainly based on the restriction or reorganization of primary public expenditure and in others the focus was on tax increasing.

2 Tax Rate in EU-28

2.1 General Overview

Tax rate in GDP surpassed the crisis in 2012 and will continue to increase in 2013. The tax rate in GDP began with a decrease in tax 2000 and increased by 2007 in the euro area and the EU-28. Income tax decreased in 2010 in both the euro area and the EU-28.

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There are many reasons why government tax revenue varies from one year to another. Main reasons are changes in economic activities (affecting the level of employment, the sale of goods, services, etc.) and tax legislation (affecting tax rates, tax based) and changes in GDP.

Table 1. Total Taxes % of GDP

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Belgium	45,1	45,1	45,2	44,7	44,8	44,8	44,4	43,9	44,2	43,4	43,8	44,2
Bulgaria	31,5	30,8	28,5	31,0	32,5	31,3	30,7	33,3	32,3	29,0	27,5	27,3
Czech Republic	33,8	33,7	34,6	35,4	35,9	35,7	35,3	35,9	34,4	33,4	33,6	34,6
Denmark	49,4	48,5	47,9	48,0	49,0	50,8	49,6	48,9	47,8	47,8	47,5	47,7
Germany	41,3	39,4	38,9	39,1	38,3	38,3	38,6	38,7	38,9	39,4	38,0	38,5
Estonia	31,0	30,2	31,0	30,8	30,6	30,6	30,7	31,4	31,9	35,3	34,0	32,3
Ireland	31,5	29,7	28,3	28,8	30,1	30,6	32,1	31,5	29,5	28,1	28,0	28,2
Greece	34,6	33,2	33,7	32,1	31,3	32,2	31,7	32,5	32,1	30,5	31,7	32,4
Spain	34,1	33,7	34,1	33,9	34,8	35,9	36,8	37,1	32,9	30,7	32,2	31,8
France	44,2	43,8	43,3	43,1	43,3	43,8	44,1	43,4	43,2	42,1	42,5	43,7
Croatia	:	:	37,9	37,5	36,7	36,6	37,1	37,4	37,1	36,5	36,4	35,3
Italy	41,5	41,1	40,5	41,0	40,4	40,1	41,7	42,7	42,7	42,9	42,5	42,4
Cyprus	30,0	30,7	30,9	32,2	33,0	35,0	35,8	40,1	38,6	35,3	35,6	35,3
Latvia	29,7	28,9	28,6	28,6	28,6	29,2	30,6	30,6	29,2	26,6	27,2	27,6
Lithuania	30,9	29,4	29,1	28,8	28,9	29,1	30,0	30,2	30,7	30,4	28,5	27,4
Luxembourg	39,2	39,8	39,3	38,1	37,3	37,6	35,9	35,6	37,5	39,8	38,1	38,2
Hungary	39,8	38,7	38,0	38,0	37,7	37,4	37,3	40,4	40,3	40,1	38,1	37,3
Malta	27,3	28,9	30,0	30,4	31,3	32,9	33,0	33,9	33,0	33,4	32,2	33,0
Netherlands	39,9	38,3	37,7	37,4	37,5	37,6	39,0	38,7	39,2	38,2	38,9	38,6
Austria	43,0	44,9	43,6	43,4	43,0	42,1	41,5	41,7	42,7	42,4	42,1	42,2
Poland	32,6	32,2	32,7	32,2	31,5	32,8	33,8	34,8	34,3	31,8	31,8	32,3
Portugal	31,1	30,8	31,4	31,6	30,5	31,4	32,1	32,8	32,8	31,0	31,5	33,2
Romania	30,2	28,6	28,1	27,7	27,2	27,8	28,5	29,0	28,0	26,9	26,8	28,4
Slovenia	37,3	37,5	37,8	38,0	38,1	38,6	38,3	37,7	37,3	37,2	37,7	37,2
Slovakia	34,1	33,1	33,0	32,9	31,5	31,3	29,3	29,3	29,1	28,7	28,1	28,6
Finland	47,2	44,8	44,7	44,1	43,5	43,9	43,8	43,0	42,9	42,8	42,5	43,7
Sweden	51,5	49,4	47,5	47,8	48,0	48,9	48,3	47,3	46,4	46,5	45,4	44,4
United Kingdom	36,3	36,1	34,8	34,4	34,9	35,4	36,1	35,7	37,1	34,3	35,0	35,8

Source: Taxation trends in the European Union, Statistical books, 2014 edition, European Union, 2014

The crisis, along with fiscal policy measures has a strong impact on tax revenues in 2009 and the first effects became visible in 2008. In 2012, tax revenues in terms of GDP, substantially increased and reached its highest level since 2001, as we can see in table above.

2.2 Incentives for Research and Innovation

Experiencing concerns about decreasing competitiveness, many countries have introduced tax changes which had hoped to limit crises effects. These measures targeted to help small businesses and stimulate private investment in the Member States.

The vast majority of Member States apply tax incentives to stimulate private investment and innovation. This has become increasingly attractive in the start of the crises. In this period, about half of Member States have introduced or announced changes in terms of taxation that are offered support for research and development. Latvia introduced a new form of tax incentives for certain costs related to research and development.

Several Member States have introduced or expanded tax measures designed to stimulate entrepreneurial activity, investments in certain sectors. Some Member States have introduced tax incentives underlying goal of stimulating reinvestment of profits, for small enterprises (Spain, France). Sweden launched a new tax incentive for business in December 2013 in which individuals acquire the shares of small and medium enterprises can deduct half of the amount of acquisition. United Kingdom has introduced a new measure of tax relief for investments.

2.3. Direct Taxation

The direct tax rate in GDP has exceeded pre-crisis levels. Proactive fiscal measures taken by Member States in the last year was correcting their deficit economic recovery.

Direct taxes have decreased since 2008 (13.7% of GDP to 12.7 % of GDP in 2009). After a continuous decrease, direct taxes have increased. Starting from 2009-2010 direct taxes in the EU -28 increased from 12.8 % to 13.2 % of GDP. This could be due to an increase in income taxes of companies. Main components of direct taxes are income tax of individuals and corporate. We cans see this image in the table above.

Table 2. Direct Taxes as % of GDP

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Belgium	17,5	17,8	17,6	17,2	17,5	17,6	17,3	17,0	17,2	15,9	16,4	16,8	17,4
Bulgaria	6,9	7,5	6,4	6,2	6,0	4,9	5,2	8,2	6,7	5,9	5,4	5,2	5,3
Czech Republic	7,9	8,3	8,8	9,2	9,2	8,9	8,9	9,0	8,0	7,2	6,9	7,2	7,2
Denmark	30,5	29,5	29,3	29,6	30,4	31,9	30,7	30,1	29,7	30,0	29,9	29,9	30,6
Germany	13,0	11,4	11,0	11,0	10,8	11,1	11,9	12,2	12,4	11,8	11,2	11,7	12,1
Estonia	7,7	7,2	7,5	8,0	7,9	7,0	7,1	7,4	7,9	7,5	6,8	6,5	6,8
Ireland	13,6	12,7	11,6	11,9	12,4	12,3	13,2	12,9	11,7	10,9	10,6	12,3	13,1
Greece	10,0	8,8	8,8	8,0	8,2	8,8	8,3	8,3	8,3	8,5	8,0	8,8	10,2
Spain	10,6	10,5	11,0	10,4	10,8	11,5	12,3	13,5	11,1	10,0	10,0	10,0	10,6
France	12,5	12,6	11,8	11,4	11,7	11,9	12,2	12,0	12,0	10,3	11,0	11,7	12,4
Croatia	:	:	6,1	6,0	6,0	6,2	6,9	7,4	7,2	7,2	6,5	6,2	6,1
Italy	14,4	14,7	14,0	14,7	13,9	13,3	14,3	15,0	15,2	15,4	14,8	14,8	15,2
Cyprus	11,2	11,3	11,3	9,7	8,8	10,2	10,8	13,8	12,9	11,2	11,1	11,7	11,1
Latvia	7,3	7,6	7,9	7,6	7,9	7,9	8,5	9,2	9,8	7,2	7,4	7,4	7,7
Lithuania	8,4	7,8	7,4	7,9	8,7	9,0	9,5	9,2	9,3	6,0	4,7	4,4	4,9
Luxembourg	15,0	15,3	15,4	14,8	13,1	13,7	13,2	13,2	14,2	15,0	14,7	14,5	14,8
Hungary	9,9	10,2	10,2	9,6	9,1	9,1	9,5	10,4	10,6	10,0	8,6	7,0	7,5
Malta	9,0	9,7	11,0	11,5	11,0	11,7	12,0	13,3	12,7	13,6	12,9	13,0	13,9

Netherlands	12,0	11,7	11,8	11,0	10,7	11,7	11,9	12,2	12,0	12,1	12,2	11,7	11,2
Austria	13,2	15,0	13,8	13,7	13,5	12,8	12,9	13,4	14,0	12,8	12,8	13,0	13,4
Poland	7,2	6,7	6,9	6,6	6,4	7,0	7,5	8,6	8,6	7,5	7,0	7,0	7,2
Portugal	9,6	9,1	9,1	8,5	8,3	8,3	8,6	9,5	9,7	9,0	8,9	9,9	9,4
Romania	7,0	6,4	5,8	6,0	6,4	5,3	6,0	6,7	6,7	6,5	6,1	6,2	6,1
Slovenia	7,4	7,6	7,8	8,0	8,2	8,7	9,1	9,2	8,9	8,3	8,2	8,0	7,8
Slovakia	7,4	7,5	7,1	7,1	6,1	6,0	6,1	6,2	6,5	5,5	5,4	5,5	5,6
Finland	21,4	19,3	19,1	18,1	17,8	17,8	17,6	17,8	17,8	16,4	16,2	16,6	16,3
Sweden	22,6	20,8	19,6	20,2	20,9	22,0	22,2	21,2	19,8	19,6	19,2	18,5	18,3
United Kingdom	16,5	16,7	15,6	15,0	15,2	16,0	16,8	16,5	18,2	15,8	15,5	15,6	15,1

Source: Taxation trends in the European Union, Statistical books, 2014 edition, European Union, 2014

3 The Distribution of the Tax Burden according to the Type of Taxation

Considerable variation between Member States showing the distribution of total tax revenue by type of taxation base (labor, capital and consumption). The largest source of income comes from income tax in the work, and half of all revenues are coming consumption tax, followed by capital. Tax structure is different between Member State.

3.1 Consumption Tax

In 2012, the revenue collected from taxation of consumption remained at the same level as the previous year. The level of consumption was climbed back in 2007. The evolution from 2000 to 2012 is described in the figure below.

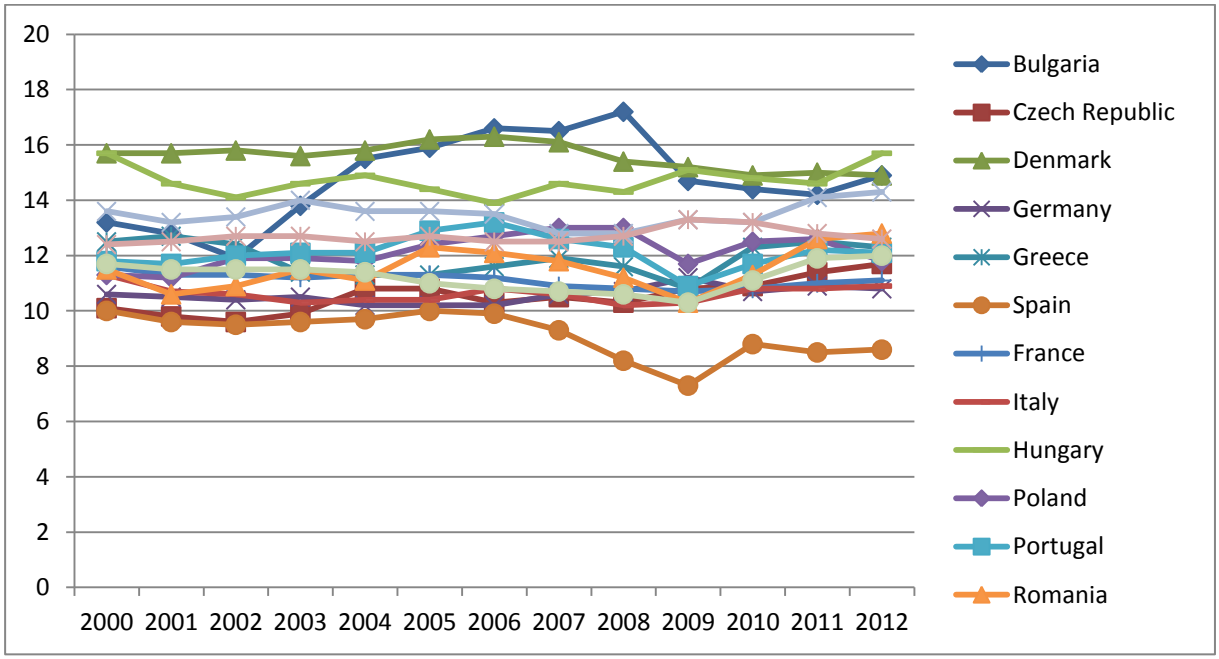

Figure 1. Taxes on Consumption as % of GDP

Source: Taxation trends in the European Union, Statistical books, 2014 edition, European Union, 2014

3.2 Labor Taxation

In 2012 the increasing of the tax burden on labor have place. Starting from the economic crisis won the arguments in favor of reducing the tax burden on labor, but the achievement of this goal remains difficult.

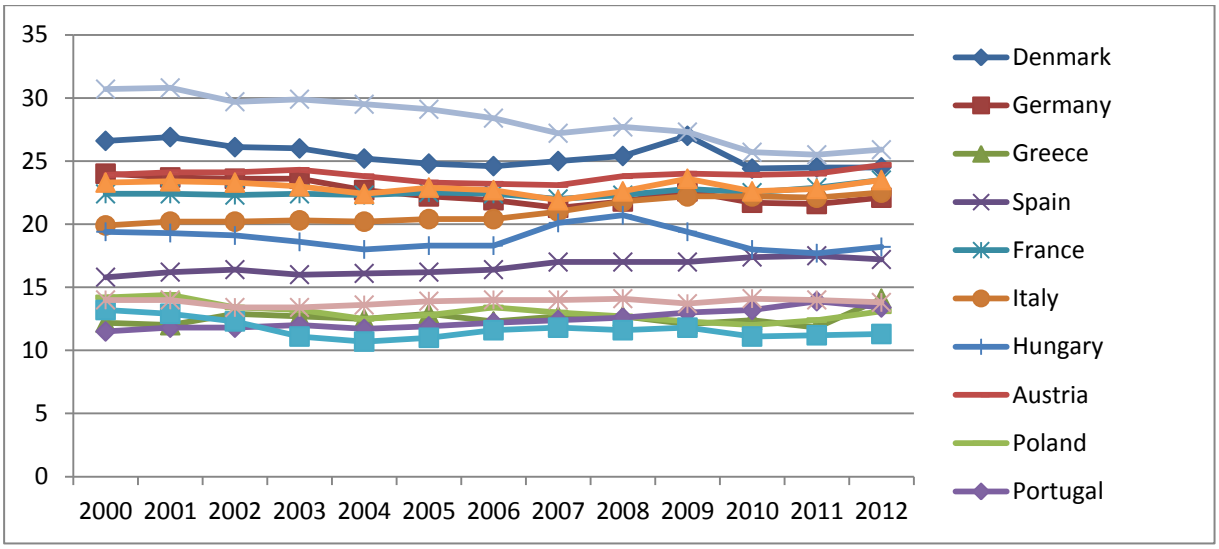

Figure 2. Taxes on Labor as % of GDP

Source: Taxation trends in the European Union, Statistical books, 2014 edition, European Union, 2014

The 28 Member States recorded an increase in employment in 2012, the highest growth being recorded in Greece, followed by Poland and Cyprus, each with two percents. The tax burden on labor varies between Member States. The higher direct taxes on labor are registered in Belgium with a share of 42.8% in 2012, Italy (42%) and Austria (41.5%) and the small direct taxes are recorded in Malta (23.3%), Bulgaria (24.5%) and the UK (25.2%). In the context of the economic crisis, given the high level of unemployment, high taxes on labor the effect was harmful in terms of work incentives for individuals and firms. Labor tax increases were relatively rare in this time and especially took the form of restrictions tax credits or tax exemptions for people with higher incomes.

4 Conclusions

Reforms that were introduced in the Member States in 2013 and 2014 shows that many Member States have taken measures to increase indirect tax. Taxes on consumption and environmental taxes was being considered less harmful, although most of the Member States have taken steps to improve the tax structure, and some states have taken steps to adopt new reduced rates. In the field of labor taxation (personal income tax and social security contributions) many countries only increase the fiscal burden.

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Judicial Individualization of Punishment in Special Situations. Judge's Role in these Cases

Cosmin Peneoașu[1]

Abstract: Punishment cannot fully implement its mission and cannot achieve its purpose unless it is perfectly molded to concrete individual case. To this end, the penalty should be appropriate to the degree of social danger of the crime and its perpetrator, and, equally, to be given by taking in consideration the real needs for straightening and rehabilitation of the perpetrator. The multitude situation encountered in practice, doubled by cultural and economic realities found in a never ending change, led to the introduction of additional provisions in the Criminal Code in order to achieve the best judicial individualization of punishment in some special situations. These additional provisions are designed to ensure the possibility to adapt the sanctioning treatment in a suitable manner to each offender brought to answer before the law. Therefore, only by promoting the principle *real punishments imposed to real criminals* will lead to an act of justice healthy, appropriate and equitable, based on promoting the key values of society among offenders and, equally, on protecting these values against criminal inclusions. This study aims both students and practitioners or academics and highlights on one hand, the legislative solutions of the new Criminal Code and on the other hand, the differences between the old and the new Criminal Code.

Keywords: criminal sanction; adaptation; personalization; efficiency; reeducation

1. Introduction

In its proper meaning, *to individualize* means to highlight specific features of a person of a fact, of a situation etc. (Romanian Academy, 2009). From a legal perspective, the term of individualization expresses strictly the punishment adaptation in relation to individuality, personality of each offender (Daneș & Papadopol, 1985)

The individualization of criminal sanctions is one of the fundamental principles of criminal law who exercise its power both in the elaboration phase of criminal law provisions and in the application phase but also in the execution phase of punishment. This operation is achieved through three forms of individualization: *legal, judicial* and *administrative*. Legal individualization – the adaptation work made by the legislator -, and administrative – conducted by administrative authorities by adapting the execution of punishments regime - are forms without whom the operation of individualization of criminal sanctions does not make sense.

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Essence of the present study, the judicial individualization has a special place among the three forms of individualization and *represents the operation by help of which, ex lege, the judge effectively adapt the punishment applied to each individual, taking into account the case in its individuality, but also in social context, by reporting both the gravity of the committed offense and also the person of the offender, in order to achieve, in tandem, both the efficiency of its functions and the opportunity to achieve its goals*.

Therefore, the judge is the center of gravity for judicial individualization of punishments, center around which gravitates, on the one hand, various facts and circumstances involved in a case and, on the other hand, society's response to harmful action. Given that we have already realized the real importance of individualization work in order to achieve the purpose of punishment, judicial individualization of punishment is not made *arbitrarium judicis* by the court, but must follow certain rules designed to guide the operation of individualization. Through the provisions of art. 74 of the Criminal Code the legislator has provided some general criteria that the court must take into account when carrying imposition of a sanction prescribed by law to a particular case.

Because the situations on which the judge is called upon to judge are among the most varied – practically, endless - the tools we have at hand must be equally able to provide a wide range of solutions from which to choose the best sanctioning treatment. However, in practice we encounter some "special" situations that require increased attention. Considering this special cases the general provisions set by art. 74 of the Criminal Code are no longer sufficient. For this purpose, the legislator filled the legislation with special prescriptions coming to complement the general framework created by art. 74 Criminal Code so that the judge will pronounce a solution as closely adapted as possible to the real needs of the offender rehabilitation.

These special situations are: the criminal fine penalty, additional penalties and ancillary penalties. We will treat the three cases identified above separately below.

2. Criminal Fine Penalty

2.1. General frame. Fine-days System

In the new Criminal Code, the fine penalty experience a new regulation, but also a wider scope compared to the Criminal Code from 1968, with an exponential growth of the number of offenses or variations of them for which a fine may be imposed as a unique punishment, but, especially, as alternative punishment to imprisonment (about 60 in the 1968 criminal legislation, more than 170 in the new Criminal Code).

The judicial individualization process of the criminal fine penalty requires some clarifications because of the new penal vision through which criminal punishment is determined by fine-days system, a system that operates in many European countries[1] and other continents[2]. According to this system, the fine is prescribed by law not as a standard grid of money, but as a number of fine-days, and the corresponding amount of a fine-day will be determined by the court within certain limits prescribed by law.

[1] See, the *French Criminal Code* establishes nominally the criminal fine penalty in art. 131-3 (Ist Book , Title III, Chapter I, Section I, Subsection 2) or the *German Criminal Code* which introduced the criminal fine penalty in Sections 40-43a (General Part, Title III, Chapter I, Criminal fine).

[2] See, *Brazilian Criminal Code*, where the criminal fine penalty is regulated in art. 49-52 (General Part, Chapter V, Section III).

According to this system, establishing the fine is in relation with two factors: the number of days-fine, on the one hand, and the value of one fine-day, on the other hand; after knowing these two factors, the fine is determined by multiplying the number of fine-days with the corresponding amount of a fine-day. According to art. 61 para. (2) Thesis II of the Criminal Code „the appropriate amount of a fine-day is between 10 lei and 500 lei, is multiplied with the number of fine-days which is between 15 days and 400 days", which means that, expressed in Romanian monetary system, the fine general limits are between 300 lei and 200.000 lei. For sanctioning a legal person it is used the same fine-day system. According to art. 137 para. (3) Criminal Code, Thesis II, the corresponding amount of a fine-day is between 100 and 5.000 lei. This is multiplied by the number of fine-days, which is between 30 days and 600 days. Thus, the minimum fine, with which a legal person may be sanctioned shall not be less than 3,000 lei and a maximum of 3,000,000 lei.

Immediately, we will notice a categorical toughness of punishments by increasing the general minimum three times and the maximum four times, for the individual person, and with a 1/6 of the minimum and half of the maximum, for the legal person. This is understandable, given that 170 offenses have as alternative, besides the imprisonment, the criminal fine penalty. In addition, we should not overlook taking into account the reduction, not at all insignificant in some cases, of the imprisonment penalty.

The fine punishment, in fine-days system, under the aspect of precise determination of the appropriate fine-day amount, is a define feature of this system. Through this, it is actually determined the content of a fine punishment and it ensures a appropriate application of it corresponding with the seriousness of the offense and with the offenders dangerousness, while being able to fulfill the coercion functions and, also, fulfill its purpose towards convicts with different financial statuses, thus respecting the principal of legality. Of course, fulfilling, under this aspect, the operation of judicial individualization of punishments, it requires a very good knowing of the convicts real financial status, both in terms of assets and legal obligations to the people under his care. Sending to these special criteria of individualization, that the law does, aims to ensure, as much as possible, the personal character of the punishment and, thus, stopping the fine punishment coercive effects reflecting on the people under convicts care (Antoniu, 2011).

2.2. Individualization of Criminal Fine Penalty for Individuals

Being a financial penalty, also the offender patrimony may be different in scope and in social-human tasks, it is necessary that, in establishing the criminal fine penalty, to consider other criteria's than those used for general individualization of punishment.

1. From the art. 61 Criminal Code provisions, we should understand that the court must consider, when determining the criminal fine penalty, several criteria. According to this disposition, the criteria used for individualizing the criminal fine penalty, are of two kinds: *general criteria*, common to all punishments, found in art 74 Criminal Code, and *criteria specific to criminal fine penalty*, found in art. 61 para. (3) Criminal Code. Therefore, the judicial individualization of criminal fine penalty is done by the court based on the criteria showed in art 74 combined with special criteria shown in art.61, para. (3).

Practically, *first*, the judge will determine, the type of sentence applicable to the offense. If the fine is not viewed as a unique penalty, the judge will use, according to art. 74 para. 2 Criminal Code, the general criteria of individualization to choose if the criminal fine penalty is appropriate or not.

In a *second stage*, he will proceed to the actual individualization of criminal fine penalty. Thus, the court will use the general criteria of individualization common to all sentences, namely the seriousness of the offense and the threat posed by the convict, to establish the appropriate punishment. The special limits of the criminal fine punishment are established according to three steps, according to art 61 para 4 Criminal Code, by reporting to imprisonment punishment set for each felony. We should underline that, in this second stage, through the use of general criteria of individuation, the fine penalty will refer to a defined number of fine-days, and it will not have a certain amount of money.

Finally, in a *third step*, the judge will have to report to fine's special criteria of individualization in order to establish a fine-day value. These are two: *the convict's financial status* and *legal obligation of the convict towards the people in his care*[1]. By introducing these two criteria the legislator considered that courts should realize the best punishment individualization based on defender's personal situation. In this stage the judge establishes the actual fine (amount of money) that the defendant should pay. Criminal fine's specific criteria must be studied and treated carefully by the court, so they can adapt it better to a singular case, if not the convict will incur greater or smaller sufferance than necessary.

2. As a novelty, and a very important one in judicial individualization of criminal fine penalty for individuals, are the provisions of art. 62 which do not provide the opportunity, but the obligation to apply a fine accompanying imprisonment as an additional main punishment when the committed offense was intended to provide a material gain.

As exception to art 61 para (6), when the main imprisonment punishment is accompanied by a fine, the special limits of fine-day are determined in relation with the court's imprisonment punishment, not in relation with imprisonment limits set within the criminal law provisions. Also, they will be reduced or increased as an effect of aggravation or mitigation's criminal liability set into the incrimination texts. In this case, the court will establish the number of a fine-day according to general criteria of individualization applicable to all punishments, by taking in consideration the main imprisonment penalty. In establishing the amount of one fine-day, consideration shall be given to the amount of material gain that was obtained or desired [art. 62 para. (3)]. Therefore the specific criteria of a fine will not correspond with the ones in para. (3) art. 61 Criminal Code – the convict's financial status and legal obligation of the convict towards the people in his care – instead, they will be ignored based on the higher threat posed by the offender, and that because he aims to obtain economic benefits by committing crimes.

2.3. Individualization of Criminal Fine Penalty for Legal Persons

According to art. 187 Civil Code „Any legal person must have a self-sustained organization and an own patrimony, affected to achieve a certain moral and licit purpose, according to general interest". Being the only main punishment that can be applied to a legal offender, the individualization of criminal fine penalty must be made by keeping into account of the legal person specific.

[1] The maintenance obligation is regulated the new Civil Code, IInd Book – "About Family", Title V – entitled "The maintenance obligation", but also in Title IV – "Parental authority", Chapter II – entitled "Parental rights and responsibilities". The maintenance obligation exists between husband and wife, parents and children, who adopts and the adopted, grandparents and grandchildren, great-grandparents and great-grandchildren, brothers and sisters, as well as between other persons specifically provided by law (see, art. 516 Civil Code). It shall be entitled to maintenance only the one who is in need, because of not having a gain from work, or because of same inability to work. When we refer to "he convicts legal obligations towards persons they are supporting", we should also take into considerations the obligations contained in art. 487 and 488 Civil Code from IInd Book – "About Family", Title IV – "Parental authority", Chapter II – entitled "Parental rights and responsibilities".

Similar to individuals, the individualization criteria of criminal fine penalty for legal persons are of two kinds: *general criteria*, common to all punishments (art. 74 Criminal Code) and specific *criteria* [art. 137 para. (3) Criminal Code],

Because this is the only main punishment applicable to legal persons, the judge will go straight to establishing the number of fine-days based on general criteria, applicable to individualization of all punishments. The sentence's special limits are established according to 5 levels [art. 137 para. (4)] by reporting to the main imprisonment penalty limits for individuals.

In a *second stage*, the judge will have to report to criminal fine's specific individualization criteria for a fine-day value. These are, as for the individuals case, in two: *the turnover* (in case of for-profit legal entities), and *the value of assets* (in case of the other legal entities), as well as *other obligations of the legal entity*. By introducing these two criteria, the legislator, considered that the courts should realize a better punishment individualization, reported both at the legal person financial power and other obligations (for example, a bigger or smaller number of employees).

Common to individuals and legal entities is the provision from art. 61 and art. 137 para. (5) Criminal Code, that indicates a cause for increasing with a third the special limits stated by para (4) from both articles, in case that the committed offense was intended to provide a material gain. To apply this aggravating cause it is not necessary the effective obtaining of the benefit, individual/legal entities must only intend to obtain a material gain thought the offence.

3. Ancillary Penalties

The ancillary penalty consists in applying a coercive measure additional to *in concreto* established punishment if the court finds that this type of punishment is required, by taking in to consideration the nature and gravity of the offense committed, the offender's person or circumstances of the case.

According to art. 55 Criminal code, para. a) -c), ancillary penalties for individuals are:

- ban on the exercise of certain rights [see, Art. 66 para. (1)];
- military demotion (see, art. 69);
- publication of judgment to convict (see, art. 70).

Ancillary penalties for legal persons [art. 136 para. (3)] are:

- winding-up of legal entities;
- suspension of the activity or of one of the activities performed by the legal entity, for a term between three months and three years;
- closure of working points of the legal entity for a term between three months and three years;
- prohibition to participate in public procurement procedures for a term between one and three years;
- placement under judicial supervision;
- display or publication of the conviction sentence.

The Criminal Code, through its provisions, offers increased opportunities for judicial individualization of punishments. Compared to the 1969 Criminal Code, the Criminal Code in force allows the courts possibility to apply, besides the main penalty, ancillary punishments in cases where the main penalty is only the criminal fine penalty. In addition, the condition of existence of a minimum prison sentence of two years is removed, the courts can apply ancillary punishments regardless of the duration of imprisonment and even if its execution was suspended under supervision.

Also, the possibility for ancillary penalties application is not conditioned by preexistence of imprisonment penalty, thus the ancillary penalties can be imposed, either when the court has given a sentencing judgment (with imprisonment service or suspension of service of a sentence under supervision), either a sentence consisting in criminal fine penalty.

Establishing one/several ancillary penalties is closely linked with the process of the judicial individualization of punishment. Moreover, even in par. (1) art. 67 of the Criminal Code the legislator imposes to the judge to take into consideration the nature and gravity of the offense, the circumstances of the case and the offender person – basically, to the general criteria of the punishment individualization – if he considers that imposing of such penalty is needed. Furthermore, we believe that the judge mission is very important because the law leaves to his wisdom to appreciate it is necessary or not to impose such penalties. *In concreto*, the judge will have to weigh the nature and gravity of the offense, the circumstances of the case and the offender person, to pinpoint which are the needs for rehabilitation and which are the areas that must be protected from the dangerous actions of the offender, needs and areas requiring further attention.

In criminal law we find situations where the application of ancillary penalties is mandatory. We encounter such situations when the law expressly states in the incrimination text of the crime the express prohibition on the exercise of certain rights. *Exempli gratia*, we mention the *crime of bribery*, provided by art. 289 para. (1) – shall be banned the right to practice the profession or the activity that was used by the defendant to commit the crime; the *crime of armed robbery*, provided by art. 234 para. (1) – the defendant shall be prohibited from exercising certain rights (any of those listed in Art. 66 and which are applicable); *abusive investigation*, provided by art. 280 – the defendant shall be prevented from exercising the right to hold public office, etc. In these cases the judge must take into account the order of law, failure to apply these specific ancillary penalties is unlawful.

Imposition of a sentence with ancillary penalties consisting in ban on the exercise of one or more rights from art. 66 par. (1) of the Criminal Code, requires the imposition of the correlative additional penalty/penalties, solution given by law in art. 65 para. (1) Criminal Code. In fact, the contrary view would be unnatural because it denies the idea of continuity that is envisaged by law. Thus, for example, to a convict the given judgment of the court imposes, besides the main penalty of imprisonment, the ancillary penalty consisting in prohibition to hold public office. After executing the required fraction in detention, he is conditionally released and, according to art. 68 para. (3), final thesis, the execution of ancillary penalties begins after the period of supervision. If he is not subject to ancillary penalty, the convict, between release date and last date of surveillance term is not subject to any prohibition, which would give him the right to stand for public office. Therefore, the lack of continuity leads to abnormalities, a convict cannot be considered a time – ironically, nearest temporally to the offense – worthy to exercise his rights and, in a subsequent period, unworthy. However, the application of additional penalties besides ancillary penalties is viable only in case of conviction to imprisonment; if the defendant is sentenced only to a criminal fine penalty, the execution of the ancillary penalty starts from the moment when the given sentence becomes final.

4. Additional Penalties

In accordance with art. 54 of the Criminal Code „an additional penalty consists of a ban on the exercise of certain rights, as of the moment a conviction remains final and until the date the sentence of imprisonment has been fully served or deemed as served".

Therefore, additional penalty is complementary in nature, with the designed role to complement the main penalty. More specifically, the court applies, though its given judgment, in addition to the main penalty, ban on the exercise of certain rights from the moment when the given judgment became final until full execution of punishment or, until when the punishment is considered as served.

Unlike ancillary penalties, in order to apply the additional penalty of ban on the exercise of certain rights, it is necessary to establish a main punishments and, also, the ancillary penalty consisting in ban on the exercise of certain rights. If both conditions are satisfied, the court shall apply only the additional penalty correlative to the rights that have been banned as ancillary penalty. This interpretation emerges from the provisions of art. 65 para. (1) of the Criminal Code. Taking in consideration the interpretation of these provisions, we believe that the court must apply additional penalties in absolutely all cases when it had considered necessary to apply ancillary penalties or when the law imposes the mandatory application of ancillary penalties.

As an additional penalty, which accompanies the imprisonment one, it can be banned the same rights as in the case of ancillary penalties [see, art. 66 para. (1)], except for the right of a foreign citizen to reside on Romanian territory [art. 66 para. (1) letter c)], right that can be prohibited as an additional penalty only if the main imposed punishment is life imprisonment.

Establishing one/several additional punishments is closely linked to the judicial individualization of punishments process. The court, when seeking to determine the duration of the sentence, will assess the seriousness of the offense, and the threat posed by the offender. Depending on the specific situation of each case, it can establish into convict charge certain disqualifications, prohibitions or incapacities [listed in art. 66 para. (1) of the Criminal Code.], which are designed to alert the convict on its negative behavior. These disqualifications, prohibitions or incapacities have a dual role: first, they should compel the convict that he can no longer take actions in ways that are harmful to society (for example, prohibition of driving certain categories of motor vehicles leads, implicitly, also to the impossibility of jeopardizing traffic public roads); secondly, they have a rehabilitation role because they force the convict to correct his behavior and to understand the value of the lost right.

Not the least, we must mention that in the new Criminal Code the application of additional penalties became optional; the courts are not forced to order this type of punishment even when the defendant was sentenced to imprisonment, or if the main penalty is life imprisonment. This choice has influence on the individualization of punishment work because it allows judges to better adapt the punishment to each individual case, applying an additional penalty is not justified in all cases. However, we must not lose sight of the fact that additional penalty is mandatory when the court found necessary to apply one or more ancillary penalties.

5. Conclusions

The institution of individualization of criminal sanctions is large and complex and it has been the source of different visions over the last 150 years, starting with the marking of the concept, as a response to the emphasized character of *retribution*, but also to the total absence of adaptation of sanctions from XIX century. Nowadays, the concept has evolved and it appears as a *sine qua non* condition, regarding to the institution of criminal liability, although the opinions are still divided. Nevertheless, leaving aside and not taking into consideration the different views, the individualization remains an important instrument of criminal law.

Through this mechanism, it takes place the operation of adapting all the measurements of criminal coercion to the legal level, judicial and administrative level, as an expression to the reaction of the society regarding the antisocial behavior of people. The reporting to an individual case, by taking into consideration the offender, the danger of the offender and his chances of straightening, is the result of fulfillment with maximum efficiency of the functions and purpose of criminal law sanctions.

In this context, the judge's role is extremely important: firstly, because he represents the instrument by through the legislator applies the right penal treatment and secondly, because he is the one to whose intuition, life experience and wisdom, turns to dose the society's intervention, according to the seriousness of the criminal act and to the danger posed by the offender.

The judge doesn't have to see the sanction just as a retribution from the society, correlative to committing the criminal act, because in this way, he would be just an instrument to the society's revenge for the damage made by the offender. „*Retaliation is related to nature and instinct, not to law. Law, by definition, cannot obey the same rules as nature"*. (Albert Camus). Furthermore, Friedrich Wilhelm Nietzsche once said „*distrust all in whom the impulse to punish is powerful*".

The legislator of criminal law who recently came into force, may have understood the need to create new institutions who will not emphasize the wish of retribution, but the desire of adapting the sanction by taking into consideration the offender. Leaving aside the legal and the administrative individualization, which are not the object of our study, although the changes are visible[1] and it influence the judicial individualization work, the judicial individualization of the criminal sanctions is way better established, by creating a legal framework where the judge has the possibility of adapting the sanction to each individual case. As example, the general provisions (art. 74 Criminal Code), the mitigating or aggravating circumstances (art. 75-79 Criminal Code.), and more, the judicial individualization of execution of punishment (art. 80-106 Criminal Code).

Also, regarding to the judicial individualization of the sanctions in special cases, new modifications are to be considered - taking into consideration the offender: for example, the clear defining of criteria of individualization specific to criminal fine penalty, the introduction of the fine along the imprisonment as an additional main penalty, optional to the situation when the criminal act was committed with the purpose of obtaining financial benefits, the elimination of the conditions which restrained the application of additional penalties, etc.

[1] The decreased limits, with some exceptions, to most offenses incriminated by criminal laws; the increasing number of offenses which are punishable without deprivation of liberty; exponential growth of offenses punishable with non-custodial sentences as an alternative to the deprivation of liberty ones, etc.

These changes have reconciled the criminal law to fundamental rights of man, and also created new institutions inclined to humanize the criminal law.

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