

RELOADING THE PRINCIPLES OF GOOD GOVERNANCE WITHIN THE NEW COHESION POLICY OF THE EUROPEAN UNION¹

Cristina Alina CIORA²

ABSTRACT:

THE PAPER ARGUES THAT THE FINANCIAL, ECONOMIC AND SOCIAL CRISIS OPENED A NEW WINDOW OF OPPORTUNITY FOR THE REVALORIZATION OF THE EUROPEAN GOOD GOVERNANCE PRINCIPLES AND SUBSEQUENTLY FOR THE STRENGTHENING OF THE EUROPEAN COMMISSION WITHIN THE INTER-INSTITUTIONAL TRIANGLE BY THE CONSOLIDATION OF ITS TECHNOCRATIC LEGITIMACY. IN THIS CONTEXT, AFTER IDENTIFYING THE MILESTONES IN THE DEVELOPMENT OF THE EUROPEAN GOVERNANCE, THE PAPER FOCUSSES ON THE WAY THE GOOD GOVERNANCE PRINCIPLES HAVE BEEN RELOADED AND TRANSLATED WITHIN THE NEW 2014-2020 COHESION POLICY IN COMPARISON TO THE TWO PREVIOUS POLICIES AND QUESTIONS THE DELAY IN THE PRACTICAL IMPLEMENTATION OF THE EUROPEAN GOVERNANCE REFORM. THUS, THE CO-DECISION PROCEDURE IS APPROACHED AS A POTENTIAL RELOADER OF THE GOOD GOVERNANCE PRINCIPLES WITHIN THE NEW COHESION POLICY.

KEY WORDS: GOOD GOVERNANCE, COHESION POLICY, EUROPEAN GOVERNANCE, CO-DECISION

INTRODUCTION

"Together I am sure we can make this policy a real driver for the economic recovery of Europe" said, relating to the cohesion policy of the European Union, Jose Manuel Barroso in an interview with Panorama Magazine in 2013³.

The outburst of the financial, economic and social crisis in 2007, the somehow weak practical outcome of the managerial reform of the European Commission launched in 2000 and the subsequent consequences have triggered a deep reflection on the functioning of the European Union in general and of the European policies in particular, structurally changing the approach of the outside world by the public administration. If, in 1998, a crisis of internal nature (the resignation of the Santer Commission) failed to achieve a sound and functional

¹ Paper elaborated for the International Scientific Conference *Development, Governance and Cooperation*, Constantin Brâncuși University, Târgu-Jiu, 29-31 May 2014

² Phd Candidate in Administrative Studies, National School of Political Studies and Public Administration, Bucharest, Romania, Email: cciora22@gmail.com

³ European Commission, "Cohesion policy – A real driver for Growth in Europe", Interview with the President of the European Commission, José Manuel Barroso, in Panorama Magazine - Cohesion policy 2014-2020 Momentum builds, 48, 4-7, Brussels, 2013, 7.

reform of the European administration, the recent financial, economic and social crisis entailed changes of systemic nature.

From an “instrument for adapting the world”, the administration had to change into an instrument “for adapting to [the world]”⁴ and the regulation has had to meet the new requirements of efficiency and effectiveness. In 2012, the Commission codified that trend (which had begun to take shape since mid-2000s, being accelerated by the multiple crisis of 2007) through a communication on “*Regulatory fitness: Making the best of EU law in difficult times*”⁵, marking a systemic revolution of the public administration in general and of the legislative process in particular.

The European Union has practically entered a new era of active management with the outbreak of the financial crisis that opened a window of opportunity for increasing the efficiency and effectiveness of the European administration and for exploring any means and level to streamline the European Union's action. As the European Union actions are codified by legislative acts, improving the governance and the way the EU legislation is made has been one of the main ways of driving EU out of crisis.

It is in this context that the paper analyzes the new cohesion policy in the light of the principles of good European governance as defined ever since 2001 and questions a decade of delay in the practical translation of the concept of good governance in the cohesion policies.

After presenting the beginnings of the reforming process of the European governance and the definition of good European governance, the paper analyzes the link between good governance and the last three cohesion policies of the European Union, focussing on the first over-arching principle, i.e. the principle of partnership and multi-level governance. The paper also tries to explain the configuration of the 2014-2020 cohesion policy in terms of good governance by the use of co-decision procedure acting as reloader of the good governance principles.

THE BEGINNINGS OF GOOD EUROPEAN GOVERNANCE

After the resignation of the Santer Commission in 1999, in the early 2000s, Commissioner Neil Kinnock launched a reform of the institution in order to internalize the trends of the public sector reform of the time, namely the principles of new public management influenced by the best practices of the private sector such as competition, customer satisfaction as beneficiary of the public service, externalization of certain services, etc. The European Commission could not remain isolated from the reforms of the Member States, practically reflecting, at European level, the reforming mutations from national bureaucracies⁶.

That reform of the administration as a whole was meant to be a major reform occurring once in a generation: “This Reform is a once-in-a-generation programme” being codified through a *White Paper on Reforming the European Commission*⁷. Furthermore, that reform had been only the first stage towards a more complex reform regarding the governance of the European Union as a whole, not just the Commission, but of all the European institutions directly involved in the decision-making process. That reform had been outlined in a *White*

⁴ Timsit, Gerard, *The French Administration Reflected by Words – and Safe from Crises*, [Online]. Retrieved http://www.iias-iisa.org/wp-content/uploads/G%C3%A9rard-Timsit-Paper_en.pdf, accessed 01/08/2014.

⁵ European Commission, “*Regulatory fitness: Making the best of EU law in difficult times*”, Press Release, IP/12/1349, Brussels, 12 December 2012. Retrieved http://europa.eu/rapid/press-release_IP-12-1349_en.htm.

⁶ See Peterson, John; Shackleton, Michael, *The Institutions of the European Union*, 2nd Edition. (New York: Oxford University Press, 2006), 155-158.

⁷ European Commission, *Reforming the Commission - A White Paper - Part I*, COM/2000/0200 final, Brussels, 2000, [Online], Retrieved [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52000DC0200\(01\):EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52000DC0200(01):EN:HTML)

*Paper on European Governance*⁸. Basically, the managerial reform of the Commission had a spillover effect on the whole European Union governance supposed to impact appropriately upon all European policies.

In 2000, the European Commission's programmatic document stated: "The challenges of globalization and future enlargement require better governance at all levels, including the EU. All political institutions in Europe must rise to this challenge and so must the Commission. Reform is, therefore, an essential pre-condition for realizing our vision for Europe".⁹

A year later, the *White Paper on European Governance* explains the contents of the reform: "Reforming governance addresses the question of how the EU uses the powers given by its citizens. It is about how things could and should be done. The goal is to open up policy-making to make it more inclusive and accountable. A better use of powers should connect the EU more closely to its citizens and lead to more effective policies"¹⁰.

A decade later, 2010 had been marked by the launch of the Europe 2020 strategy and the publication of the report of the Reflection Group on the future of the EU 2030-entitled "Project Europe 2030. Challenges and Opportunities".¹¹ In the section concerning the EU and its Citizens, the reflection group repeatedly stresses out that "strengthening this sense of [public] ownership [of the EU] must become the driving force" of all collective action of the European Union, while "good governance is by far the most powerful means available to the EU for the benefit of the continuous commitment of its citizens"¹².

Moreover, the reflection group draws attention once again on a serious approach of the principles of good governance. After almost a decade since the launch of the *White Paper on European Governance*, its interpretation grid must be reinvented according to the specific parameters of the new socio-economic environment. In this context, the reflection group recommends "developing new objectives and a more results-oriented rationale", as „at the end of the day, good governance will be judged by its results". In the end, „good governance and a stronger focus on output are *sine qua non* for citizens to support the EU"¹³.

Basically, the beginnings of the last two decades had been both marked by a discourse on good European governance, emphasizing in a way a certain immobilism in that field for a decade. The 2010 new discourse on good governance could even betray an insufficient operation of sound governance in the forerunner decade.

THE DEFINITION OF GOOD EUROPEAN GOVERNANCE

In the 2001 *White Paper on European Governance*, the notion of governance "means rules, processes and behaviour that affect the way in which powers are exercised at European level, particularly as regards openness, participation, accountability, effectiveness and coherence"¹⁴, five principles which, at a supra-structural level, have to reinforce, through their application, the proportionality and subsidiarity¹⁵. One should note that the above quoted pseudo-definition of European governance had been given in a footnote of the White Paper. It is very curious that in a *White Paper on European Governance*, there is no formal definition of European governance, but only complex definitions of the principles of good governance:

⁸ European Commission, *European Governance — a White Paper*, COM(2001) 428 final, Official Journal of the European Communities, C 287/01, Brussels, 2001.

⁹ European Commission, *Reforming the Commission - A White Paper - Part I*, op. cit.

¹⁰ European Commission, *European Governance — a White Paper*, 5.

¹¹ Reflection Group on the Future of the EU 2030, *Project Europe 2030. Challenges and Opportunities*, A report to the European Council by the Reflection Group on the Future of the EU 2030, Brussels, 2010.

¹² Reflection Group on the Future of the EU 2030, *Project Europe 2030. Challenges and Opportunities*, 39

¹³ Reflection Group on the Future of the EU 2030, *Project Europe 2030. Challenges and Opportunities*, 39 -40.

¹⁴ European Commission, *European Governance — a White Paper*, 5.

¹⁵ European Commission, *European Governance — a White Paper*, 8.

*openness, participation, accountability, effectiveness and coherence*¹⁶, intrinsically endowing the concept of European governance with the indirect qualifier of *Good European Governance*.

It is true that most of the researchers and studies refer to the 2000 definition of *good governance* provided by the European Union under article 9(3) of the Partnership Agreement between the States of the African, Caribbean and Pacific Group and the European Community (Cotonou Agreement) as following:

“In the context of a political and institutional environment that upholds human rights, democratic principles and the rule of law, good governance is the transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development. [Good governance] entails clear decision-making procedures at the level of public authorities, transparent and accountable institutions, the primacy of law in the management and distribution of resources and capacity building for elaborating and implementing measures aiming in particular at preventing and combating corruption.”¹⁷

Although that definition has in its center the concept of *transparent and accountable management*, in our opinion, it would be absurd to carry out an analysis of a policy of the European Union in terms of good governance on the basis of a definition designed for developing countries.

Thus, in the context of the strategic objectives of the European Union laid down in the Europe 2020 Strategy, the definition given above could be updated and adjusted as follows: *Good European governance means the transparent and accountable management of human, natural, economic and financial resources for the achievement of smart, sustainable and inclusive growth.*

GOOD EUROPEAN GOVERNANCE AND THE NEW COHESION POLICY

With a budget of 351.8 billion euros representing 32.5% of the budget of the European Union (2014-2020), the cohesion policy represents “EU's principle investment tool for delivering the Europe 2020 goals: creating growth and jobs, tackling climate change and energy dependence, and reducing poverty and social exclusion”¹⁸.

In a 2013 interview, at the question “What would be your main piece of advice to the regional authorities implementing the operational programmes for 2014-2020?”, Jose Manuel Barroso, President of the European Commission at the time, answered: “Good governance at national, regional and local levels is crucial. The reform of the cohesion policy could never have been achieved without the successful cooperation with the managing and regional authorities”¹⁹.

Basically, good governance seems to be the core concept of the new cohesion policy, although it did emerge in the conceptual discourse of the EU since the very beginning of the current millennium in the background of a sound managerial reform by the European Commission after a huge corruption scandal leading to the resignation of the Santer Commission in 1999. The question is, given the fact that the concept of good governance had been launched in 2001, why did the European Commission not put it at the core of the 2007-

¹⁶ See the complete definitions in European Commission, *European Governance — a White Paper*, 7- 8.

¹⁷ Article 9(3) of the Partnership Agreement between the States of the African, Caribbean and Pacific group of States on the one part, and the European Community and its member States on the another part, available at: http://ec.europa.eu/development/icenter/repository/agr01_en.pdf (last visited on 28 August 2008). quoted in Council of Europe, European Commission for Democracy through Law - Venice Commission, *Stocktaking On The Notions Of “Good Governance” and “Good Administration”*, Study no. 470/ 2008, Strasbourg, 2011, 6-7 .

¹⁸ European Commission, *Cohesion Policy 2014-2020*, [Online], Retrieved http://ec.europa.eu/regional_policy/archive/what/future/index_en.cfm

¹⁹ European Commission, *Cohesion policy – A real driver for Growth in Europe*, Interview with the President of the European Commission, José Manuel Barroso, in *Panorama - Cohesion policy 2014-2020 Momentum builds*, 48, Brussels, 2013, 7.

2013 cohesion policy, but only at the core of the 2014-2020 policy? Could that have changed in any way the very performance of the cohesion policy for the 2007-2013 period?

The current cohesion policy (2014-2020) had been codified by a legislative package consisting in a common regulation, three specific regulations and two thematic regulations. "The legislative architecture" for the 2014-2020 cohesion policy is made up of:

“ - an overarching regulation setting out common rules for the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund, the European Agricultural Fund for Rural Development (EAFRD), the European Maritime and Fisheries Fund (EMFF), and further general rules for the ERDF, ESF and Cohesion Fund;

- three specific regulations for the ERDF, the ESF and the Cohesion Fund; and
- two regulations on the European territorial cooperation goal and the European Grouping of Territorial Cooperation (EGTC)”²⁰.

Among the innovations of the new cohesion policy, we may identify as most important the following:

- 1) the internalization of the supra-principle of good governance as a strategic European configuring vector;
- 2) the macro-coherence by linking the cohesion policy to the objectives of the Europe 2020 Strategy and to the European Economic Governance, providing thus additional security clauses of systemic performance;
- 3) the meso-coherence by bringing together under the same "legislative umbrella" five investment funds underpinning the cohesion policy: ERDF, ESF, Cohesion Fund, EAFRD, EMFF and by an integrated programming approach (using more funds for a program);
- 4) the encoding of multilevel governance through partnership agreements approved by the European Commission;
- 5) the encoding of a systemic effectiveness by developing a well-defined performance framework in Annex II to the Regulation (EU) no 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006²¹ (hereinafter referred to as “Common Regulation”).

As already shown above, the five principles of good European governance defined in the White Paper on European governance are: “*openness, participation, accountability, effectiveness and coherence*” underlying in their turn the principles of proportionality and subsidiarity²².

In the table below, there have been summarized, in chronological order, the principles which formed the basis of the last three multiannual cohesion policies as provided by the specific regulations, as well as the principles set out in the 2001 *White Paper on European Governance*.

²⁰ European Commission, *Cohesion Policy 2014-2020 Investing in growth and jobs*, Luxembourg: Publications Office of the European Union, 2011, 1.

²¹ Published in the *Official Journal of the European Union*, L 347, Brussels, 20/12/2013.

²² European Commission, *European Governance — a White Paper*, 7- 8.

Table no. 1 - General Principles of the last three cohesion policies of the EU and principles of European good governance

Cohesion policy (2000-2006) Regulation (EC) no. 1206/1999 ²³	White Paper on European Governance (2001)	Cohesion policy (2007-2013) Regulation (EC) no. 1083/2006 ²⁴	Cohesion policy (2014-2020) Regulation (EU) no. 1303/2013 ²⁵
4 main general principles	5 principles of good governance + 2 supra-structural principles	9 main principles of intervention	4 main general principles of Union support for the ESI funds
1) <i>Complementarity and partnership</i> 2) <i>Coordination</i> 3) <i>Additionality</i> 4) <i>Compatibility</i>	1) 5 thematic principles a) openness, b) participation, c) accountability, d) effectiveness e) coherence and 2) 2 supra-principles a) proportionality and b) subsidiarity	1) <i>Complementarity, consistency, coordination and compliance</i> 2) <i>Programming</i> 3) <i>Partnership</i> 4) <i>Territorial level of implementation</i> 5) <i>Proportional Intervention</i> 6) <i>Shared Management</i> 7) <i>Additionality</i> 8) <i>Equality between men and women and non-discrimination</i> 9) <i>Sustainable development</i>	1) <i>Partnership and multi-level governance</i> 2) <i>Compliance with Union and national law</i> 3) <i>Promotion of equality between men and women and nondiscrimination</i> 4) <i>Sustainable development</i>

Source: Own creation on the basis of the mentioned regulations

At first sight, one may note that the last three cohesion policies had been underpinned by 4, 9 and 4 general principles respectively and the *White Paper on European Governance* appears, at least at terminological level, not to have had a significant effect on the 2007-2013 cohesion policy²⁶.

Thus, the 2007-2013 cohesion policy, the first one to be codified after the reform of European governance stands out through:

1. the almost *ad litteram* takeover and the *split of* the principles specific to the 2000-2006 cohesion policy, as follows:

- a) splitting the binomial principle of “complementarity and partnership” from the first policy and creating an independent principle of “partnership” in the second policy;

²³ Council Regulation (EC) no 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds, Official Journal of the European Communities, L 161, 26 June 1999.

²⁴ Council Regulation (EC) no 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999, Official Journal of the European Union, L 210, 31 July 2006.

²⁵ Regulation (EU) no 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006, Official Journal of the European Union, L 347, 20 December 2013.

²⁶ In this paper, we refer to the 2000-2006 cohesion policy as „first policy”, to the 2007-2013 cohesion policy as „second policy” and to the 2014-2020 cohesion policy as „last /current/third policy”.

- b) recovery of the principle of "complementarity" and "coordination" and the integration of the principle of "compatibility" from the first policy in a quadrilateral principle "complementarity, consistency, coordination and compliance" in the second policy²⁷;
 - c) taking over *ad litteram* as standing principle the principle of additionality.
2. the introduction of 6 new principles and a new sub-principle, namely:
- a) the sub-principle of coherence;
 - b) the principle of programming;
 - c) the principle of the territorial level of implementation;
 - d) the principle of proportionate intervention;
 - e) the principle of shared management;
 - f) the principle of equality between men and women and non-discrimination and
 - g) the principle of sustainable development.

3. the reloading of the *principle of coherence* from the 2001 *White Paper on European Governance* in the second cohesion policy as a sub-principle within the quadrilateral principle of "complementarity, consistency, coordination and compliance" and of the over-arching principle of proportionality underpinned by all five principles of good governance.

In this realm, we may conclude that the Union's governance reform does not seem to have had a big effect on the second cohesion policy, given the fact that only one principle is taken over as a sub-principle. On the other side, the Charter of fundamental rights of the European Union seems to have had a much larger influence as two new thematic principles stem from two fundamental rights: 1) the equality between men and women (article 23 of the Charter) and non-discrimination (article 21 of the Charter) and 2) sustainable development. Equality (Title III of the Charter) and non-discrimination represent fundamental rights codified as such in the Charter of fundamental rights, whereas the sustainable development stood out amid debates caused by climate change and consecration of the human rights of third generation. The principle of sustainable development is provided for under article 37 - Environmental protection of the Charter, which stipulates: "A high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of *sustainable development*"²⁸.

As concerning the other new principles, one may observe the integration of some new fundamental principles of the European Union, such as proximity (the principle of the territorial level of implementation) and proportionality (the principle of proportionate intervention), while the principle of programming and the principle of shared management stem from the lessons learned during the practice of the good management of European funds during the previous cohesion policy (1999-2006).

On the other hand, the present cohesion policy (2014-2020) stands out in terms of principles through the following:

- 1) the reduction of the number of general principles from 9 to 4;
- 2) the takeover of 4 principles from the previous cohesion policy (2007-2013), namely:
 - a) the principle of partnership;
 - b) the compliance with Union and national law;
 - c) the promotion of equality between men and women and non-discrimination;
 - d) the sustainable development.

²⁷ We consider that the conformity principle may encompass the compatibility principle.

²⁸ See Charter of fundamental rights of the European Union, Official Journal of the European Union, C 83, 30 March 2010.

3) the conversion of the *partnership principle* into a sub-principal of an over-arching binomial principle of first degree, namely: "*the principle of partnership and multilevel governance*".

THE PRINCIPLE OF PARTNERSHIP AND MULTILEVEL GOVERNANCE

This first principle embodies, at rhetorical level, both a new and an old principle:

- a) the principle of partnership is the principle maintained as such throughout the last three cohesion policies, while
- b) *the principle of multi-level governance* represents the great novelty at both rhetorical and practical level, through its codification as first strategic driving principle.

Basically, the new cohesion policy (2014-2020) has, as we have seen above, at its very heart the concept of good European governance which, moreover, is elevated to the rank of cross-cutting over-arching principle of the whole policy of cohesion. Thus, if in the previous cohesion policies, there had been mentioned only certain principles of good governance, in the current cohesion policy, the partnership and multi-level governance themselves become a binomial over-arching principle defined as first strategic principle. This principle encompasses both managerial traditionalism and modernism, between the traditionalism of the partnership specific to the first cohesion policy (1999-2006) under review herein and the modernism of the new EU governance released in 2001, but integrated in the new cohesion policy only in 2013²⁹.

At simple search of the term *governance* in the basic regulations of the 2007-2013 and 2014-2020 cohesion policies respectively, we find out that in the Regulation (EU) No. 1303/2013, the word governance appears 18 times while in the Regulation (EC) No 1083/2006 it is not mentioned at all. Moreover, in the table below, we present some statistics relating to the incidence of certain terms specific to good governance both in the Regulation (EC) no. 1083/2006, and in the Regulation (EU) nr. 1303/2013.

Table no.2 - Comparative incidence of terms specific to good governance in Regulation (EC) no. 1083/2006 and in Regulation EU no. 1303/2013

Term	Regulation (EC) No 1083/2006 (how many times the term is mentioned)	EU regulation no. 1303/2013 (how many times the term appears)
Governance	0	18
Openness	0	0
Transparency	3	3
Participation	6	15
Partnership	22	155
Accountability	0	1
Responsibility	0	24
Performance	8	90
Coherence	5	17
Efficiency	5	38
Effectiveness	9	29
Effective	11	80

Source: Own searches

At a first analysis of the table above, it is remarkable the increase in the use of the concepts specific to good governance in the third cohesion policy in comparison to the second

²⁹ We mention the year 2013 as it is the year of adoption of the Common Regulation (EU) no. 1303/2013 codifying the third cohesion policy.

cohesion policy. The fact that the term *governance* is not even mentioned in the 2006 Regulation whereas it appears 18 times in the 2013 Regulation is more than significant. At the same time, there should be noted the progressive evolution of the principle of partnership in the rhetoric of the cohesion policy. If in the Regulation codifying the second cohesion policy (2007-2013), the *partnership* appears 22 times, in the current Common Regulation it appears 155 times. We obviously see *partnership* as a more sophisticated variant of *participation*. Another surprising trend is the use of the terms *effectiveness and effective*. Thus, if in the 2006 Regulation, effectiveness occurs 9 times and effective 11 times, the Common Regulation words them 29 and 80 times respectively, with an obvious steering of the new cohesion policy towards a systemic performance measurable by fulfilled objectives. Even more, the term *performance* itself conceptually encapsulating effectiveness appears 90 times in the new 2013 Regulation, more than tenfold compared to the previous 2006 Regulation where it appears only 8 times. Not to mention that Annex II to the Common Regulation provides even the *Method for establishing the performance framework*, which had not at all been the case for the previous cohesion policy.

The terminological analysis reveals that the good governance had not been applied consistently within the framework of cohesion policy, be it directly or indirectly. Of course there are some relativizing factors of this analysis in the sense that the present Common Regulation (EU) no. 1303/2013 regulates common provisions for 5 European funds (ERDF, ESF, Cohesion Fund, EAFRD, EMFF), whereas Regulation (EC) no 1083/2006 concerned 3 funds (European Regional Development Fund, the European Social Fund and the Cohesion Fund).

As regards the *principle of partnership and multilevel governance*, this is codified under article 5 of the Common Regulation. The principle of partnership and multilevel governance is the first general principle, the overarching principle configurating the whole management of EU funds, being the very first principle provided for under Title I - *Principles of Union Support for the ESI Funds* of Part Two - *Common Provisions applicable to the ESI Funds* of the Common Regulation.

The general principles are also detailed in the *Common Strategic Framework* contained in annex I to Common Regulation. For instance, the *principle of partnership and multilevel governance* is provided for as follows:

„ 5.1 Partnership and multi-level governance

1. In accordance with Article 5, the principle of partnership and multi-level governance shall be respected by Member States in order to facilitate achieving social, economic and territorial cohesion and delivery of the Union's priorities of smart, sustainable and inclusive growth. In order to respect those principles coordinated action is required, in particular between the different levels of governance, carried out in accordance with the principles of subsidiarity and proportionality, including by means of operational and institutional cooperation, with regard to the preparation and implementation of the Partnership Agreement and programmes.

2. Member States shall examine the need for strengthening the institutional capacity of partners in order to develop their potential in contributing to the effectiveness of the partnership”³⁰.

In the interview given to *Panorama Magazine*, Jose Manuel Barroso considered that “The partnership principle is at the heart of the reforms and it is now crucial that all relevant

³⁰ Annex I to Regulation (EU) no 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006, Official Journal of the European Union, L 347, Brussels, 20/12/2013.

stakeholders are involved in the implementation of the programmes: relevant ministries, regions, municipalities, professional organisations, research centres, businesses or social partners"³¹. It is precisely in this context, that one of the innovations of the new cohesion policy is the "partnership agreements" defined under article 2 point 20 of the Regulation (EU) no. 1303/2013.

In our opinion, the partnership agreements represent secondary codification tools of *the partnership and multilevel governance principle* at national level, providing upstream the cohesion policy, certain legal guarantees given by each country for the intention of effectively implementing the regulation, namely for an efficient and effective management of EU funds in order to reach final concrete results. The partnership agreements represent preliminary safety clauses for the national implementation of European cohesion policy, so much more that the approval by the European Commission is subject to *ex ante* conditionalities.

On the other hand, returning to the principles of good governance codified by the European Commission in 2001, the *participation* had been defined as the second pillar of good governance as follows:

„Participation. The quality, relevance and effectiveness of EU policies depend on ensuring wide participation throughout the policy chain — from conception to implementation. Improved participation is likely to create more confidence in the end result and in the institutions which deliver policies. Participation crucially depends on central governments following an inclusive approach when developing and implementing EU policies"³².

The four sections of proposals for change provided in the White Paper on European Governance related to 1) “improving involvement in shaping and implementing EU policy”, 2) „improving the quality and enforcement of EU policies”, 3), „a stronger link between European governance and the role of the Union in the world and 4) the „role of the institutions”.³³

In terms of "multilevel governance", although the phrase appears as such only once in the 2001 White Paper, its message is of utmost importance even in 2014:

"The white paper showed a tangible Europe, which is growing; a Union based on multilevel governance in which each actor contributes, in accordance with his capacities or knowledge to the success of the exercise. In a multilevel system, the real challenge is to establish clear rules for how competence is shared-not separately; only non-exclusive vision can ensure that the best interests of all Member States and all citizens of the Union "³⁴.

CO-DECISION AS RELOADER OF GOOD GOVERNANCE PRINCIPLES

At this point, one may wonder why it is only a decade after its official launch that the concept of European good governance has become a driving vector for the entire configuration of the cohesion policy (2014-2020), which had not happened in the case of the previous cohesion policy (2007-2013)?

One of the explanations may be the new legal basis for the adoption of the cohesion policy. With the entry into force of the Treaty of Lisbon, the cohesion policy has entered, in terms of adoption, under the ordinary legislative procedure (co-decision). Therefore, it did involve, as co-legislator, the European Parliament which must primarily protect the interests of Europeans who are first and foremost concerned about the unemployment and the economic situation of their country. Furthermore, the European Parliament's effectiveness can be measured precisely by the reactivity of concrete policies to the needs of European citizens.

³¹ European Commission, „Cohesion policy – A real driver for Growth in Europe”, 7.

³² European Commission, *European Governance — a White Paper*, 7.

³³ European Commission, *European Governance — a White Paper*, 8.

³⁴ European Commission, *European Governance — a White Paper*, 29.

Therefore, given the amount of the budget of the third cohesion policy and its potential implications on the everyday life of Europeans, the European Parliament had been more than interested in the negotiations thereon.

The 2013 autumn and the 2014 spring two Eurobarometers (EB 81 and EB 80) identified, through questioning European citizens, as most important issues at national level and at personal level: unemployment, economic situation and rising prices/inflation. In the table below, we synthesized comparatively the data obtained from the two Eurobarometers.

Table no.3 - Main concerns of Europeans at national and personal levels in 2013-2014

Main concerns of Europeans at national and personal levels	EB 81 (Spring 2014)		EB 80 (autumn 2013)	
	National level	Personal level	National level	Personal level
Unemployment	48%	21%	49%	20%
Economic Situation	29%	15%	33%	17%
Rising prices/inflation	16%	32%	20%	40%

Source: Own creation based on figures provided in the EB 80³⁵ and EB 81³⁶

If we go back to the strategic objectives of the cohesion policy already listed above, one should recall that the cohesion policy represents “EU's principle investment tool for delivering the Europe 2020 goals: creating growth and jobs, tackling climate change and energy dependence, and reducing poverty and social exclusion”³⁷. The first two strategic goals of the Europe 2020 Strategy and subsequently of the 2014-2020 cohesion policy respond to the concrete needs of European citizens. Furthermore, the title of a 2013 Memorandum of the European Commission underlined the clear orientation of the cohesion policy towards economic growth and job creation: "Refocusing EU Cohesion Policy for Maximum Impact on Growth and Jobs: The Reform in 10 points"³⁸.

At the same time, it is also the ordinary legislative procedure of the cohesion policy, which turned the negotiations on the Common Regulation (EU) no. 1303/2013, into a true procedural show directed by the European Parliament eager to affirm itself on the stage of co-decision as protector of the Europeans' interests. Thus, the negotiations on that regulation entailed more than 50³⁹ trilogues⁴⁰. A head of unit from the Committee of regions, refers in an article, to even more than 70 meetings in trilogues under the Irish Presidency⁴¹.

Considering that, under Irish Presidency in the first half of 2013, there occurred around 400 trilogues targeting about 100 of dossiers in co-decision⁴², which means an average of 4

³⁵ European Commission, *Standard Eurobarometer 80. Public Opinion in the European Union*, First Results. Autumn 2013. Retrieved . http://ec.europa.eu/public_opinion/archives/eb/eb80/eb80_first_en.pdf

³⁶ European Commission, *Standard Eurobarometer 81. Public Opinion in the European Union*, First Results. Spring 2014. Retrieved http://ec.europa.eu/public_opinion/archives/eb/eb81/eb81_en.htm

³⁷ European Commission, *Cohesion Policy 2014-2020*, [Online]

³⁸ European Commission, *Refocusing EU Cohesion Policy for Maximum Impact on Growth and Jobs: The Reform in 10 points*, MEMO/13/1011, Brussels, 2013. Retrieved, http://europa.eu/rapid/press-release_MEMO-13-1011_en.htm

³⁹ European Parliament, Conciliations and Codecision Secretariat, *20 Years of Codecision*. Conference report, Brussels, 2013, 27.

⁴⁰ Trilogues represent informal negotiation structures between the Council of the EU, the European Parliament and the Commission and had been set up ever since 1994.

⁴¹ Petzold, Wolfgang, “Conditionality, Flexibility, Unanimity: The Embedded 2013 Reform of EU Cohesion Policy”, *European Structural and Investment Funds Journal*, 1, 2013, 11.

⁴² European Parliament, Conciliations and Codecision Secretariat, *20 Years of Codecision*, 26-27.

trilogues per adopted legal act, the number of 70 trilogues for the legislative package on the Cohesion Policy is more than impressive. According to a Report of the European Parliament, it usually takes three trilogues to reach an agreement, while, in the case of more complex dossiers, there may be necessary 5 or more trilogues⁴³.

Consequently, the co-decision procedure and subsequently the European Parliament might have acted upon the very *ex ante* effectiveness of the new cohesion policy by reloading the principles of good European Governance. In our opinion, at least at terminological level, the practical translation of the good governance principles in the Regulation (EU) no. 1303/2013 is impressive.

A second explanation concerns the economic and financial crisis emerged in 2007 which determined, much more than the resignation of the Santer Commission in 1999, the systemic reform of the European Commission. It is obvious that the 2001 White Paper codified the European governance reform, but it determined rather a rhetorical than a practical reform of European governance. How could one otherwise explain that the cohesion policy of the EU had been configured only after 12 years on the basis of an over-arching good multilevel governance conceptualized ever since 2001?

Furthermore, the 2001 White Paper on European Governance represented for the European Commission a window of opportunity to counterbalance the loss of power within the "interinstitutional triangle". Vlad Constantinesco identified two ways in which the Commission sought to respond to "its loss of influence" against the other European institutions, namely: a) *the launch of the White Paper on European governance in 2001* and b) *the reformation of its mode of action in accordance with the principles of proportionality and subsidiarity with a view to „better regulation”*⁴⁴.

In this framework, *good governance* represents a means to strengthen and revitalize the *technocratic legitimacy* of the Commission within co-decision, opening a complex experimental field for the European Commission itself. The visible application of good governance principles in all policies could only strengthen the European Commission. Therefore, it is still difficult to understand why they have been fully activated only in the 2014-2020 cohesion policy?

One explanation could be the ordinary legislative procedure as new legal basis for the cohesion policy and the subsequent strengthened role of the European Parliament in the negotiations on the 2014-2020 cohesion policy. All that might have entailed a subsequent higher pressure on the European Commission within the co-decisional triangle. Thus, reloading the good governance principles within the new cohesion policy of the EU represented a means for the Commission to reactivate its technocratic legitimacy and strengthen its inter-institutional position in front of a more powerful European Parliament. Practically, the ordinary legislative procedure might have acted as a reloader of the good governance principles within the 2014-2020 cohesion policy of the EU.

INSTEAD OF CONCLUSIONS

In the present article we have shown how the concept of good European governance launched in 2001 by the European Commission waited 12 years to be encoded in the common Regulation (EU) no. 1303/2013 which underlies the new cohesion policy (2014-2020) to be implemented from now on. What would have been the fate of the 2007-2013 cohesion policy, if the European Commission would have granted more importance to the multilevel governance and performance issues at least ever since 2006, just five years after the launch of the White

⁴³ European Parliament, Committee on the Environment, Public Health and Food Safety, Activity report for the 7th parliamentary term 2009 – 2014, Brussels, 2014, 9.

⁴⁴ Constantinesco, Vlad, *Le nouvel équilibre institutionnel* in *Revue des affaires européennes*, 2, 2006, 218.

Paper on European governance? What would have been the fate of the governance reform itself if its 2001 rhetoric would have been translated much earlier into practical functioning?

Does the European Commission, as a *sui generis* institution, have such a strong institutional personality that it has become refractory to any change and it needs more time (12 years in this case) and some external shocks (the financial crisis) in order to move on and to undergo a practical reform, in this case, the reform of the cohesion policy governance?

If the European Commission is unable to reform itself from inside, and the reform of European governance launched in 2001 was supposed to be an extra-institutional extension of the managerial reform of the Commission, to what extent is it ready to steer an effective European governance reform and, consequently, a reform of the European policies in order to respond in a timely manner to the unforeseen requirements of the current world?

REFERENCES

1. *Charter of fundamental rights of the European Union*, Official Journal of the European Union, C 83, 30 March 2010.
2. **Constantinesco, Vlad**, *Le nouvel équilibre institutionnel* in *Revue des affaires européennes*, 2, 2006, 215-221.
3. **Council of Europe**, European Commission for Democracy through Law - Venice Commission, *Stocktaking On The Notions Of “Good Governance” and “Good Administration”*, Study no. 470/ 2008, Strasbourg, 2011. Retrieved [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL\(2011\)006-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL(2011)006-e)
4. *Council Regulation (EC) no 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds*, Official Journal of the European Communities, L 161, 26 June 1999.
5. *Council Regulation (EC) no 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999*, Official Journal of the European Union, L 210, 31 July 2006.
6. **European Commission**, *Cohesion Policy 2014-2020*, [Online], Retrieved http://ec.europa.eu/regional_policy/archive/what/future/index_en.cfm accessed 13/05/2014.
7. **European Commission**, *Cohesion Policy 2014-2020. Investing in growth and jobs*, Luxembourg: Publications Office of the European Union, 2011. Retrieved http://ec.europa.eu/regional_policy/sources/docoffic/official/regulation/pdf/2014/proposals/regulation2014_1_eaflet_en.pdf.
8. **European Commission**, “Cohesion policy – A real driver for Growth in Europe“, Interview with the President of the European Commission, José Manuel Barroso, in *Panorama Magazine - Cohesion policy 2014-2020 Momentum builds*, 48, Brussels, 2013, 4-7. Retrieved http://ec.europa.eu/regional_policy/sources/docgener/panorama/pdf/mag48/mag48_en.pdf
9. **European Commission**, *European Governance — a White Paper*, COM(2001) 428 final, Official Journal of the European Communities, C 287/01, Brussels, 2001. Retrieved <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52001DC0428&rid=2>
10. **European Commission**, *Refocusing EU Cohesion Policy for Maximum Impact on Growth and Jobs: The Reform in 10 points*, MEMO/13/1011, Brussels, 2013. Retrieved, http://europa.eu/rapid/press-release_MEMO-13-1011_en.htm
11. **European Commission**, *Reforming the Commission - A White Paper - Part I*, COM/2000/0200 final, Brussels, 2000. Retrieved [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52000DC0200\(01\):EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52000DC0200(01):EN:HTML)
12. **European Commission**, *“Regulatory fitness”: Making the best of EU law in difficult times*, Press Release, IP/12/1349, Brussels, 12 December 2012. Retrieved http://europa.eu/rapid/press-release_IP-12-1349_en.htm
13. **European Commission**, *Standard Eurobarometer 80. Public Opinion in the European Union*, First Results, Autumn 2013, 2013. Retrieved http://ec.europa.eu/public_opinion/archives/eb/eb80/eb80_first_en.pdf
14. **European Commission**, *Standard Eurobarometer 81. Public Opinion in the European Union*, First Results, Spring 2014. Retrieved http://ec.europa.eu/public_opinion/archives/eb/eb81/eb81_en.htm
15. **European Parliament**, Conciliations and Codecision Secretariat, *20 Years of Codecision*. Conference report, Brussels, 2013.
16. **European Parliament**, Committee on the Environment, Public Health and Food Safety, *Activity report for the 7th parliamentary term 2009 – 2014*, Brussels, 2014.
17. **Peterson, John; Shackleton, Michael**, *The Institutions of the European Union*, 2nd Edition. New York: Oxford University Press, 2006.
18. **Petzold, Wolfgang**, *Conditionality, Flexibility, Unanimity: The Embedded 2013 Reform of EU Cohesion Policy*, *European Structural and Investment Funds Journal*, 1, 2013, 7-14. Retrieved https://www.academia.edu/4760470/Conditionality_flexibility_unanimity_the_embedded_2013_reform_of_EU_cohesion_policy_EStIF_1-2013_pp_7-14
19. **Reflection Group on the Future of the EU 2030**, *Project Europe 2030. Challenges and Opportunities*, A report to the European Council by the Reflection Group on the Future of the EU 2030, Brussels, 2010. Retrieved http://www.consilium.europa.eu/uedocs/cmsUpload/Reflection_EN_web.pdf.
20. *Regulation (EU) no 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and*

- Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006*, Official Journal of the European Union, L 347, 20 December 2013.
21. **Timsit, Gerard.** *The French Administration Reflected by Words – and Safe from Crises*, Paris, [Online] Retrieved http://www.iias-iisa.org/wp-content/uploads/G%C3%A9rard-Timsit-Paper_en.pdf, accessed 01/08/2014.