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Contents

THE PLACE AND ROLE OF A GENERAL CLIMATE LAW IN THE LEGAL ARHITECTURE FOR FIGHTING FOR CLIMATE CHANGE

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Abstract: *Being a global problem par excellence, climate change also implies, from a legal governance point of view, to address it globally and to act jointly and complementarily at local, national, regional and international levels. The related regulatory process developed and crystallized in this way vertically through regulatory systems with phased legality, and horizontally starting from a framework regulatory act continued and individualized by specific provisions. Following this reasoning, the initial momentum was given at global level by the Framework Convention on Climate Change, with the Kyoto Protocol and the Paris Agreement, then followed within EU by the European Climate Law, with the "Fit for 55" package and, respectively, as rule in relation to the States, the national climate laws and the developing legislative mechanism within them.*

From this perspective, the legal-climate architecture in Romania also implies drafting a general climate law which establishes the national framework for achieving the ecoclimatic objectives adopted at European level and tailored to domestic conditions, by sectors of activity, establishing the carbon balance in stages, specific measures, structured both on mitigation, resilience and adaptation, as well as a series of institutional decisions.

Keywords: *European Climate Law, Environmental law, Climate law, "Fit for 55", Carbon neutrality, Climate act, Right to a stable climate, Romanian climate law, EU climate law, Paris Agreement.*

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Legal regulation perceives and expresses the climate need in its own terms and with specific meanings. The law thus created, which relates to climate change caused by greenhouse gas emissions generated by human activity, is the result both of a reaction to the alarm signals from scientists regarding the irreversible degradation of the climate and of the harmful consequences of this phenomenon for the system of life on the planet. The interest in climate was thus first established scientifically and then brought to the international community in order to develop and adopt treaties and intergovernmental agreements, starting with the Framework Convention on Climate Change (1992), followed by the Kyoto Protocol (1997) and the Paris Climate Agreement (2015). Having thus been prefigured, the international climate law was at first very general and slightly binding, then went through a phase characterized by a greater legal force, with a marked economic emphasis (the Kyoto Protocol) and today is in a phase of voluntary commitments (under the form of nationally determined contributions), but which has more varied instruments that are more adapted to the evolution of the international community and civil society (the Paris Agreement). Despite the difficulty of reaching an international agreement able to translate the need to "stabilize the climate system" into firm and concrete legal obligations, there have been substantial changes and important developments at regional level. This is first and foremost the case of the European Union, which has been a pioneer and an example in the adoption of strategies, policies, and legal regulations on the mitigation of GHG emissions, adaptation and resilience to the effects of climate disorder. Following the course of the international political-normative process, which started with a framework regulation and continued through protocols and other adoption and particularization instruments based on the results of new climate assessments, EU climate law has already reached the necessary systematization phase by means of the Green Deal (2019) (Duțu, 2022, p. 588 et seq; Duțu, 2021, p. 66 et seq; Thieffry, 2022, p. 17 et seq)). For this purpose, the general framework reformulated in the perspective of the vision and in the implementation of the objectives and commitments stipulated by the Paris Agreement was established by Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality, which will be developed, in a first phase, through amendments to the pre-existing legislative texts, as well as through the regulations related to the "Fit for 55" package announced in 2022. For the EU Member States, an intermediate legal level is thus established in relation to the original and global legal dimension, on one hand, and to that of a domestic law which is also undergoing a profound transformation, initiated by the adoption of general domestic climate laws, as a framework regulatory foundation on which to build the entire national regulatory edifice for taking over and specifically transforming international regulations and transposing those of the European Union. National legislative framework acts on climate are not limited to taking over the international and European acquis, but imply, in addition to reflecting its content in domestic terms, also establishing the relevant regulatory-institutional context, and specificities and developments corresponding to the social, economic, legal and ecoclimatic realities of each country, so as to crystallize an efficient domestic environmental and climate law, integrated into the general membership system. From this perspective also in the case of Romania, an EU Member State and State Party to the Paris Climate Agreement (2015), it is necessary to draft and adopt a general climate law, based on and subject to which the national climate law should be

crystallized, in full agreement with the pre-existing international and European Union guidelines. The premises for this legislative approach are, first and foremost, the experience of comparative law in this area, especially the European experience, as well as the European Climate Law of 30 June 2021. This is thus imposed, both as a requirement for harmonizing Romanian law with the European regulatory level and for its own development, namely the establishment, through codification, or at least a first systematization and rationalization, of the new environmental and climate law.

2. "Climate Law", Climate Legislation

According to a dictionary definition, "climate law" means the legal deed, adopted by a legislative power, which specifies the level of ambition to be achieved in order to fight climate change or the requirements to adapt to the conditions generated by climate change, while setting out the milestones to enable these objectives to be achieved (Missone, 2022, p. 343-344). Thus, from this perspective, the phrase does not primarily and stricto sensu refer to the entire body of legislation aimed at mitigating greenhouse gas (GHG) emissions or adapting to the effects of climate change, but only to the special regulatory deed adopted to provide for long-term objectives and establish the appropriate mechanisms related to the governance needed to achieve them. Lato sensu, however, it concerns any reference text of a regulatory-legislative nature that establishes the essential milestones of a transformation towards a low-carbon society. The actual expression "climate law" was inspired by the UK Climate Act of 2008, which at the time was the result of the demands of the associative sectors, and which has gradually succeeded in gaining the support of the economic sectors through its clarity and effectiveness. Last but not least, it was the first piece of legislation to incorporate a logic of long-term transformation of society from a climate perspective. The dissemination of the concept as part of the implementation of the 2015 Paris Climate Agreement has become one of the recurring demands of climate protesters or associations that have taken legal action under climate litigation. Since it is mainly a concept and in the absence of a standardized model (as it happened in the 1990s with the model law on the environment developed within the Council of Europe), its main constitutive elements may possibly result from an analysis of comparative law. At the same time, the existence of a European Climate Law (at European Union level) gives us important benchmarks in this respect, at least for EU Member States.

It is considered that a "climate law", regardless of the title conferred, is identified by reference to its components, which essentially concern: the setting of concrete medium- and long-term eco-climate objectives, requiring the emergence of a notion of path whose temporal dimensions will go beyond the short timeframe of the political agenda; the creation of an institutional infrastructure aimed at improving the quality of the benchmarks, among which the creation of a high independent authority with the task of objectifying data and interpreting the competences conferred with the implementation of such objectives; obligations of transparency and accountability to the respective legislative assemblies; mechanisms for consultation involving stakeholders, including civil society (Averchenkova, Fankhauser & Nachmany, 2017, p. 61) .

Irrespective of the strong symbolic dimension, the legislator's intervention is considered necessary in climate matters for reasons of legal security and protection of fundamental rights. Incorporating climate objectives into legislation is an immediate source of rights and obligations, including collective ones, which by no means provide mere programmatic instruments having only the authority of a recommendation. The connection with fundamental rights calls for legislative action for two opposing but complementary reasons. First, in democratic regimes, any limitation on the exercise of fundamental rights and freedoms - being aware that the demands of the ecoclimatic transition could limit the rights of certain investors or the freedom for business - must be provided for by law and in compliance with the essential content of fundamental rights; by virtue of the principle of proportionality, such limitations may be made only if they are deemed necessary and effectively meet the objectives of general interest established by the legislator or the need to protect the rights and freedoms of others. In another context, that of arbitration operating under investment protection treaties, choices are made democratically - the essence of which is the legislative process - and are decisive. Then, constitutional requirements laid down in many countries (e.g., the right to a healthy and ecologically balanced environment) seldom have a direct effect and require the legislator to determine precisely its terms and conditions. Only in case they are included in texts situated at the top of the hierarchy of rules, long-term objectives, established by legislative assemblies, are likely to be modified, only at the level of elections and changes of majority, by rules with the same level, as long-term continuity is the best guarantee in legal orders where legislative work is subject to non-regression mechanisms (such as the notion of standstill, also in Romanian law) which has inspired the requirement of progression in the matter contained in the Paris Agreement (Misonne et al., 2020, p. 124).

The notion and practice of a "climate law" is now present and operating at all levels, whether at European (EU Regulation 2021/1119 of 30 June 2021), national, federal, or even local level. The emergence of such special laws is particularly noticeable in Europe (such as in: France, Germany, Belgium, Denmark, Spain, Finland, Hungary, Ireland, Norway, The Netherlands, United Kingdom, Sweden, etc.), but also on other continents such as, for example, in New Zealand (Climate Change Response Zero Carbon Act 2019) or in New York State in the USA (Climate Leadership and Community Protection Act 2019). In a certain way all these specific legislative reactions are direct and indirect legal expressions of the ratification and implementation of the 2015 Paris Agreement.

Of course, the drafting and adoption of a climate law are also conditioned by the institutional and constitutional particularities of each legal order, beyond the political opportunities and contingencies. The characteristic of such dimensions concerns in particular the fact that failure to take account of such a context risks rendering it ineffective, especially with regard to compliance with the paths set in the long term. The question of whether countries that do not have such laws are more or less successful in actually reducing GHGs or achieving climate neutrality, as compared to more traditional legislation, remains a benchmark (Scotford, Minas, 2019, p. 67-81)

3. The French Example of the "Climate and Resilience Law"

French legal regulations in this field already have a history of their own and are subsumed in the broad sense of the generic notion of "climate law". First, the Law on Energy Transition for Green Growth (LTCEV) of 2015 is considered the milestone of the new energy policy, introducing energy transition as a method of mitigation and adaptation to climate change. It concerns all human uses of natural resources and not only the production and useful consumption of energy; it also aims to reduce energy consumption; promote the circular economy; diversity of the energy mix; transparency of governance of public actors; fight against food waste. It has been the matrix of the following laws with relevance in this field, in particular those on mobility, anti-waste for a circular economy, energy-climate as well as climate and resilience.

The Law of 8 September 2019 on Energy and Climate (LREC) is a step forward. It is distinguished by the explicit association of these two elements (energy and climate). As an echo of the Government's 2017 climate plan, the regulatory act integrates the notion of "carbon neutrality", which it defines (in Article 1) and sets a timeframe for achieving, namely 2050. Associated with these climate targets are various energy targets. To this end, extensive governance reforms and numerous material innovations have also been made.

Thus, in terms of governance, LREC reinstates Parliament's role in defining strategic energy and climate planning, which was previously largely seized by the Government. The law will establish every five years the priorities for action of the public powers "for the management of all forms of energy on the continental metropolitan territory" (Art. 2), and the planning documents (Multiannual Energy Programming and National Low Carbon Strategy) will therefore have to be drawn up in accordance with this law (Le Baut-Ferrarese, Durand, 2020, p. 12-19). "Private" governance instruments are put in place, thus increasing the constraints on operators which are subject to the obligation to produce a GHG balance sheet and/or to make an extra-financial performance statement; the obligation for financial institutions to inform their clients about the climate risk of their investment portfolio. Regarding the material innovations, new mechanisms are introduced to support innovative technologies for the production of renewable electricity in the form of an "experimentation contract" (Art. 30); facility for setting up renewable energy production units (Art. 35-49). Finally, by introducing the notion of "resilience" in its title, the Law of 22 August 2021 on Combating Climate Disruption and Strengthening Resilience (LDCR) adds the dimension of adaptation. Also known as the "Climate and Resilience Law", the new regulatory act aims to accelerate the ecological transition of French society and economy. Intended as a transcription of the measures proposed by the Citizens' Climate Convention, the law includes provisions on additional measures bearing meanings not unrelated to the adaptation context, such as: the ban on inland flights when there is an alternative of rail transport, without connection, on heated or acclimatized terraces, on thermal "strainer" in buildings, the programmatic nature of the targets set for the State, etc.

The text of the law comprises 305 articles distributed in 8 titles and is structured around five themes: consumption, production and work, travel, housing, and land artificialization, food and it

toughens the criminal sanctions applicable for damages to the environment and climate. According to Article 1 "The State undertakes to comply with the target set in April 2021 by the EU: at least 55% reduction of GHG emissions by 2030" (Douteaud & Roche, 2022, p. 13).

4. European Climate Law

4.1. Initiation and Progress of Climate Regulation at European Union Level

European Union has been a pioneer and an example in the adoption and implementation of legal regulations on climate protection (Thieffry, 2020, p. 16). The first measures of this kind date back to 1993, just after the adoption of the Framework Convention on Climate Change (1992) and consist of the establishment of an emissions monitoring mechanism. The centerpiece of the current SEQUE device, a market tool, has been gradually expanded and strengthened. The first "legislative package" was adopted in 2009 with a view to achieving the objective of reducing GHG emissions by 20% by 2020. Its components were different but complementary: a decision on the effort made by the Member States to reduce their GHG emissions, three directives on promoting the use of energy from renewable sources, specifications for fuels and geological storage of CO2 and a regulation on emissions from private cars. Then, two other "legislative packages" aiming to implement the Paris Agreement - and thus the target of a reduction of the emissions by 40% - generated a series of regulations and directives. The first one, the so-called "transition to a low-carbon economy" package, classically based on Art. 192 para. 2 of the EU Treaty, comprises two regulations of 30 May 2018: Regulation (EU) 2018/842 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and Regulation 2018/841 on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework. The second one, the "clean energy" package, adopted based on Article 194 TFEU, consists of Directive 2018/2001 of 11 December 2018 on the promotion of the use of energy from renewable sources, Directive 2018/44 of 30 May 2018 amending Directive 2010/31/EU on the energy performance of buildings, and Directive 2012/27/EU on energy efficiency. Regulation 2018/1999 also of 11 December 2018 on the Governance of the Energy Union and Climate Action, based on Articles 192 and 194 and reinforces EU's possibility to achieve its reduction target despite Member States' reluctance to subscribe to individual binding commitments. Other regulations have been adopted under sectoral policies, such as Regulation 2019/631 of 17 April 2019 setting CO2 emission performance standards for new passenger cars and for new light commercial vehicles, or Regulation 510/2011 of 11 May 2019 setting emission performance standards for new light commercial vehicles as part of the Union's integrated approach to reduce CO2 emissions from light-duty vehicles. All these pieces of legislation will be revised and supplemented in application of the European Green Deal and the European Climate Law, which gave normative force to its main subject and revealed the interim target of a 55% reduction in emissions by 2030, without specifying the means. It is the subject of a new legislative package entitled "Adjustment to the 55 objective" and concerns 15 legislative acts containing measures that are either entirely new or strengthen the existing climate and energy legislation.

4.2. EU Framework Law on Climate

Expressing the EU framework regulation for the legal transposition of the Green Deal (2019), Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 ("European Climate Act"), by the very subsidiary name adopted, underlines the unity of the climate action at European Union and Member State level, expressly stressing that "the relevant Union institutions and the Member States shall take the necessary measures at Union and national level, respectively, to enable the collective achievement of the climate-neutrality objective... taking into account the importance of promoting both fairness and solidarity among Member States and cost-effectiveness in achieving this objective" [Art. 2 (2)]. We must keep in mind that the Green Deal represents a new architecture of European governance, referring to a conglomerate of old measures and techniques, but brought together in a regulatory ecosystem, a new configuration of the principle of coherence. This architecture gives meaning to the primacy of the ecoclimate transition, for reordering EU substantive law starting from the new rights and imposing no less a new form of planning, necessary to protect future rights (Berrod, 2021, p. 68).

In justifying the new regulatory climate support, which will eventually involve the adoption of some 50 new or supplemented and updated legislative acts at EU level, a number of reasons and dimensions specific to the issue at hand have been taken into account. From a legal point of view, the European Union Climate Framework Law responded to the EU's commitment to step up its efforts to fight climate change and was intended to ensure the implementation of the 2015 Paris Agreement and as such "guided by its principles and on the basis of the best available scientific knowledge, in the context of the long-term temperature goal set". In terms of public policy, the legal requirements were expressed for the new growth strategy (European Green Deal), which aims to transform the Union into a fair and prosperous society with a modern, competitive and resource-efficient economy with no net greenhouse gas emissions in 2050 and with economic growth decoupled from the use of resources.

The scientific argument primarily started from the findings and conclusions of the 2018 IPCC Special Report on the impact of global warming of 1.5ºC above pre-industrial levels and related global greenhouse gas emission pathways, which reveals the need to mitigate and limit warming to 1.5ºC in particular to reduce the possibility of extreme weather phenomena and of reaching tipping points in the field. At the same time, the connections of climate change in biodiversity erosion are taken into account, in the context of data from the IPBES 2019 Global Assessment Report on Biodiversity and Ecosystem Services. Finally, such a legal approach was required because of the essential need to set a long-term objective - that of climate neutrality - in order to contribute to the economic and societal transformation implied by the eco-climate transition. With such a vision, the EU legislative act aims to establish a "framework for the irreversible and gradual reduction of anthropogenic greenhouse gas emissions by sources and enhancement of removals by sinks regulated in Union law" [Art. 1 (1)], and to set out a "binding objective of climate neutrality in the Union by 2050 in pursuit of the long-term temperature goal set out in point (c) of Article 2(1) of the Paris Agreement and provides a framework for achieving progress

in pursuit of the global adaptation goal…" [Art. 1 para. (2)]. From this perspective, the regulatory act first provides for the climate neutrality objective according to which a Union-wide balance between GHG emissions and removals, which are regulated in the Union law, shall be achieved by 2050 at the latest, so as to reach net zero emissions by that date, and EU aims to achieve a negative emissions balance thereafter [Art. 2 (1)]. The Union's interim climate objectives include a binding one for 2030 to reduce domestic GHG emissions (emissions after removals) by at least 55% compared to 1990 levels and another for 2040 to be set by a legislative act, based on a detailed impact assessment (Art. 4). In line with Article 7 of the Paris Agreement, the relevant Union institutions and the Member States ensure continued progress in enhancing adaptive capacity, strengthening resilience and reducing vulnerability (according to a first strategy in this area, set in 2021). The European Scientific Advisory Board on Climate Change serves as a "point of reference for the Union on scientific knowledge relating to climate change by virtue of its independence and scientific and technical expertise", in accordance with the tasks laid down in Article 3 of the Climate Regulation. Its work is based on the best available and most recent scientific evidence, including the latest reports from the IPCC, IPBES and other international bodies. In the context of enhancing the role of science in the field of climate policy, each Member State is invited [Art. 3 para. (4)] to establish a national climate advisory body, "responsible for providing expert scientific advice on climate policy to the relevant national authorities as prescribed by the Member State concerned". By establishing such advisory body, the Member State informs the European Environment Agency (EEA) thereof.

An assessment of the Union's progress and measures in this field is conducted, first by 30 September 2023 and every five years thereafter [Art. 6 (1)]. Also, such an operation with the same timeframe is carried out by the European Commission in respect of the relevant national measures, both from the point of view of consistency with the climate neutrality objective of the national long-term strategies and the biennial progress reports, and with ensuring progress on adaptation respectively (Art. 7).

The *public participation* supposes the Commission to work with all parts of society "to enable and empower them to take action towards a just and socially fair transition to a climate-neutral and climate-resilient society" (Art. 9). To this end, the EU executive authority "shall use all appropriate instruments, including the European Climate Pact (ECP), to engage citizens, social partners and stakeholders, and foster dialogue and the diffusion of science-based information about climate change" and the related social aspects. Launched in 2021, the ECP is a framework to promote, through an online platform and dialogue and information exchange, the dissemination of scientifically sound information on climate action and to provide practical advice in a concrete context.

5. Premises and Elements of a General Climate Law in Romania

In order to achieve the commitments under the Paris Agreement (2015), to transpose and to create the conditions for the implementation of the strategic documents and legal regulations adopted by the European Union in pursuit of the ambition to become the first climate-neutral economy and

society by 2050, with an intermediate target of reducing GHG emissions by at least 55% compared to 1990 levels, it is necessary to establish and promote an appropriate national legal-institutional framework to give coherence and the necessary dynamics to this multidimensional approach. As the need was felt at Community level to establish a "framework for the irreversible and gradual reduction of anthropogenic greenhouse gas emissions by sources and enhancement of removals by sinks regulated in Union law" [Art. 1 of Regulation (EU) 2021/1119] and the European Climate Law of 30 June 2021 was approved, in the same manner, it is also necessary in the internal context, for the political, regulatory and institutional design and implementation, to have a specific regulation, vision and concrete, adequate and effective action. It is an obligation expressly laid down in Art. 2 para. (2) of Regulation 2021/1119 according to which the relevant Union institutions and the Member States shall take the necessary measures at Union and national level respectively "to enable the collective achievement of the climate-neutrality objective... taking into account the importance of promoting both fairness and solidarity among Member States and cost-effectiveness in achieving this objective". Thus, even if from a technical and legal point of view the European Climate Law is a regulation, namely a legal act of general application, binding in its entirety and directly applicable in all Member States (pursuant to Art. 288 of the Treaty on the Functioning of the European Union, TFEU) it only regulates the "necessary measures at Union level" in the collective climate action, while the aspects relating to the national level, in their concrete and specific nature, are left to regulations under national law. Therefore, from this complementary and interdependent perspective the European Climate Law correlatively implies a national law of the same nature.

In this case, a general law is needed in Romania as well, with the same function of prefiguring the national framework for the achievement of the objectives assumed at Community level and the additional related ones, called to capture and express the domestic ecoclimatic as well as social, economic and cultural realities, in a coherent, interdependent and efficient approach. Such an imperative is also justified by the fact that the new development strategy implied by the ecoclimatic transition requires a profound transformation in all sectors of activity, in an organized and consistent design and development. Such a legislative approach is also favored by the existence of an assessment, with related conclusions, of the country's ecoclimatic condition, as radiographed by the Report "Limiting Climate Change and its Impacts: an Integrated Approach for Romania" (2022), prepared at the initiative of the Presidential Administration by the special working group set up for this purpose. The document contains "a mapping of the key challenges that Romania faces in the short, medium and long term in limiting climate change, as well as a series of measures aimed at responding to them". Prefigured from such perspective and with such premises, the preliminary draft of a Romanian climate law would establish the internal framework for taking over and implementing the international and European ecoclimatic objectives, both in terms of mitigation of climate warming and resilience and adaptation to the effects of climate change. The requirements and measures of the actual approach will be conceived and laid down by areas and sectors, production and consumption, mobility, food, etc., in a coherent vision and with complementary and associated activities. An important step forward, having a pioneering value, would be the legislative recognition of the right of every person to a stable climate favorable to the maintenance and improvement of their living

conditions, and to this end the provision of guaranteed rights related to the access to relevant information, consultation and participation in decisions in this field and the access to justice in this matter, so as to strengthen the intrinsic climatic aspect of the right to a healthy and ecologically balanced environment in its climatic dimension as provided for in Art. 35 of the Romanian Constitution of 8 December 1991 (revised). In the same sense of the equation between climate change and fundamental rights, the establishment of a Deputy Ombudsman specialized in the field of environmental rights and climate change would be welcome (according to Art. 10 of Law no. 35 of 13 March 1997 on the organization and functioning of the Ombudsman - as republished -). In the same more general context of developing and nuancing the legal regime conferred on the environment, it would not be unimportant to establish the protection of the environment, the fight against climate change, the conservation of biodiversity and the prohibition of pollution as actions of major public interest and a fundamental obligation of citizens and public authorities, which would constitute a genuine "ecoclimatic public order". A clear priority is the setting up of a national climate advisory body, responsible for providing expert scientific advice to the relevant national authorities on public climate policies, informing the European Environment Agency [according to Art. 3(4) of the European Climate Law]. It would be an independent body, made up of highly qualified interdisciplinary specialists, whose role would be to assess climate strategies and policies, and to provide objective and independent advice and recommendations on public climate action, relevant reporting and facilitating public and stakeholder participation in its development and implementation. Last but not least, the structure could assure dialogue and cooperation with the European Scientific Advisory Board on Climate Change, established at EU level to provide specific scientific advice, as well as with other national climate advisory bodies, in order to achieve their objectives. An essential part of the envisaged law should be promoting the reform of the national education system in line with the requirements of the transformation towards climate neutrality by creating (strengthening) the legal regime of training and education for the ecoclimatic transition. The extensive innovative process in general education, especially at university level and in appropriate education, needs a legal basis for its initiation and crystallization as quickly and efficiently as possible (Duțu, 2022, p. 96 et seq).

Of course, the technical and structural outlines are to be established according to the legislative technique by specialists in the field, as the claims of the present paper are limited to highlighting the need and outlining the general horizons of such a (possible) innovative regulatory act.

5.1. Relationship between the Environmental Framework Law and the General Climate Law

The unity between environmental and climate law, going as far as confusion, at least partial, also suggested by part to whole relationship between the key notions of environment and climate, is strongly manifested in EU strategy and regulations. Such a Community approach is also explained by the fact that there is no autonomous climate policy within the institutional framework of the Union and, consequently, no specific legal basis for the intervention of the European Union legislator in this area. From this perspective, climate law thus remains an aspect

of environmental law, like all other Community policies and actions in line with the principle of integration, starting with the energy sector. The semantic combination operated in the doctrine represents, in turn, rather the result of evolutions of theoretical assessments and less a substantial radical rupture or extension and dilution, responding to the need of marking a very strong proximity, up to complete osmosis between what superficially may appear as different matters.

According to such an equation, one can also prefigure the relationship between the general environmental laws (currently led by GEO 195/2005 on environmental protection) and the climate, respectively, in the sense of the existence of separate framework regulatory acts, within complex, separate regulatory perspectives and structures, but with important connections and major intersections. As approaches evolve and regulations develop, the emphasis on integration and the need for systematization may lead to the emergence of major, complex regulatory systems, structured by levels of competence and action, incorporating the two areas in a more coherent and unified manner, under the banner of ecoclimate law.

6. Brief Conclusions

The above remarks on the premises and the need to draw up and adopt a general climate law also in Romania, as soon as possible, have at their core the idea that, in this respect, it is not a question of a simple desire to imitate and to be inscribed in a subject, be it legal or fashionable. On the contrary, we are in the presence of a need of the Romanian society, both to be included in the context of major developments at European and global level and to perceive and transform its meanings appropriately and adapted in the domestic legal framework, according to its own priorities and realities. Climate change in all its perspectives - natural and social adaptation, energy, economic, geo-strategic and legal - requires a rapid and radical transformation of the ways of thinking, producing, consuming, and existing, and it is an obvious imperative for any State and collectivity in general to be part of the ecoclimatic transition that it entails. The goal of achieving carbon neutrality by the middle of this century (2050 in particular), the 1.5ºC-2ºC threshold for the acceptability of global average temperature increase and climate urgency are targets on which a scientific, political, legal and public consensus already exists. In order to proceed to the adoption and implementation of the required decisive measures, it is necessary to resort to various, complex legal instruments, configured in a regulatory-institutional architecture arranged in a system of steps of approach, expression and operation, at three related and interdependent levels: global (international), represented by the 1992 Framework Convention and the Paris Agreement (2015), and institutional by the UN complex, regional (par excellence, that of the EU, represented by the climate regime restructured by the European climate law and the related set of regulations) and national (as a rule, for the Member States of the Union aiming at translating the Community layer, but within its own framework and by the particularization of the general objectives set by the general climate law and the related regulations). From this perspective of structuring the legislative and institutional arsenal of the legal response to the challenges of climate change, such a legislative approach is also necessary in our country in order to prefigure such a projection. It would have the capacity and merit to promote a faster and more appropriate integration into the collective EU effort and to avoid a disorganized transition,

particularly harmful for an economy and a social system in general already severely damaged and threatened with disintegration under the impact of the recent major crises caused by the Covid-19 pandemic and the war in Ukraine. All the more so as EU climate law structured from and on the basis of the 2021 European Climate Law is experiencing a particular dynamic, according to a predetermined and consistently applied program. Thus, for example, in such a perspective, on 18 April 2023, the European Parliament adopted five new key texts of the Green Deal, this time concerning the implementation of the GHG emission reduction targets belonging to the "Fit for 55" package: the reform of the Emissions Trading System (ETS) and the Carbon Border Adjustment Mechanism.

All in-depth and relevant studies on the near and even long-term future converge on the fact that the fight against climate change, seen in its complexity in the forefront of sustainable development concerns, must be compatible with the finitude of the planet's resources.

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MARKET FAILURE AND THE ROLE OF PUBLIC ADMINISTRATION

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Abstract: *The paper is about market failure and the influence of the institutional approach on it and it started from the idea of Veblen, a great 20th century economist, who presented institutionalism as an alternative to neoclassical economics. Based on neoclassical economics, in addition to explaining how a well-functioning market leads to the maximisation of welfare, an analysis of market failure was also made.*

The objective of the paper is to analyse market failure based on institutional economics. In addition, it was examined to determine how institutional solutions can result in limiting certain types of market failure.

Keywords: *Market failure, Market efficiency, Externalities, Regulation, social cost, Inflation, State, Intervention, Public goods, Incomplete markets.*

JEL: D62, E31, G18, H83.

1. Introductory part

In the early 19th and 20th centuries, institutionalism was presented by T. Veblen as an alternative to neoclassical economics. On the basis of neoclassical economics, in addition to an explanation of how an efficiently functioning market leads to welfare maximisation, we also find an analysis of market failure.

1.1 The main theme

The main theme of the present study is an attempt to synthesise these concepts, in particular to show how the institutional approach changes the perception of market failure.

Thus, we have developed the following hypothesis: Market failure can be reduced by regulation that reduces the social costs of negative externalities.

The main objective of this study is to analyse market failure based on institutional economics. In addition, it was examined to determine how institutional solutions can result in limiting certain types of market failure.

The relationship between the New Institutional Economics and the neoclassical interpretation of market failure can mainly be noted when it comes to explaining the reasons for the existence of markets and the methods used to counteract externalities.

The test of the research hypothesis on mitigating market failure situations through regulation that lowers social costs was carried out through a qualitative research method, namely the Case Study. This is a method of directly confronting participants with a real, authentic situation, taken as a typical example, representative of a set of problematic situations and events. (www.qreferat.com, n.d) I chose this method because I wanted to analyse the phenomenon in depth and not use statistics to draw general conclusions.

Moreover, it allows the observation of events that only occur naturally and cannot be reproduced at will. In this way, previous theories that were only hypothetical until now can be verified.

The tools applied in this study are Data Analysis and Literature Review.

2. Literature aspects

There is a vast literature on market failure dating back to classical political economy and 19th century criticism.

If, however, a systematised approach to market failure, which has been defined on the basis of neoclassical economics, is used as a point of reference, two articles by F. Bator The simple analytics of welfare maximisation (Bathor, 1958, p. 351-379) and The anatomy of market failure

should be mentioned.

The first of these articles contains an overview of the neoclassical efficiency criteria for which market failure is most often defined. The latter presents this failure.
In addition to Bator's publications mentioned above, there was an article by K.J. Arrow & G. Debreu (Arrow & Debreu, 1954, p. 265-290) preceding them, in which they presented the evidence for general equilibrium.

Market failure resulting from lack of perfect competition was noted in the 19th century by A.A. Cournot (Cournot, 2020).

Externalities arose in the context of divergences (Pigou, 1920) between the marginal social net product and the marginal private net product, and were later analysed in the works of Buchanan & Stubblebine, Meade and Scitovsky (Medema, 2014, p. 111-132).

Although it is difficult to point to a clearly defined list of market failures, there is some consensus on this point. In the microeconomic perspective, market failures are: lack of confidence of competition (the monopolisation problem) and related economies of scale, externalities, public goods, information asymmetry and incomplete markets. Considering the macroeconomic perspective, market failure can include: unemployment, inflation or economic fluctuations (Bathor, 1958, p. 351-379).

There is therefore no consensus in the economic literature on the scope of phenomena that can be clearly defined as market failure.

The contemporary view of market failure embedded in the tradition of neoclassical economics, which has been defined by F. Bator (Bathor, 1958, p. 351-379**)** as "typically, at least in the allocation of market sustainability theory", desirable "activities" to stop "undesirable" activities means, by definition, that the market is treated as an allocation mechanism, the use of which should lead to the optimal outcome within clearly defined efficiency criteria.

Moreover, Pareto argued that when these criteria are met, welfare is maximised. It follows from the first fundamental theorem of welfare economics that every allocation obtained through the market is an optimal allocation. Market uncertainty can therefore be associated with the inability to achieve welfare in the social dimension using supply and demand under perfect competition.
F. Bator made it clear that the model he presented does not explain how the existing social and economic system works. It only shows a set of strictly formulated assumptions, when these are met, an optimal solution, which was defined by Pareto, becomes possible to achieve. Bator also argued that there are many factors in the real world that disrupt the achievement of the most desirable solution.

These include "imperfect information, inertia and resistance to change, infiltration of costless lump-sum fees, business people's desire for a quiet 'life', uncertainty and inconsistent

expectations, the vagaries of aggregate demand, etc." (Bathor, 1958, p. 352)

The dichotomy between market failure considered at the level of a theoretical model and the empirical analysis of this phenomenon in relation to the actual solutions of a given socio-economic system was highlighted by A. Marciano & SG Madema, who argued, "It also reveals a crucial distinction between the failure of markets as a system of economic and social organisation and the failure of a single market to function according to the dictates of a given objective function." (Giza, 2019)
The authors also draw attention to the fact that the interpretation of market failure depends largely on historical context. Initially, the market was criticised mainly as a socio-economic system.

In the 19th century, T.R. Malthus expressed concern about the prospects for human development resulting from the limited resources on Earth. He also criticised J.B. Malthus' idea of the stability of the market economy. Say. K. Marx focused on the fundamental conflict between capital and labour and the social tensions that result from this conflict. JM Keynes tried to explain the greatest economic disaster of the early 20th century, which was the Great Depression of 1929-1933. A. Marciano & SG Madema (Bathor, 1958, p. 351-379) started the market failure dispute in the article Market Failure in Context Introduction in the Collected Articles published in the History of Political Economy in 2015.

"The economist Adam Smith in his work "La Rischesse des Nations" (Smith, 2009, p.15) remarked that enterprise and individuals active in the market behave as if guided by an "invisible hand" that favours the "spreading" of favourable results over all.

The 'invisible hand' metaphor implies that in the market, the pursuit of self-interest contributes to the welfare of all.

From this point of view, the market is an organisation of economic activity that leads to efficient situations. The term 'market failure' is used to designate a situation in which the market alone cannot allocate resources efficiently.

The welfare economics developed by the neoclassical school is a form of liberal interventionism which theorises market failure based on the theory of partial equilibria and general equilibrium, directly inspired by Keynesian theory. (Vuță, n.d, p. 1-2)

This explains why, by continually increasing fiscal pressure and public spending through the price system and the market economy, certain problems (property rights, individual freedom, etc.) (RegieLive, n.d.) cannot be effectively addressed.

Public intervention is based on welfare theory (general equilibrium theory initiated by L. Walras) (Walras, 1989, p. 351-359) (and continued by Debren, Wolfelsperger, 1995, etc.), and 'market failure' can be found in the following forms: collective goods, externalities, information asymmetry, natural monopoly.

3. Case study

Among these, I have chosen as a case study an externality, namely the phenomenon of global pollution, which I have analysed using the IPCC reports of 2001, 2007, 2019, 2021.

According to these, scientists have established that human activities have become a dominant force and are responsible for most of the observed rise in the last 50 years.

Economists and accountants have long been aware of the externalities of modern industrial society. This is an important case of market failure, whereby firms act within a market in such a way as to affect people outside it. Such activity is unlikely to produce outcomes that involve the most efficient use of resources.

Since the industrial revolution, businesses have operated in an environment in which they have not borne all the costs of production because of their ability to externalize some of the costs through air and water pollution. (Stern, 2006)

There seems to be a new consensus on the need to take urgent action to reduce the build-up of carbon in the atmosphere, but there is no global consensus on the urgency of the action needed and the best way to tackle the problem. (Preston & Jones, 2006, p. 15)

Many governments appear to have accepted the need to impose a price on carbon emissions to the atmosphere as a way of generating a market-based adjustment to the relative cost of different energy sources. Such a system could adjust relative prices over time to produce a long-term environmentally favourable outcome, but it may act too slowly and with too much uncertainty to have the desired result. (Andrew, 2008, p. 399)

A carbon tax on all fixed energy sources would be much simpler to implement and would have a much more certain impact. A tax would be more appropriate than a market mechanism that is subject to all the problems of market failure that have created the problem of carbon pollution.
Carbon markets have started to develop in recent years, giving firms some options to offset their emissions by trading with less polluting firms. But critics of carbon trading say it is a "con game" that allows firms to dump some carbon in one place while supposedly removing it elsewhere. Information, measurement and pricing are key issues in any market, and an efficient market requires well-informed players. An uninformed market will not produce optimal resource allocation decisions and there is a real risk that those taking advantage of market failures will dispose of carbon at little or no cost. (Allen Consulting Group, 2006)

Below, we have conducted an analysis of IPCC reports from 2001 to 2021 as follows:

3.1. Climate change 2001

The basis for determining what constitutes "dangerous anthropogenic interference" will vary from

region to region - depending both on the local nature and consequences of climate change impacts and the adaptive capacity available to cope with these changes - depends on mitigation capacity, as both the magnitude and pace of change are important.

There is no universally applicable best set of policies; rather, it is important to consider both the robustness of different policy measures to a range of possible future worlds, and the extent to which these specific climate policies can be integrated into broader sustainable development policies. (Watson & Core Writing Team, 2001)

The third report (TAR) provides an assessment of new scientific information and evidence as a contribution to policy makers in determining what constitutes "dangerous anthropogenic interference with the climate system".

It primarily provides new projections of future greenhouse gas concentrations in the atmosphere, global and regional patterns of change and rates of change in temperature, precipitation and sea level, and changes in extreme climate events. It also examines the possibilities of abrupt and irreversible changes in ocean circulation and ice sheets.

Second, it provides an assessment of the biophysical and socio-economic impacts of climate change, in terms of risks to unique and threatened systems, risks associated with extreme weather events, distribution of impacts, aggregate impacts, and risks of large-scale and high-impact events.

Third, it provides an assessment of the potential to achieve a wide range of levels of greenhouse gas concentrations in the atmosphere through mitigation, as well as information on how adaptation can reduce vulnerability.

In 2001, TAR assessed available information on the timing, opportunities, costs, benefits and impacts of different mitigation and adaptation options. It indicated that there are opportunities for countries acting individually and in cooperation with other countries to reduce the costs of mitigation and adaptation and to achieve the benefits associated with achieving sustainable development.

The report also inferred the following:

The Earth's climate system has demonstrably changed at both global and regional scales since pre-industrial times, some of which can be attributed to human activities.

Human activities have increased atmospheric concentrations of greenhouse gases and aerosols since pre-industrial times. Atmospheric concentrations of the main anthropogenic greenhouse gases (i.e. carbon dioxide (CO2), methane (CH4), nitrous oxide (N2O) and tropospheric ozone (O3)) reached their highest recorded levels in the 1990s, mainly due to fossil fuel combustion, agriculture and land use change.

Surface temperature increase in the 20th century for the northern hemisphere is likely to have been higher than in any other century in the last thousand years. The data available before 1860 in the southern hemisphere are insufficient to compare recent warming with changes over the last 1000 years. Temperature changes have not been globally uniform, but have varied between regions and different parts of the lower atmosphere. (Watson & Core Writing Team, 2001)

Following the findings, the authors of the third assessment report assigned confidence levels that represent their collective judgement as to the validity of a conclusion based on observational evidence, modelling results and the theory they examined. The following words were used throughout the text of the Synthesis Report to the TAR regarding the WGI findings: virtually certain (greater than 99% chance that a result is true); very likely (90-99% chance); likely (66-90% chance); moderately likely (33-66%) chance); unlikely (10-33% chance); very unlikely (1-10% chance); and exceptionally unlikely (less than less than 1% chance).

An explicit uncertainty interval (±) is a probable interval. Confidence estimates for WGII findings are: very high (95% or higher), high (67-95%), medium (33-67%), low (5-33%) and very low (5% or less). No confidence levels have been assigned in WGIII.

There is new and stronger evidence that most of the observed warming over the past 50 years is attributable to human activities. Detection and attribution studies consistently find evidence of an anthropogenic signal in the climate record over the past 35-50 years. These studies include uncertainties in forcing due to anthropogenic sulphate aerosols and natural factors (volcanoes and solar irradiance), but do not consider the effects of other anthropogenic aerosols and land use change.

3.2. 2007 IPCC Report - Some facts and figures on the science involved

In the summary of the relationship between climate change and weather, a working group contribution to the Fourth Report of the Intergovernmental Panel on Climate Change states that: Although many factors continue to influence climate, scientists have determined that human activities have become a dominant force and are responsible for most of the observed warming over the past 50 years. (IPCC, 2007-WG1 AR4, p. 105) Human-induced climate change has resulted primarily from changes in the amount of greenhouse gases in the atmosphere, but also from changes in small particles (aerosols) and changes in land use.

Some of the main findings of the IPCC's fourth report are as follows:

- Global temperatures have risen by 0.748C (±0.188) over the last 100 years;
- 11 of the last 12 years are among the 12 hottest years on record;
- Snow cover has decreased in most regions;
- The summer period has been extended by 12.4 days;
- Arctic sea ice decline is now 2.7% (±0.6%) per decade;

- Sea level has risen by 1.9 mm (±0.5 mm) per year between 1961 and 2003. (Australian Business Council, 2006)

NASA publishes its latest technical report on sea level rise, an update of the 2017 edition, which includes projections for sea level rise through 2150. The agency warns that sea levels could rise in the next 30 years by as much as in the past 100 years. (Wikipedia, 2022)

The IPCC has estimated climate impacts for a range of GHG scenarios, from a business-as-usual scenario to one in which emissions are drastically reduced, in which businesses invest heavily in a carbon-constrained economy, in which new technologies are born, in which GHGs stabilise at current levels, and in which the planet faces only moderate climate change in the future.

Consistent with the IPCC position, Stern (2006) notes that before the industrial revolution, GHGs in the atmosphere were 280 parts per million (ppm), compared to the current level of 385 (ppm). The level should not exceed a range of 450-550 ppm, as any level above this range will greatly increase the risk of very damaging effects such as crop failures, water shortages, flooding and cyclonic weather events. (Betz & Sato, 2006, p.351-359)

3.3. IPCC Report 2019

This report on climate change and soil responds to the decision of the Panel of Experts in 2016 to prepare three special reports during the sixth assessment cycle, taking into account proposals from governments and observer organisations.

This report addresses greenhouse gas (GHG) fluxes in terrestrial ecosystems, land use and sustainable land management in relation to climate change adaptation and mitigation, desertification , land degradation and food security.

This report follows the publication of other recent assessments, including the IPCC Special Report on Global Warming of 1.5°C (SR15), the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) Thematic Assessment on Land Degradation and Restoration, the IPBES Global Assessment Report on Biodiversity and Ecosystem Services and the UN Convention to Combat Desertification (UNCCD) Global Land Outlook. The present study provides a current assessment of the state of knowledge, while seeking to ensure consistency and complementarity with other recent reports.

Since the pre-industrial period (1850-1900), the observed mean land surface air temperature has increased considerably more than the global mean surface temperature (land and ocean) (GMST) (high confidence). From 1850-1900 to 2006-2015, the mean land surface air temperature increased by 1.53°C (highly likely range 1.38°C to 1.53°C). The frequency and intensity of droughts increased in some regions (including the Mediterranean, Western Asia, many parts of South America, much of Africa and North-East Asia) (medium confidence) and

the intensity of global heavy precipitation increased (medium confidence) (68°C), while GMST increased by 0.87°C (range of probability 0.75°C to 0.99°C) (Masson-Delmotte et al., 2019)

Satellite observations have shown a greening of vegetation over the last three decades in parts of Asia, Europe, South America, central North America and south-eastern Australia. Global warming has led to changes in climate zones in many regions of the world, including the expansion of arid climate zones and the contraction of polar climate zones (high confidence). As a result, many plant and animal species have experienced changes in their ranges, abundance and seasonal activities.

Climate change has already affected food security due to warming, changing rainfall patterns and more frequent extreme events (high confidence). During 2007-2016, agriculture, forestry and other land use activities (AFOLU) accounted for about 13% of CO2 emissions, 44% of methane (CH4) emissions and 81% of nitrous oxide (N2O) emissions from human activities globally, representing 23% (12.0 ± 2.9 GtCO2eq yr-1) of total net anthropogenic GHG emissions (medium degree). If emissions associated with pre- and post-production activities in the global food system are included, they are estimated to account for 21-37% of total net anthropogenic GHG emissions (medium). (Masson-Delmotte et al., 2019)

Delayed action in all sectors leads to an increasing need for large-scale deployment of adaptation and mitigation options on the ground and may lead to a diminishing potential for the range of these options in most regions of the world and limit their current and future effectiveness (high confidence). Action now can avoid or reduce risks and losses and generate benefits for society (medium confidence). Prompt action to mitigate and adapt to climate change, aligned with sustainable land management and sustainable development, depending on the region, could reduce the risk of millions of people facing extreme weather events, desertification, land degradation and food and livelihood insecurity (high confidence).

In future scenarios, postponing the reduction of greenhouse gas emissions implies trade-offs that lead to significantly higher costs and risks associated with rising temperatures (medium confidence). Delays in avoiding or reducing land degradation and promoting positive ecosystem restoration risk long-term effects, including rapidly declining agricultural and pasture productivity, permafrost degradation and difficulties in peatland restoration (medium confidence).

Delaying GHG emission reductions from all sectors implies trade-offs, including irreversible losses of terrestrial ecosystem functions and services necessary for food, health, settlements and production, leading to increasingly significant economic impacts on many countries in many regions of the world (high confidence).

3.4. IPCC Report 2021

Since AR5, improvements in estimates based on observations and information from palaeoclimate archives provide a comprehensive picture of each component of the climate system

and its changes to date.

It is unequivocal that human influence has warmed the atmosphere, ocean and land. Rapid and large-scale changes have occurred in the atmosphere, ocean, cryosphere and biosphere. Each of the last four decades has been successively warmer than any decade preceding it since 1850.

In the first two decades of the 21st century (2001-2020), the global surface temperature was 0.99 [0.84-1.10] °C warmer than in 1850-1900. From 2011 to 2020, global surface temperature was 1.09 [0.95-1.20] °C warmer than 1850-1900, with larger increases over land (1.59 [1.34-1.83] °C) than in the ocean (0.88 [0.68-1.01] °C). The estimated increase in global surface temperature since AR5 is mainly due to additional warming from 2003-2012 (+0.19 [0.16-0.22] °C). (IPCC, 2021)

In addition, methodological improvements and new datasets have contributed about 0.1 °C to the updated warming estimate in AR6.

It is very likely that human influence is the main cause of the global glacier retreat since the 1990s and the decrease in Arctic sea ice area between 1979-1988 and 2010-2019 (decreases of about 40% in September and about 10% in March). There has been no significant trend in Antarctic sea ice area between 1979 and 2020 due to opposing regional trends and high internal variability.

Human-induced climate change is already affecting many weather and climate extremes in all regions of the globe. Evidence of observed changes in extreme events such as heat waves, heavy precipitation, droughts, tropical cyclones and, in particular, their attribution to human influence has strengthened since AR5.
It is almost certain that since the 1950s extreme heat events (including heat waves) have become more frequent and more intense in most parts of the Earth, while extreme cold events (including cold waves) have become less frequent and less severe, and there is a high degree of certainty that human-induced climate change is the main driver of these changes. The frequency of marine heat waves has roughly doubled since the 1980s (high confidence), and human influence has most likely contributed to most of these heat waves since at least 2006.

Warming of the climate system has caused global mean sea level to rise through loss of land ice and thermal expansion due to ocean warming. Thermal expansion explained 50% of the sea level rise between 1971 and 2018, while glacier ice loss contributed 22%, ice sheets 20% and changes in land water storage 8%. The rate of glacier loss quadrupled between 1992-1999 and 2010-2019. Together, glacier and glacier mass loss contributed dominantly to the increase in global mean sea level during 2006-2018 (high confidence). (IPCC, 2021)

There have been interventions aimed at introducing a carbon tax. The two alternatives were agreed emissions targets and an ETS, but failed. Both options could have contributed to a solution, but have a slower and less certain impact than a carbon tax. The Kyoto Protocol sets

agreed emissions targets, but the evidence so far suggests that most countries will not meet their targets. The immediate need for economic growth seems to be pushing into the background the less immediate need to limit greenhouse gas emissions. The relevant sanctions will be difficult to apply against any sovereign country unwilling to comply with the targets.

However, rapid changes are taking place in the atomosphere, ocean, cryosphere and biosphere. Each of the last four decades has been successively warmer than any decade preceding it since 1850.

Human-induced climate change is already affecting many extreme weather and climate phenomena in all regions of the globe. Evidence of observed changes in extreme events such as heat waves, heavy rainfall, droughts, tropical cyclones has strengthened since AR5.

Global surface temperatures will continue to rise until at least mid-century under all emission scenarios considered.Global warming of 1.5°C and 2°C will be exceeded in the 21st century unless significant reductions in emissions, CO2 and other greenhouse gases are achieved in the coming decades.

According to economists, a carbon tax is the answer, as they see the alternative not as a well-designed and credible ETS, but a distorted one surrounded by uncertainty about key parameters. The two big advantages of a carbon tax over an emissions trading system are that the tax would be more transparent and visible, and therefore harder to evade or avoid, and the revenue would go to a responsible government, which could use the extra funds for a socially useful purpose, such as ensuring access to green energy for low-income households and funding green energy sources. The design of a carbon tax is probably much simpler than that of an ETS, as the aim is to change the relative price of carbon generation in the atmosphere as a way of reducing the volume of GHGs.

In contrast, an ETS aims to indirectly change the price of GHGs by specifying a fixed amount of such gases that can be generated in total. Businesses would face greater certainty under a carbon tax because the increase in costs would be specified by the tax rate.

Thus, the conclusions drawn from this case study were as follows:

The Earth's climate system has demonstrably changed at both global and regional scales, some of which can be attributed to human activities.

Human activities have increased atmospheric concentrations of greenhouse gases and aerosols since pre-industrial times. Atmospheric concentrations of the main anthropogenic greenhouse gases (i.e. carbon dioxide (CO2), methane (CH4), nitrous oxide (N2O) and tropospheric ozone (O3)) have reached their highest recorded levels mainly due to fossil fuel combustion, agriculture and land use change.

Global surface temperatures will continue to rise until at least mid-century under all emission scenarios considered. Global warming of 1.5°C and 2°C will be exceeded unless significant reductions in emissions, CO2 and other greenhouse gases are achieved in the coming decades.

Most economists believe that a carbon tax (a tax on the amount of CO2 emitted from energy use) would be a superior policy alternative to an emissions trading scheme.

There are several advantages of a carbon tax over an emissions trading scheme. The impact and incidence of a tax would be more certain than an ETS, as the tax could be levied on the volume of emissions at a publicly announced rate. The impact would be gradual, as a levy could be phased in gradually, with scheduled rate adjustments according to an announced timetable, giving industry time to adjust. The charge itself would be stable, unlike the price fluctuations that occur in an ETS market, as seen in the EU ETS. The economic effect would also be more certain as the increased cost of emissions would be stable. In addition, revenues would be collected by the government, which would make it easier to recycle revenues to low-income households and GHG reduction projects, or could be used to reduce other taxes in a way that increases the fairness and efficiency of the tax system.

There are also other likely benefits. Price instability in an ETS market would add uncertainty and could have a negative impact on investment decisions and the level of economic activity in productive sectors of the economy.

In the case of a tax, there would be no need for a secondary market or a series of complex derivatives, which could distort revenue flows and economic activity and divert revenues from abatement activities to a small number of market players who could exploit the volatility of an ETS market.

Clearly, managing a carbon tax would be simpler than an ETS and could become the responsibility of existing institutions, unlike an ETS, which requires a number of new institutions such as a registration and enforcement body, a monitoring authority and a new trading entity, thereby reducing market failure and showing the usefulness of state intervention.
As a result of these considerations, and based on a research conducted using the analysis of 'Market Failure and the Role of Public Administration', this paper identified the main types of market failure and their causes, the study focusing on negative externalities, indices and Ipcc reports, confirms the hypothesis that ,'Market failure can be reduced by a regulation that mitigates the social costs produced by negative externalities.', namely, the introduction of a carbon tax.

The previous theories that were only hypothetical until now were verified by the tools applied in the case study (data analysis, biographical analysis, bibliographical research and scientific resources from the international databases E-information https://www.e-information.ro, IPCC reports considering the years 2001, 2007, 2019, 2021 on which we analyzed the data necessary to prove the hypothesis in order to regulate a carbon tax that would reduce the negative effects of them with incidence in market failure.

We have also used different bibliographic resources to study the phenomenon, its history, causes, types of failure, useful in understanding and deducing possible solutions.

All these resources are found below in the Bibliography of the paper.

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FUTURE EDUCATION AND ARTIFICIAL INTELLIGENCE FOR EDUCATION AND TRAINING

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Abstract: *Education has evolved over time from the post-industrial society to the knowledge society in which information technologies and innovations have played a particularly significant role. In the knowledge society, education has seen a new progression, shifting from education based on dogmatic instruction to learner-centered education, focusing on skills and learning outcomes. Thus, along with the society we live in, teaching methods and assessment techniques in education have evolved. They have transitioned from learning that emphasized the passive participation of students to placing the student at the center of the teaching and learning process. Furthermore, the demand for skills and the supply of training have undergone adaptations in line with technological advancements. The landscape of education and training is undergoing a transformative shift as Artificial Intelligence (AI) becomes an integral player in shaping the future of learning. Understanding the profound impact of AI in education is essential for realizing its full potential in shaping the global citizens of tomorrow.*

Keywords: *Education, Competence, Competency-based Education, Artificial intellingence.*

JEL: I21, O33.

1. Introduction

The world of education is undergoing a profound transformation, driven by the integration of cutting-edge technologies, particularly Artificial Intelligence (AI). The symbiotic relationship between AI and education has the potential to revolutionize the way we learn and teach, making education more personalized, accessible, and effective. In this era of rapid technological advancement, the role of AI in education and training is poised to shape the future of learning.

As we stand on the cusp of this educational revolution, it is crucial to explore the multifaceted ways in which AI is influencing and enhancing the educational landscape. This exploration encompasses everything from personalized learning experiences and adaptive assessments to AI-driven tutors and the global accessibility of education. AI is not merely a tool but a transformative force that empowers both learners and educators.

This journey delves into the various dimensions of AI in education, from the classroom to online learning platforms, from early childhood education to professional development. It unravels the potential for AI to cater to diverse learning needs, promote lifelong learning, and address global educational challenges.

The integration AI into the field of education represents a transformative leap in the way we learn and teach. The benefits of AI in education are numerous and far-reaching, promising to revolutionize the educational experience for learners of all ages and backgrounds. AI's ability to personalize learning, adapt to individual needs, and foster innovation has the potential to unlock new horizons in education.

Moreover, this exploration acknowledges the ethical considerations and challenges that arise as AI becomes an integral part of education. Questions about data privacy, equity, and the human touch in education are increasingly pertinent as AI systems become more sophisticated.

Starting from these considerations, this article aims to present the evolution of the concept of competence over time, including the analysis of the new competency framework for the year 2030 developed by the OECD, by highlighting the exceptionally important role that artificial intelligence will play in the development of competencies.

From a structural perspective, the article will consist of four sections: an introduction in which the exceptionally important role of analyzing the concept of competence in relation to the evolution of artificial intelligence will be discussed. In the following sections, we will refer to the evolution of competencies over time and the evaluation of the new competency framework developed by the OECD, as well as the role of artificial intelligence in competency development.

The final section, the conclusion, will contain the main recommendations and arguments regarding the future of education and the role of artificial intelligence in the development of the educational process.

The research methodology will include investigative methods such as a literature review in the field to identify how the concept of competence has evolved over time, from the earliest attempts to define the concept to the new competency framework for 2030, as well as the role of artificial intelligence in building competencies for the future.

2. The evolution of "competence"

The concept of ”competence” underlies the relationship between the demand for competencies and the supply of training in the labor market, as competence is a measurable capacity required for efficient performance (Hoge, Tondora, & Marrelli, 2005).

The evolution of the concept of competence can be traced over time by considering the following (Wilcox, 2012):

1. **Historical Roots:** The concept of competence can be traced back to ancient civilizations. For example, the Chinese Empire used civil service exams to assess individuals' qualifications for government positions over 3,000 years ago;
2. **Craftsmanship and Apprenticeship:** In medieval times, competence was closely linked to craftsmanship and apprenticeship. Individuals were expected to develop the specific skills required for effective job performance by working with master craftsmen;
3. **Industrial Revolution and Skills:** The Industrial Revolution brought significant socioeconomic changes, and the need for a skilled workforce became increasingly important. The study of work, jobs, and the skills required in various sectors emerged during this period;
4. **Scientific Management:** In the early 20th century, Frederick Winslow Taylor, known as the “father of scientific management” made significant contributions to the development of management thinking. His work emphasized efficiency, division of labor, and systematic time-and-motion studies, all of which were associated with the rise of the concept of competence;
5. **Psychological Perspective:** The field of psychology began to play a role in the development of the competence concept. Psychologists like David McClelland explored the idea of competency and its relevance in human behavior and work performance;
6. **Competency Models:** Over time, the concept of competence evolved to include competency models, which are frameworks that outline the specific skills, knowledge, and behaviors required for success in a particular role or field. These models are widely used in human resource management and workforce development;
7. **Competency-Based Education:** In the field of education, competency-based education (CBE) emerged as a pedagogical approach that focuses on mastering specific competencies rather than traditional grades or time-based learning. CBE is particularly relevant in higher education and vocational training.

Fredrick Winslow Taylor, often referred to as the ”father of scientific management”, is associated with the development of scientific management principles, which were influential in the field of

competencies. Scientific management, a management theory developed in the early 20th century, focused on optimizing workplace efficiency through the careful analysis of work processes, standardization, and the use of time-and-motion studies (Uddin, Hossain, 2015).

While Taylor's work primarily focused on the efficient organization of work tasks and labor, it laid the groundwork for the development of competencies in the sense that it emphasized the need for specific skills and knowledge to perform tasks effectively. Competencies became an essential aspect of human resource management and workforce development, as they are related to the skills and abilities required for various job roles and tasks within an organization.

In summary, Taylor's scientific management principles played a foundational role in shaping the importance of competencies in the modern workplace, as they underscored the significance of skills and knowledge in achieving efficient and productive work outcomes.

Later, with the emergence of scientific management, when Taylor (1911) proposed greater division of labor, competence developed in association with the need for skills to undertake various activities in the workplace (Hoge, Tondora, & Marrelli, 2005).

In 1959, the American psychologist White first used the term ”competence” in his paper titled ”Motivation Reconsidered: The Concept of Competence”. He defined competence as those personality attributes imperative for superior performance and high motivation.(Salman& Ganie & Saleem , 2020).

The evolution of the concept of "competence" has not only shaped the industrial sectors in terms of the workforce but has also influenced the field of education, laying the foundation for a paradigm shift toward competency-based education.

Edward L. Thorndike was an American psychologist known for his significant contributions to the development of learning theory and the understanding of competencies. One of Thorndike's most notable theories is the theory of connections, which argues that learning is the result of forming and strengthening connections between stimuli and the responses provided by an organism.

In the context of education and learning, Thorndike made important contributions regarding the development and assessment of competencies. He promoted the idea that learning and skill development could be objectively assessed and measured, which contributed to the development of competency testing methods (Donahoe, 2000).

John Dewey's work and educational philosophy have influenced the development and understanding of competencies, particularly in the context of education. While Dewey may not be considered the sole inventor of competencies, his ideas have contributed to the foundation of competency-based education.

Dewey emphasized the importance of experiential learning, problem-solving, and active engagement in the learning process. These concepts align with the development of practical skills and knowledge, which are key components of competencies. Dewey's ideas on child-centered learning and fostering critical thinking skills have had a lasting impact on modern educational practices, including competency-based education (Pappas, 2023).

In competency-based education, the focus is on the mastery of specific skills and knowledge rather than traditional time-based models. Students demonstrate their competencies through practical application and assessments. Dewey's emphasis on learning by doing and making education relevant to students aligns with the principles of competency-based education, where learners acquire and apply specific skills and knowledge to real-world situations.
The development and implementation of competencies have been influenced by various fields and disciplines, including psychology, education, human resource management, and organizational development. While specific models and approaches may have been developed by individuals or organizations, the overall concept of competencies is a collaborative and evolving effort that has been shaped by the needs of different sectors and industries.

In essence, competencies are the result of a collective effort over many years, and no single individual or inventor can be credited with their creation. They have become a fundamental framework for assessing and developing skills and knowledge in education and the workforce.

The concept of ”competence” is the central element in defining learning outcomes and underlies the development of a ”competency-based” curriculum. The notion of ”learning outcomes” is not new in education and professional training, what is now evident is the prominence it has gained in national and European education policies and in any discussion regarding curriculum reform.
The relationship between learning outcomes and competencies is a complex subject of debate. The terms ”competence” is used in association with learning outcomes in various countries in many different ways.

The Organization for Economic Co-operation and Development (OECD) defines competence as the ”ability to consistently and effectively perform tasks to produce a desired outcome”(OECD, 2002). This definition emphasizes the key elements of capability and consistent performance in achieving specific results. Competence, as defined by the OECD, is a central concept in the organization's work related to education, skills, and workforce development, as it plays a crucial role in ensuring individuals are prepared for the demands of the global economy.

The DeSeCo (Definition and Selection of Competencies) project is an initiative that aimed to define and select key competencies for the 21st century. It was led by the Organization for Economic Co-operation and Development (OECD) and conducted over several years.

The primary goal of the DeSeCo project was to identify the competencies and skills that individuals need to thrive in a rapidly changing, knowledge-based society. The project sought to address the evolving demands of the labor market, the increasing importance of global

interconnectedness, and the need for individuals to adapt to a dynamic and complex world (OECD, 2002).

The DeSeCo project identified and defined a set of key competencies, often referred to as ”21st-century competencies”. These competencies typically include skills like critical thinking, problem-solving, creativity, digital literacy, communication, teamwork, and adaptability, among others. The project's work contributed to the development of educational policies and practices that aim to foster these competencies in learners.

The DeSeCo project has had a significant impact on the field of education and workforce development by emphasizing the importance of these key competencies in preparing individuals for success in the 21st century. The competencies identified by the project continue to influence curriculum design, teaching methods, and assessments in many educational systems around the world.
Developed in the late 1990s and related to the Programme for International Student Assessment (PISA), the project for defining and selecting competencies (DeSeCo) groups key competencies into three categories (OECD, 2002):

1. Interactive use of tools (interactive use of language, symbols, and texts, interactive use of knowledge and information, technology use);
2. Interaction in heterogeneous groups (cooperation, teamwork, conflict management);
3. Acting autonomously (personal life and project plans, defense and advocacy of rights, interests, limits, and needs).

Undoubtedly, developments related to the European Framework for Key Competences for Lifelong Learning (2006), as well as the implementation of the European Qualifications Framework (2008), have had a decisive influence on curriculum development.

In this framework, the European Union recommended eight key competences for lifelong learning, which are also valid for higher education (European Comission, 2018):

1. Literacy competence;
2. Multilingual competence;
3. Mathematical competence and competence in science;
4. Technology and engineering;
5. Digital competence;
6. Personal, social and learning to learn competence;
7. Citizenship competence;
8. Entrepreneurship competence;
9. Cultural awareness and expression competence.

Competency-based education was introduced in America in the late 1960s as a response to the fact that students were not being taught the skills they needed for the transition from school to

active life. Competency-based education is based on six very important components(Nodine, 2016):

1. Explicit learning outcomes regarding the necessary requirements and skills (assessment standards);
2. A flexible time frame for mastering these skills;
3. A variety of instructional activities to facilitate learning;
4. Adaptive programs to ensure optimal guidance for learners.

A competence-based education framework, often referred to as Competency-Based Education (CBE), is an educational approach that centers on specific skills and knowledge that learners are expected to acquire and demonstrate.

Competency-Based Education (CBE) has the following characteristics, as found in the specialized literature (Wesselink, Giaffredo, 2015):

1. Clearly Defined Competencies: CBE is based on clear and well-defined competencies. These competencies specify what a student should know and be able to do by the end of the course or program.
2. Flexibility in Pace and Path: CBE offers flexibility for students in terms of the pace and path of their learning. Students can progress more quickly or slowly based on their level of preparation and abilities.
3. Competency-Based Assessment: Assessments are competency-based and indicate whether a student has achieved the specified objectives. There is no need to spend time learning material that students already master.
4. Personalization: CBE is tailored to individual student needs. Students can choose the competencies they wish to develop and receive support in doing so.
5. Project-Based and Practical Learning: CBE often involves projects, practical tasks, and issues relevant to the field of study. This helps students apply knowledge and develop practical skills.
6. Mentoring and Ongoing Feedback: Students receive regular feedback and have access to mentors or teachers to guide them throughout the learning process.
7. Use of Technology: CBE may involve online learning technologies to provide resources, instruction, and assessments. This allows for greater accessibility and flexibility.
8. Trust in Prior Knowledge and Skills: CBE acknowledges students' prior knowledge and skills and allows them to progress based on what they already know.
9. Quality and Standards Assurance: CBE programs are designed to ensure high standards of learning and assessment.
10. Formative and Summative Assessment: CBE includes both formative assessment (which guides learning) and summative assessment (which assesses final competency).

3. Developing competencies for the future

The evolution of competencies is a concept that refers to how skills, knowledge, and the ability to perform activities develop and change over time. This evolution can be influenced by changes in the work environment, technological advancements, new societal demands, and many other factors. In the context of education and personal development, the evolution of competencies is an important part of the learning and growth process. It may involve acquiring new skills, strengthening existing knowledge, and adapting to changes in the surrounding environment. The evolution of competencies is a continuous process that can contribute to improving individual performance and adapting to the changing requirements of the world around us.

The OECD Learning Compass 2030 identifies three ”transformative competencies” that are considered essential for students to make meaningful contributions to society and help create a better future (OECD, 2019). These competencies are (OECD, 2019):

1. Creating New Value: This competency refers to the ability to generate innovative solutions and ideas that can address complex challenges and create positive change. It involves thinking creatively, being open to new perspectives, and finding novel ways to add value to society and the world.
2. Reconciling Tensions and Dilemmas: Students with this competency are adept at managing conflicts and dilemmas in an ethical and constructive manner. They can navigate and resolve opposing interests, values, and ideas, seeking common ground and finding solutions that balance diverse perspectives.
3. Taking Responsibility: This competency emphasizes a strong sense of personal and social responsibility. Students who possess this skill understand the impact of their actions on the world and are committed to making ethical and sustainable choices. They take initiative to contribute positively to their communities and the global society.

These transformative competencies are crucial for preparing students to engage in a rapidly changing and complex world. They enable individuals to adapt to new challenges, promote social harmony, and actively participate in building a more inclusive and sustainable future.

The competencies required for success in 2030 are expected to evolve in response to rapid technological advancements, changing workplace dynamics, and the shifting demands of the global economy. While it's challenging to predict specific competencies with absolute certainty, the following competencies are expected to be increasingly important in 2030 (OECD, 2018):

1. Digital Literacy and Tech Skills: Proficiency with technology, including artificial intelligence, data analysis, and digital tools, will be critical. This includes the ability to adapt to new technologies as they emerge.
2. Adaptability and Resilience: The capacity to adapt to change, handle uncertainty, and bounce back from setbacks will be highly valuable in a rapidly evolving world.
3. Creativity and Innovation: The ability to think creatively, generate novel ideas, and

innovate will be essential in a dynamic and competitive environment.

4. Critical Thinking and Problem-Solving: Strong analytical skills and the ability to solve complex problems will remain in high demand.
5. Emotional Intelligence: The capacity to understand and manage emotions, as well as effectively collaborate with others, will be crucial, particularly in roles that involve interaction with people.
6. Cultural Competence and Diversity Awareness: With globalization, an understanding of different cultures and the ability to work with diverse teams will be important.
7. Environmental Literacy: Given the increasing importance of environmental sustainability, competencies related to understanding and addressing environmental issues are expected to be more significant.
8. Health and Well-Being: Skills related to maintaining physical and mental health will continue to be important as individuals seek to balance work and life.
9. Cybersecurity and Data Privacy: With the growth of online activities, competencies in cybersecurity and data protection will be critical.
10. Interdisciplinary Knowledge: Competencies that bridge multiple fields of knowledge, enabling individuals to solve complex, multifaceted problems, will be increasingly valuable.
11. Lifelong Learning: The willingness and ability to continuously learn, adapt, and acquire new skills throughout one's career will be essential.

These competencies reflect a combination of hard and soft skills that are expected to be in high demand as the world continues to change. Preparing for the future job market will require a commitment to ongoing learning and development to stay relevant and competitive.

4. The role of AI in shaping education and training

Artificial Intelligence (AI) is playing an increasingly significant role in education and training across various levels, from K-12 schools to higher education and professional development.

We can summarize the role of AI in the education and training of the future by referring to the following aspects (OECD, 2018):

1. Personalized Learning: AI can analyze a student's learning patterns and preferences, allowing for the creation of personalized learning pathways. This tailors instruction to an individual's strengths and weaknesses, promoting more effective learning.
2. Adaptive Learning: AI-driven adaptive learning platforms can adjust the difficulty of assignments and content in real-time, ensuring that learners are appropriately challenged and not overwhelmed.
3. Assessment and Feedback: AI can automate the grading of assignments and exams, providing quick and consistent feedback to students. It can also analyze this data to identify areas where students may need additional support.
4. Virtual Tutors and Assistants: AI-powered chatbots and virtual tutors can provide instant

answers to student queries, offer explanations for difficult concepts, and assist with homework.

5. Language Learning: AI-driven language learning platforms can offer speech recognition and pronunciation feedback, making language acquisition more interactive and effective.
6. Early Intervention: AI can identify at-risk students by monitoring their progress and engagement. Educators can then intervene with additional support to help struggling learners.
7. Content Creation: AI tools can generate educational content, including lessons, quizzes, and even textbooks. This can help educators save time and ensure the availability of up-to-date materials.
8. Teacher Support: AI can help educators by providing insights into student performance and suggesting strategies for improving learning outcomes. It can also assist with administrative tasks like scheduling and grading.
9. Professional Development: AI-powered systems can offer personalized professional development opportunities for educators, helping them stay current with best practices and new teaching methods.
10. Career Training: In the corporate world, AI is used for employee training and development. AI-driven simulations and virtual reality can create realistic training scenarios for various industries.
11. Accessibility: AI can enhance accessibility for learners with disabilities. For example, it can provide real-time captioning for deaf or hard-of-hearing students and convert text to speech for visually impaired learners.
12. Data Analytics: AI can analyze vast amounts of data to identify trends and patterns in education. This data can inform decision-making at institutional and policy levels.
13. Ethical Considerations: AI in education also raises ethical questions related to data privacy, equity, and the potential for bias in algorithms and decision-making.

As AI continues to advance, its role in education and training will likely expand, improving the quality and accessibility of learning opportunities. However, it's important to strike a balance between the benefits of AI and the need to address ethical concerns and ensure that education remains a holistic and human-centered endeavor.

5. Conclusions

The future of education will be increasingly intertwined with the use of Artificial Intelligence (AI) for education and training. As found in the study ”Future of Education and Skills 2030: Conceptual Learning Framework. Education and AI: Preparing for the Future & AI, Attitudes and Values”, developed by the OECD, the main trends and conclusions regarding the future use of artificial intelligence in education and training are as follows (OECD, 2018):

1. Personalized Learning: AI will continue to enable personalized learning experiences, where educational content and pace are tailored to individual students' needs and abilities. This can help students learn at their own pace and level.

2. Adaptive Assessment: AI-driven assessments will become more sophisticated, providing real-time insights into students' progress and areas where they need additional support. This data can inform educators and students alike.
3. AI Tutors and Chatbots: Virtual tutors and AI-powered chatbots will become even more advanced, providing instant assistance to students, answering questions, and offering explanations for complex topics.
4. Global Access to Education: Online education platforms, supported by AI, will offer educational opportunities to individuals worldwide, breaking down geographical barriers to learning.
5. AI-Enhanced Curriculum: AI can generate content and curricula that adapt to changes in the job market and technology, ensuring that learners acquire the most relevant skills.
6. Education Analytics: AI-driven data analytics will provide insights for education administrators, helping them make data-informed decisions on curriculum development and resource allocation
7. Professional Development: AI will offer personalized professional development opportunities for educators, helping them stay current with best practices and educational research.
8. Education Gamification: Gamification and AI-powered educational games will make learning more engaging, particularly for younger students.
9. Addressing Learning Gaps: AI can identify and address learning gaps, ensuring that no student is left behind. It can provide targeted interventions for struggling learners.
10. Emerging Technologies: AI will work in conjunction with other technologies, such as virtual reality (VR) and augmented reality (AR), to create immersive learning experiences.
11. Ethical Considerations: The ethical use of AI in education will be a critical consideration, particularly regarding data privacy, bias mitigation, and ensuring equity in access to AI-driven education.
12. Teacher-Student Collaboration: AI will complement the role of educators, allowing them to focus more on mentoring, coaching, and fostering critical thinking skills in students.
13. Lifelong Learning: AI will play a crucial role in supporting continuous learning throughout one's life, helping individuals adapt to changing job requirements and societal shifts.
14. Global Collaboration: AI can facilitate global collaborations in education, connecting students and educators from different parts of the world for collaborative projects and cross-cultural learning.

The future of education will involve a fusion of human and AI-driven approaches, with AI enhancing and expanding educational opportunities. It is essential to consider the responsible and ethical use of AI, data privacy, and ensuring that the benefits of AI in education are accessible to all learners.

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GIG ECONOMY IN ROMANIA. INSIGHTS FROM A PRELIMINARY QUALITATIVE STUDY WITH GIG WORKERS

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Abstract: *The rising trend of the gig economy significantly influences the labor market and work culture, as an increasing number of individuals seek out flexible work arrangements and participate in on-demand work opportunities. This shift has profoundly impacted societies and economies, particularly in light of the COVID-19 pandemic. Additionally, new forms of work and entrepreneurship within the gig economy have disrupted conventional notions of employment and raised questions about traditional employer-employee relationships.*

This article presents initial findings from a qualitative study exploring the difficulties encountered by gig workers in Romania. Its objective is to understand how these challenges impact gig workers' lives and career paths, who represent a new generation of employees. Currently, information and studies on the gig economy and gig work in Romania are limited, and therefore, extant regulatory policies and mechanisms may be adapted to answering emergent work relationships. The current research aims to emphasize the necessity of a shared conceptual framework and the development of regulations and public policies concerning the gig economy and gig work in Romania, with the aim to be instrumental to policymakers, organizations, labor market specialists, scholars, and other interested parties in enhancing their understanding of gig workers in emerging economies.

Keywords: *Gig work, Gig economy, Qualitative analysis, Independent worker in Romania.*

JEL: C35, E02, J81.

1. Work in the realm of the gig economy

In 2016, the International Labor Organization anticipated that the gig economy would change the way people perform labor and change their expectations from organizations in terms of work-related activities. Today, although the exact number of people who engage in gig work is not known, it is estimated that worldwide, there are millions of gig workers (Pew Research Center, 2021; Statista, 2022). The increased practice and activities related to the gig economy have a direct impact on both the work and labor market, with more people now preferring flexibility and engaging in on-demand work arrangements. With the spread of this phenomenon, mainly in the context of the COVID-19 pandemic, economies and societies have been subject to change (Campion et al., 2020; Caza et al., 2022). In addition, the new forms of labor and business that emerged during the recent years under the umbrella of the gig economy and gig work disrupted traditional ways of understanding employment and challenged traditional employer-employee relationships. Consequently, exploring the gig economy and gig work should be part of any consistent attempt to understand the current anatomy of the labor market, business, and the economy at large (see Healy et al., 2017) and its direct impact on individuals and organizations.

Extant studies on the gig economy and gig work (Donovan et al., 2016; Weil, 2017; Fabo et al., 2017; Caza et al., 2022) stress the importance of developing a solid conceptual framework and delving deeper into the obstacles caused by gig work and different forms of independent work. Although it is acknowledged that gig and independent work are not the only new o forms of work (Ashford et al., 2018; Goods et al., 2019) and that it is important to investigate and understand their mechanisms and features, until now, the conceptual consensus is scarce (Fabo et al., 2017). Drawing on the literature in the field and on reports and available data on the gig economy, gig workers are referred to as self-employees, freelancers, independent contractors, and individuals working on their own (Healy et al., 2017, Wood & Lehdonvirta, 2021; Caza et al., 2022; Pew Research Center, 2021; Statista, 2022). Mainly described as independent work mediated by online platforms (see De Stefano, 2016; Veen et al., 2020), gig work is typically associated with labor performed on specialized platforms, although its manifestations may vary, and gig-related work can be carried out through various means. Thus, some studies suggest an appropriate lens through which to view gig work is independent work, characterized by short-term engagements and payment based on tasks or projects. (Donovan et al., 2016; Campion et al., 2020). Whether using facilitation platforms or not, gig workers are individuals who sign up for tasks or projects for which they are paid on a task or project-based basis rather than receiving a salary (Weil, 2017; Caza et al., 2022). Consequently, gig workers face significantly more challenges compared with employees, as their work is paid only per task or project, which leads to financial insecurity. Moreover, as it is pointed out (Duggan et al., 2020), gig and independent workers have not only to contend with volatile income, but they are also not afforded social and health insurance

benefits, as is typically the case for regular employees.

This paper presents some of the preliminary results of a qualitative study seeking to examine the existing challenges faced by gig workers in Romania. Its aim is to gain a deeper insight into how these challenges affect the lives and career trajectories of gig workers as a new generation of workers. To our knowledge, at this moment, data and reports on gig work and the economy in Romania are scarce, and, consequently, regulatory policies and mechanisms are also in their very beginnings. In this line, the study aims to highlight the importance of a shared conceptual framework and the development of regulations and public policy regarding the gig economy and gig work in Romania. The paper hopes to support policymakers, organizations, experts in the labor market, scholars, and other stakeholders in enhancing their understanding of gig workers in emerging markets.

2. Method

The present paper is grounded in a larger qualitative study that we conducted on Romanian gig workers, looking to unveil the mechanisms, features, and unique aspects of gig work as perceived by our participants. In doing so, we delved into how the interviewees describe their personal experience with the gig work and gig economy by addressing the working routine, perceived advantages and motivation mechanisms. We developed a semi-structured interview guide, organized in four dimensions looking to explore how participants started to engage in the gig economy, their experience and motifs for continuing, the challenges they faced and their current needs. We also examined how our interviewees define their work and perceive their roles in an effort to understand the meanings they attribute to gig work. We conducted nine semi-structured interviews, labeled numerically. The interviews were primarily conducted in December 2022 in the Romanian language and lasted from 60 to 95 minutes each. All interviews were audio recorded with the informed consent of participants.

One of the initial challenges in conducting the study was linked to the selection of participants, as in Romania, gig work and the gig economy are less used. Consequently, we had difficulty distinguishing gig workers from freelancers and independent contractors, like self-employees. To overcome these difficulties, we selected only participants who performed independent work mediated by platforms, as this may be considered, based on extant studies and reports, one of the characteristics that differentiate gig work from other similar work. When selecting the interviewees, we asked them if they performed work in Upwork of Fiverr or any other similar platforms. Of the nine participants in our study, two were currently full-time employees and had engaged in gig work in the past. Their work experience ranged from 4 to 19 years. They had different backgrounds and expertise areas from marketing & communication, coaching, project management, eLearning, video editing, graphic design, video animation, art direction, multimedia design, SEO, and digital strategy.

Data emerging from the semi-structured interviews were subject to open coding, used to identify the ways in which our participants give meaning to gig work and the gig economy and how they

perceive the obstacles and challenges, the impact on their daily life and the benefits of this type of work, when compared with employees' benefits. In our data analysis process, we employed axial coding in conjunction with open coding to further categorize and subcategorize the data. Axial coding was employed to identify common themes and the relationship between the concepts emerging from data.

3. Data analysis

The preliminary results of our study, based on the semi-structured interviews, reveal some interesting elements regarding the way our interviewees perceive themselves and refer to the work they perform in the gig economy. Also, data emerging from our research points to the mechanisms of gig work and the main challenges that individuals who engage in these activities face.

Not a gig worker but rather self-employed

Drawing on data from the current study, we observed that the taxonomy of gig work is consistent with elements already noticed in the preliminary stages of the research. Although interviewees use the term gig economy and acknowledge the multidimensional changes brought by new forms of work and new ways of being paid for performing work, they do not refer to themselves as gig workers. Instead, they consider themselves as self-employed and independent workers, most of the time using the word freelancer. Participants perceive themselves as freelancers running their own businesses, as they are responsible for the entire process of signing up for a job, getting it assigned, completing the work, and receiving payment. However, unlike regular employees, gig workers often face challenges such as financial instability and lack of social and health insurance. Despite these differences, gig workers consider themselves independent contractors who manage their own work, finances, and risks associated with their gig work. They consider themselves as "freelancer", "entrepreneurs", and "self-employed", mentioning that their activity is more complex and difficult compared to an employee. According to our participants, the complexity and high level of challenge are linked to the need for extended knowledge and expertise compared to working in a conventional employment setting. As some of them mention, various skills and knowledge are needed for the work performed in the gig economy: "You need to have more knowledge than just your job to make it work".

Multitasking and using different skills and knowledge are considered key for working in the gig economy and building a portfolio of clients. Among the required skills, all participants mentioned the importance of building a reputation and self-promoting on the platforms. Highlighting personal expertise, knowledge, and capabilities in the cover letter submitted by workers to secure a job on the platform is deemed indispensable.

Flexibility, uncertainty, and financial insecurity

Both advantages and disadvantages were mentioned compared with working as an employee. In the majority of cases, our interviewees used the traditional employer-employee relationships and classical labor framework as a reference. During the interviews, participants stressed the importance of flexibility and remote work. These two are considered the main benefits of working in the gig economy, along with empowerment and a feeling of independence in one's own work. To set one's own schedule and sign up for jobs or projects, as opposed to being assigned tasks within a traditional job, is often referred to as a significant advantage. The most frequently named disadvantages are linked to financial insecurity, unstable income and low predictability. This situation is looked to as critical in the early stages for someone working in the gig economy and is considered to be the cause of many people giving up on this type of work and getting a full-time job. This is due to the fact that financial instability triggers uncertainty and anxiety, which is hard to navigate through.

Some rules and no regulation

A gig worker, as well as the organization announcing a project or task on a gig platform, has to observe the rules imposed by the platform. With each platform organizing the different stages of announcing and, respectively embarking on a new project / task, the precedence in rules and regulation to be respected seems to be entirely dependent on the platform. Regardless of the economic environment where workers – and organizations – are placed, platforms rules are the main rules. Outside ensuring that some work result is delivered, there isn't a specific regulation of thus type of activity, nor a mechanism to ensure that both wrights and obligations are respected by all parties involved.

4. Discussion

The preliminary findings of our research point out that the terminology used to describe the gig economy and gig work lacks consensus or consistency. In line with the extant conceptualization of the terms, we notice that instead of gig work, participants in our study use freelancers, self-employed, independent workers, and sometimes entrepreneurs. They perceive their work as complex, as it demands a diverse set of skills and expertise that surpasses the requirements typically seen in traditional work environments.

The work mediated by platforms like Fiverr and Upwork needs constant and solid self-promotion and marketing strategies, as in the case of freelancers and small businesses using direct marketing ("you need personal branding"; "promote your business"). Devoting time and effort to build a reputable personal brand is seen as a key aspect and sometimes even more important than possessing the actual skills to deliver the project To all these, it is worth mentioning that taking care of accountability, insurance and administrative and legal requirements needs much effort and project management skills. Basically, the gig worker has to deal with all the aspects that regulate a small business in relation to authorities and public administration.

Adhering to legal requirements is considered by respondent through the lens of business and

entrepreneurship and it usually refers to paying taxes. As one respondent frames the issue: ''you have to deliver an invoice if you want to be perceived as a serious business, and, also, important company will not want to associate with you if you don't act legally''. The discussion about advantages and disadvantages of independent / gig work opens a window in understanding how workers perceive their relation to work relations in general, and with social and health benefits as a resultant of their work. With income instability considered one of the main disadvantages of freelancing and independent work, not much space is allowed for social security or health problems. Of their own initiative, respondents did not address these topics during the interviews. Also, most of them were focused on adhering to the rules of platforms and discussing provisions to ensure they receive the payment initially agreed upon: concern for regulations did not exceed these two realms: acting legally in relation to the State (on concerns based on reputation) and acting in accordance with platform rules and getting good reviews.

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ANALYSIS OF THE IMPLEMENTATION OF EMPLOYMENT POLICIES IN KOSOVO

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Abstract: *The paper analyzes the implementation of employment policies in Kosovo in the public and private sectors. Through the literature review, we analyze the legal framework of employment policies in Kosovo. While through the structured questionnaire with employees we have collected data related to the implementation of the legal framework of employment policies in Kosovo. The main conclusion of the paper is that Kosovo has drafted and approved the legal framework of employment policies, but the implementation of this framework is challenging. Some of the other conclusions of the paper are: (i) the majority of workers in Kosovo work more than the regular weekly working hours; (iii) more than half of the workers in Kosovo work six days a week; while the rest work seven days a week; (iv) most of the respondents stated that they have the opportunity to find a second job; (v) close to ¼ of Kosovar workers are not being paid for their pension contributions.*

Keywords: *Kosovo, Analysis, Politics, Employment, Legal basis*

JEL: E24.

1. Introduction

The labor market in Kosovo, in addition to the high level of unemployment, is known for many challenges, one of them is the implementation of employment policies. This challenge has brought many problems to the workers in Kosovo, such as the issue that most of the workers in Kosovo work more than the regular weekly working hours; more than half of the workers in Kosovo work six days a week; while the rest work seven days a week; most of the respondents stated that they have the opportunity to find a second job; close to ¼ of Kosovar workers are not being paid for their pension contributions.

Unions and labor inspectorates in Kosovo show weakness not only due to low capacities, but also due to numerous cases of irregularities and cases of abuse or violation of rights. For this reason, this study aims to investigate the implementation of employment policies, both in the public and private sectors. The main purpose of this paper is to bring a clear overview of the implementation of employment policies in Kosovo, as well as to reflect the problems and challenges encountered in complying with these policies.

To accomplish the set goal, this paper aims to accomplish these objectives:

- To analyze the legal framework in terms of employment policies in Kosovo, examining all aspects that are covered.
- To present the situation of the labor market in Kosovo, analyzing both the positive sides and the challenges or problems encountered.
- To develop a case study to discuss the current implementation or non-implementation of labor law in Kosovo.
- To cross the findings: on the one hand, employment policies, with the findings of empirical research, on the other hand.

This paper intends to answer these research questions:

- Are the labor rights of female workers respected in Kosovo? If so, to what extent?
- What are the problems encountered in the labor market in Kosovo?
- How are the problems and challenges related to the right to work are handled in Kosovo?

The main hypothesis of the paper is:

- Kosovo has drafted and approved the legal framework of employment policies, but the implementation of this framework is challenging mainly in such matters as: working longer than the official working hours, non-payment of pension contributions, working during weekends, etc.

This paper has several limitations. First, the issues addressed here are quite sensitive for a part of

the population in Kosovo, namely for people who have encountered discrimination or irregularities in the workplace. Second, the paper can be criticized because of the representation of the facts or the approach followed to the data presented. Thirdly, the instrument used to conduct the case study (questionnaire) has its limitations. The sample selected for the development of the questionnaire is statistically limited, although we have tried to make this sample as representative as possible. Also, during the process of approaching the sample, many of the people surveyed were either not interested in the study, or refused to complete the questionnaire.

2. Literature review

During the review of the literature for the preparation of this study, the main sources of employment policies in Kosovo were consulted. As Berberovic (1990) states, scientific disciplines do not emphasize finding a certain answer on how and when a social phenomenon appears, but explain the reasons why a certain social phenomenon appears. So, labor law as a scientific discipline not only interprets legal norms, but also answers questions such as: What reason certain provisions of labor law do not apply for? What reason do some entities that are part of the labor law act contrary to legal norms or certain regulations for?

Constitution of the Republic of Kosovo. The Constitution of the Republic of Kosovo (2008) defines the main principles of the labor relationship in Kosovo, as they are: "The right to work is guaranteed" (p, 15), "Each person is free to choose his profession and place of work" (p, 15), "Basic social insurance, which deals with unemployment, sickness, disability and old age, is regulated by law" (p, 15). This definition is in full agreement with the theoretical definitions, according to which labor relations were regulated by the general rules of civil law, namely the civil legislation that regulated labor contracts, the practice of collective contracts, etc. (Nikolic, 1995). The Labor Law (2010) aims to regulate the rights and obligations from the labor relationship, as defined by this law. The provisions of this law are applied to employees and employers of the private and public sector in the Republic of Kosovo. The provisions of this law also apply to employees and employers, whose employment is regulated by a special law, if the special law does not provide solutions for certain issues from the labor relationship. The provisions of this law are also applied to employees with foreign citizenship and persons without citizenship, who are employed by employers in the territory of the Republic of Kosovo, unless otherwise regulated by law. The provisions of this law are not applicable to employment relationships within international missions, diplomatic and consular missions of foreign countries, the International Military Presence located in the Republic of Kosovo based on the Comprehensive Proposal for the Status and international governmental organizations. With the approval of the labor law, Kosovo became part of the states that have codified labor law (Brajic, 1987).

The Law on Safety and Health at Work (2013) aims to define measures to improve the level of safety and health of the employees at work. This law contains the general principles for the prevention of occupational risks, the elimination of risk factors and accidents, information,

consultation, balanced participation in improving the level of safety and health at work, training of employees, their representatives and general instructions for the implementation of these principles. The provisions of this law are applied in the public, private, public-private sector and the state administration sector at the central and local levels. The provisions of this law apply to: apprentices, pupils and students in practical work during education, persons serving a sentence engaged in work, visitors, business associates, users of services and persons undergoing vocational training or retraining at the employer. The provisions of this law do not apply to sectors whose activity is regulated by separate laws, such as: The Kosovo Security Forces, the police, the fire service and the services for protection and rescue.

The Law on the Organization of Unions in Kosovo (2011) aims to regulate and define the rights and freedoms of employees for the establishment and free and voluntary organization of unions in the public and private sectors, with the aim of representing and protecting the interests of economic, social and professional of the workers from work and labor relations. This law does not regulate the rights and freedoms for union action and organization in the Kosovo Security Force, and other services defined by a separate law.

The Law on Strikes (2010) aims to guarantee the freedoms and rights related to the organization and participation of employees in Kosovo on strike according to international standards. This law regulates and defines the rights of employees on strike, the conditions and manner of organizing the strike, as well as the rights and obligations of employees and employers during the strike. The employees of the Kosovo Security Force, Kosovo Police, Fire Services, Emergency Health Services and other bodies of special interest to the Republic of Kosovo, do not have the right to organize a strike, unless by special law it is arranged differently.

The Law on the Economic and Social Council (2011) regulates and defines the organization, scope, work forms and general functioning of the Economic and Social Council, as well as defining the conditions and criteria for the representation of social partners in this tripartite body. The Economic and Social Council (ESC) is established with the purpose of establishing and developing social dialogue in the Republic of Kosovo for employees and employers, for issues of special importance, which are related to the realization of their economic and social rights and professional, which are realized, through dispute solutions with bilateral or tripartite agreements. The provisions of this law apply to all social partners at the national level, who are represented in the ESC by: Employee organizations (unions); Employers' organizations; and the Government of Kosovo.
Law on Labor Inspectorate (2002). The authority of the Labor Inspectorate will apply uniquely to all workplaces, regardless of which legal provisions are in force regarding to work conditions, occupational safety and health protection of workers in general. This law will not be applied in workplaces that are within UNMIK, in offices or in international missions and in other governmental and non-governmental organizations operating in Kosovo. Labor inspectorate:

a) It will supervise the implementation of the labor law, working conditions and occupational safety;

b) Will provide technical information and advice to employers and workers on the most effective implementation of legal provisions; c) Will notify the Minister of Labor and Social Welfare or any other competent body of any lack or misuse of the applicable law; d) Will provide information and advice to employers and employees that will be in accordance with the law and warn the competent authorities of any defects or abuses that are not covered by existing legal provisions.; e) It will give advice on issues related to labor law and the protection of workers in the case of reorganization or restructuring of an enterprise.

3. The labor market in Kosovo

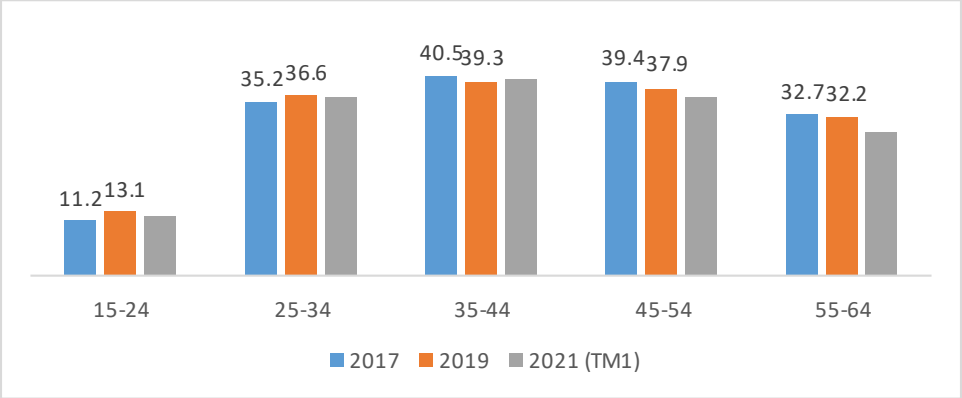
The unemployment rate in Kosovo remains high. The data of the Kosovo Statistics Agency (2021) for the first quarter of 2021, show that about 25.8% of the workforce (or about 124,647 people) were unemployed (83,141 men and 41,516 women). The unemployment rate has increased from 25.7% in 2019 to 25.9% in 2020, followed by a slight decrease in the first quarter of 2021 to 25.8%. A large part of these unemployed (67.6% of the unemployed) have been out of work for more than a year.

According to Labor Force Survey data, 60.5% of the working-age population (or about 741,906) in the first quarter of 2021 (58% in 2015) was inactive. An obvious characteristic of inactivity is the high rate among women (Aliu, 2022a). While 43.5% of working-age men (or about 265,467 people) were inactive, the rate of inactivity among women was more than double of men (77.3% or 476,439 people). According to an analysis of the Millennium Challenge Corporation (2018) prepared in 2018, inactivity among men is mainly related to low education / training or the belief that there is no work. And the main reasons for women are related to the family. Over half of inactive women cite family reasons as the main reason. So that only 39.5% of Kosovars of working age were economically active in the first quarter of 2021. This shows a lower labor force participation rate if compared to 2018 and 2019 (40.9% and 40.5% respectively) that has been affected by the Covid 19 pandemic (Aliu, 2022b).

During the period 2015-2020, the employment rate has increased from 25.2% (or 296,940 employed persons) to 30.1% (or 363,180), while in 2020, due to the pandemic, the employment rate has fallen to 28.4%, while in in the first quarter of 2021 (latest data available from the Labor Force Survey) the employment rate increased to 29.3%. However, the employment rate remains very low compared to other countries in the region and the EU (64.9% for all 27 EU countries, even countries like Greece and Macedonia, where half of working-age adults are employed). The employment rate is higher for the 35-44 age group (40%) compared to other age groups, while the employment rate was lower for the 15-24 age group with 12%. As expected, the employment rate increases with increasing years spent in school (from 2% with no schooling to 60% with tertiary education), while the employment rate for those who graduated from vocational schools is slightly higher (35%) than for those who have completed gymnasium (32.5%). Meanwhile, more people with vocational education and gymnasium high school are working in private companies or practicing their profession in private business. On the other hand, many people with tertiary education are working in the public sector or in public enterprises.

The employment rate for women in the 25-54 age group ranges from 18% to 22.3% according to the Labor Force Survey. In the 25-34 age group, the employment rate was 22.3% in the first three months of 2021, while 20.9% for the 35-44 age group. The lowest employment rate for women is observed for the 15-22 age group with 7.7% and the 55-64 age group with 13%. Among men, the employment rate was highest for the 35 to 44 age group (60%), followed by the 45 to 54 age group (56%) and the lowest for young people in the 15 to 24 age group (16.1).

Figure 1: Employment rate by age group



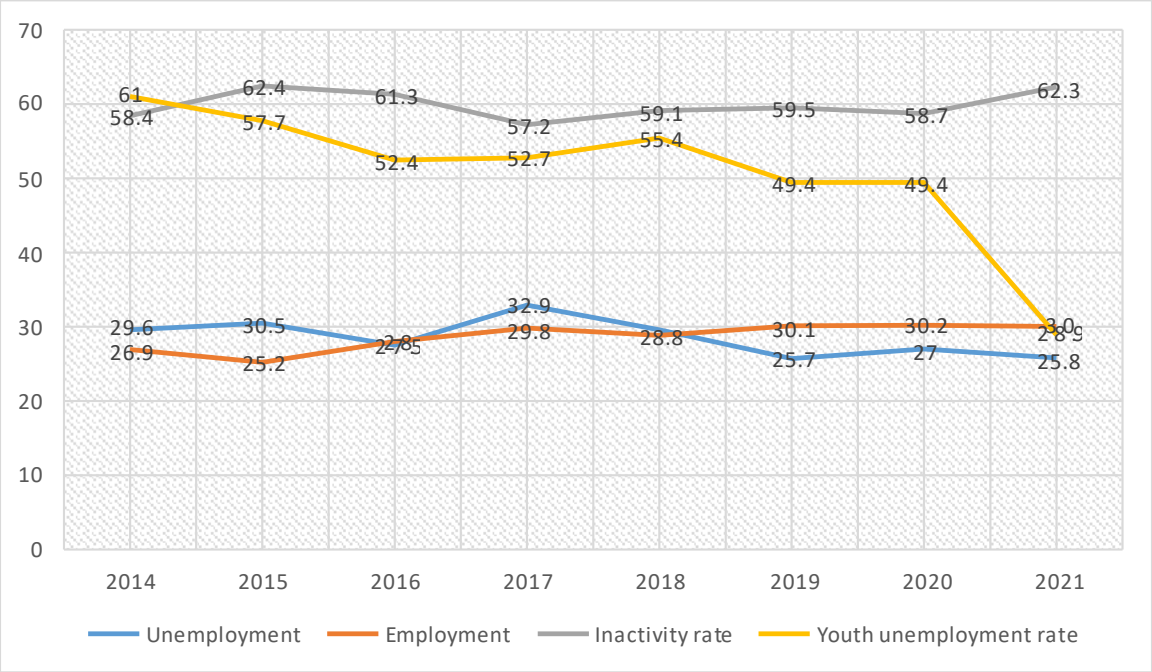
Source: Kosovo Statistical Agency (2020). Labour Force Survey. Prishtine: ASK; Kosovo Statistical Agency (2019). Labour Force Survey. Prishtine: ASK; Kosovo Statistical Agency (2018). Labour Force Survey. Prishtine: ASK.

According to the Statistics Agency of Kosovo (2021), in the first quarter of 2021, 76.3% of people were employed with a salary (71% in 2015), 9.4% were self-employed (6% in 2015) and had other employees, 10.9% were self-employed without other employees (15% in 2015), and 3.4% were family workers (8% in 2015). According to the Labor Force Survey data, the majority of employed women had the status of wage workers. Less than ¼ of employed men were self-employed compared to 10% of self-employed women. Regarding the type of contract, the majority of employees (87.3%) had an individual contract, while the rest worked without a contract.

The structure of employment from different economic sectors in the first quarter of 2021 shows that the service sector is the main employer in Kosovo, providing about 69.8% of total employment (69.5% in 2015). In the service sector, trade and education sub-sectors are the largest areas (17.2% and 11.0%, respectively). Construction constitutes 9.4% of the total number of jobs, while industry has a percentage of 17.4% (Aliu, 2022c).

Based on the data received from the Tax Administration, in 2021, the service sector is the main employer in Kosovo, providing about 76.8% of total formal employment. In the services sector, trade and public administration and defense sub-sectors are the largest areas (21% and 25%, respectively). Construction constitutes 6.3% of the total number of formal employments, while industry has a percentage of 15.7% of formal employments (within industries, processing industry with 10.6%).

Figure 2: The main indicators of the labor market in Kosovo 2014 – 2021



Source: Kosovo Statistical Agency (2021). Labour Force Survey. Prishtine: ASK. Kosovo Statistical Agency (2020). Labour Force Survey. Prishtine: ASK; Kosovo Statistical Agency (2019). Labour Force Survey. Prishtine: ASK; Kosovo Statistical Agency (2018). Labour Force Survey. Prishtine: ASK. Kosovo Statistical Agency (2017). Labour Force Survey. Prishtine: ASK. Kosovo Statistical Agency (2016). Labour Force Survey. Prishtine: ASK. Kosovo Statistical Agency (2015). Labour Force Survey. Prishtine: ASK. Kosovo Statistical Agency (2014). Labour Force Survey. Prishtine: ASK.

4. The methodology

This study was undertaken to study the implementation of employment policies in Kosovo in the public and private sectors. For reasons related to time, access and budget, data collection was considered to be carried out on a sample of 500 individuals operating in various industries. The study considered different industries with the aim of better understanding the

implementation of employment policies in Kosovo. The consideration of many industries will give a clear picture of the current situation and constitutes an added value to the current literature. A total of 500 individuals in Kosovo were taken as a reference for this study. The study was conducted during the January-May 2022 period. The instruments were administered online by obtaining permission in advance for the development of the questionnaire as well as the confidential use of the data. However, the participation was not maximum. The instrument used in this study is a questionnaire with 12 questions that tries to identify the implementation of employment policies in Kosovo. The questionnaire begins with demographic questions such as the respondent's gender, education and age. Then it continues with questions about the possible influence of the work environment on the implementation of labor rights.

5. Analysis of research results

Research credibility is about reliability and consistency. Reliability is concerned with the accuracy of the measurement procedure (Cooper and Schindler, 2006). To guarantee the accuracy of the instrument used (questionnaire) the Cronbach Alpha test was used. This test is used to measure the reliability of the research instrument by producing a measure of the correlation between the observed results and the true data results (Neuman, 2006; Yin, 2003). Furthermore, Yin (2003) noted that the idea of reliability in a study refers to the minimization of errors and prejudices (interferences by the researcher). According to Kline (1999) the acceptable value of Cronbach's alpha is between 0.7 and 0.9. However, Nanannually (1978) acknowledges that a Cronbach's alpha value greater than 0.5 is sufficient to consider a research instrument reliable. While Hair et al., (1998) accepts that an instrument is reliable if it has a value of Cronbach's alpha greater than 0.6.

Chart 1: Cronbach Alpha coefficient value

$\alpha \geq 0.9$ e shkëlqyer
$0.8 \leq \alpha < 0.9$ e mirë
$0.7 \leq \alpha < 0.8$ e pranueshme
$0.6 \leq \alpha < 0.7$ e diskutueshme
$0.5 \leq \alpha < 0.6$ e dobët
$\alpha < 0.5$ e papranueshme

Burimi: Hair et al., (1998)

excellent / good/ acceptable/ controversial/ weak/ unacceptable

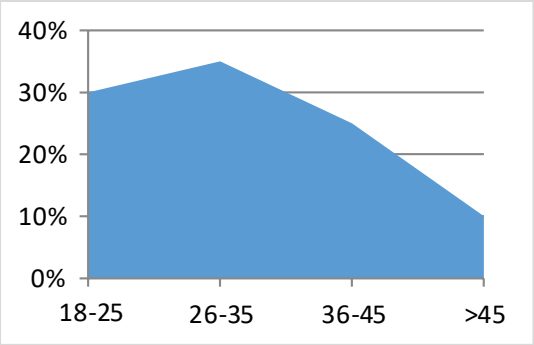
The value of the instrument used in this study is 0.75, which indicates that the results are completely acceptable. Therefore, we will proceed with the data analysis.
Regarding the age of the participants in the research, the data show that most of them, 35%, belong to the age group of 26-35 years. Age 18-25 make up 30%, while age 36-45 only 25%. The data show that the middle age, namely 26-35 years old, has a higher employment compared to other age groups.

Regarding the gender, the majority of the interviewees are men at the rate of 55%, while women make up 45% of the entire sample. However, the fact that men are superior in the sample compared to women does not mean that men have higher employment since the sample is a small proportion of the entire population.

As for education, the data show that most of them have a bachelor's degree, 60%, while 20% of them have a high school diploma. Only 15% of them have a master's degree while only 5% of them have a degree of a higher level.

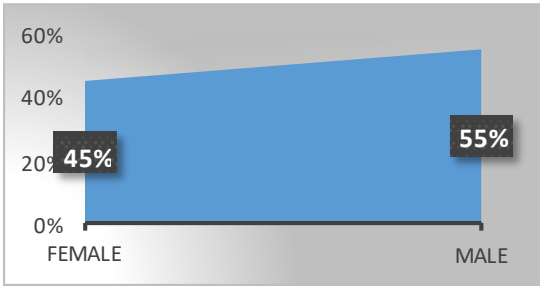
High school/ Bachelor degree /Master degree/other

Figure 3: Age of research participants



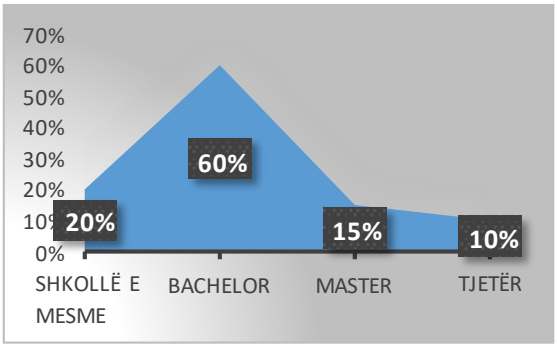
Source: research conducted by the authors

Figure 4: Sex of research participants



Source: research conducted by the authors

Figure 5: Education of research participants

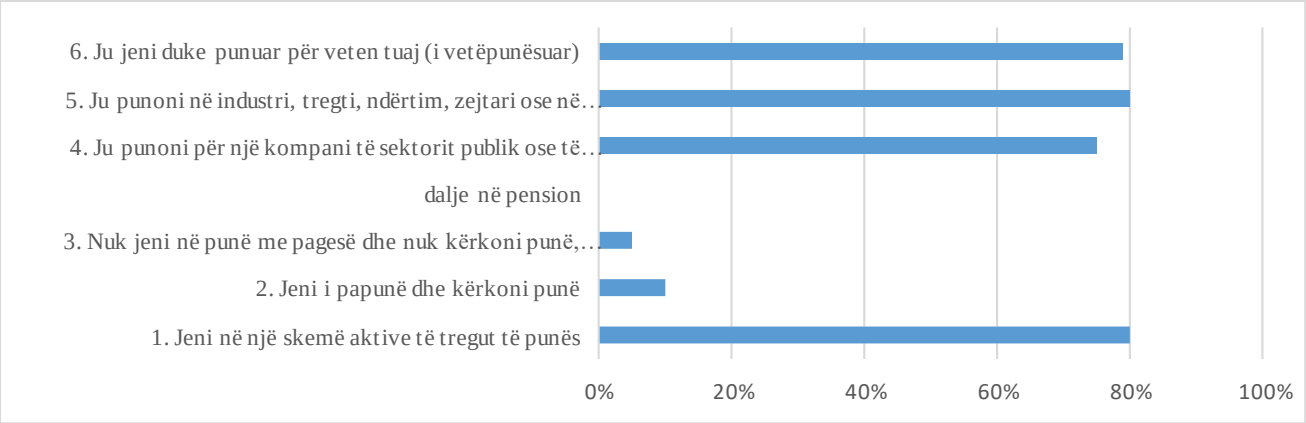


Source: research conducted by the authors

Individuals were asked about their current employment status where each question had more than one choice. The data show that most of them are active in the labor market, 80% of them are self-employed while the rest work in industry, trade, construction, crafts or services. Meanwhile, 75% of the respondents state that they work in a public sector company or public administration.
The data related to work experience show that the majority of employees are in the workplace for a period of 3 to 5 years at the rate of 55%, while the rest of 35% are in the workplace from 1 to 3 years. Only a small percentage of them have a work experience of 5 to 10 years and more than 10 years of work experience.

Also, the interviewees were asked about the overwork and most of them state that 65% of them work more than 45 hours a week, while 25% of them work between 41 and 45 hours. A small number of them have a reduced number of working hours per week. Long working hours and tiredness can lead to reduced efficiency and productivity at work.

Figure 6: Current employment status



Source: research conducted by the authors

1. **you are in an active labor market scheme**
2. **you are unemployed and looking for a job**
3. **you are not in a paid job and you are not looking for a job**
4. **you work for a public or private sector company... retirement**
5. **you work in industry, trade, construction, crafts or...**
6. **you are working for yourself (self-employed)**

Chart 2: Work experience

Experience	Frequency
1-3	35 %
3-5	55%
5-10	3%
>10	7%

Source: research conducted by the authors

Chart 3: Overwork

Working hours	Frequency
Less than 20 hours	2 %
20 to 24 hours	2 %
25 to 29 hours	1 %
30 to 34 hours	2 %
35 to 40 hours	3 %
41 to 45 hours	25 %
More than 45 hours	65 %

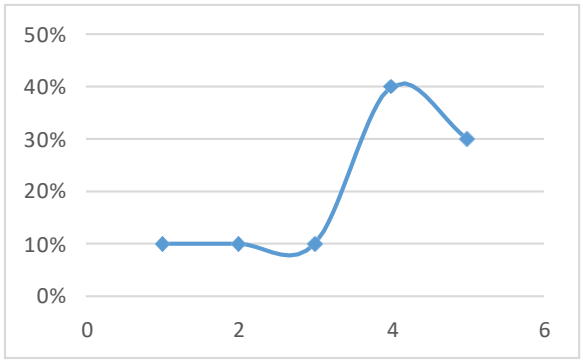
Source: research conducted by the authors

To confirm the statement of overwork above, employees were also asked about the days they worked per week. After the COVID-19 pandemic and due to the restrictions imposed to limit the spread of the infection, public and private administrations switched to working online or from home. However, the answers show that most of the employees are overworked and work beyond the hours and days specified in the contract.

Employees were asked about shift work attendance. The answers show that shift work happened regularly, which is more normal since most of the work is organized in shifts. However, what is worth mentioning is the fact that employees work on weekends and overtime. This clearly shows that there is a lack of specification of working hours and respect of labor rights in Kosovo.

Employees were asked about attention to employee rights and 80% of them declare that there is no attention to employee rights. Most public and private administrations seem not to be focused on respecting rights. What is important is to emphasize that the state of Kosovo is a new state which has gone through various important structural changes that have hindered the development of the state of Kosovo in the field of labor rights.

Figure 7: Working days per week



Source: research conducted by the authors

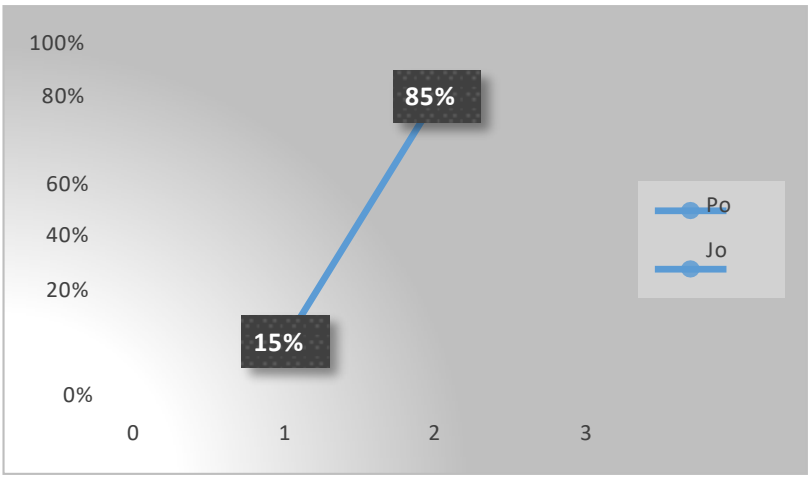
Chart 4: Work organization

	Never	Sometime	Regularly
Shift work			x
Work at night shift	x		

Work on Saturdays	x
Work on Sundays	x
Out of hours	x

Source: research conducted by the authors

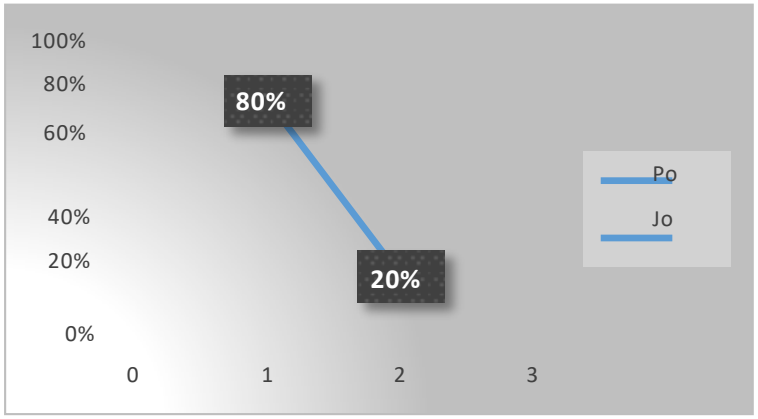
Figure 8: Attention to the rights of employees



Source: research conducted by the authors

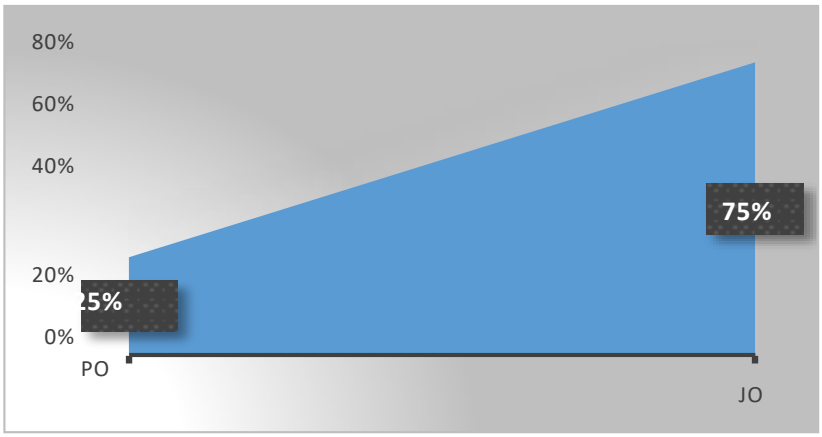
In figure 8 we have shown the answers of the employees if they could find another job would they have left their actual jobs and most of them declare that they will do. It seems that most of them do not provide suitable conditions for the implementation of employees' rights.
Most of the respondents stated that the social and health insurance system leaves much to be desired, and the pension payment is not sufficient to cope with the uncertain situation in the future.

Figure 9: Opportunity to find another job



Source: research conducted by the authors

Figure 10: Pension payment



Source: research conducted by the authors

6. Data crossing

Cross-checking of the data will be done based on the identification of the legal basis of the employment policies in Kosovo and the findings from the empirical research with workers. The following figure contains three columns. The first column identifies the activity, the second column identifies whether the activity is regulated by law or not, and the third column indicates whether the activity in question is enforced or not.

Figure 10: Data Crossing

The activity	Regulated by law	Applies
Current employment status	Regulated by law	Partially
Work experience	Partially	Partially
Overwork	Regulated by law	Not applicable
Working days per week	Regulated by law	Not applicable
Work organization	Regulated by law	Partially
Attention to the rights of employees	It is not regulated by law	Not applicable
Opportunity to find another job	It is not regulated by law	It is not regulated by law

Source: Figure created by the authors of the paper

7. Conclusions

Based on the research data presented above, we can conclude that the hypothesis of the paper stands. Therefore, the main conclusions of the paper are as follows:

- In terms of age, gender and education of the respondents, the research is representative; with a greater representation in terms of respondents with bachelor's studies, compared to respondents with other levels of education.
- Regarding the current employment status, there are three main categories of respondents with almost equal participation in the research: respondents who are working in the public sector, respondents who are working in the private sector, self-employed

respondents and respondents who are part of active labor market measures.

- Regarding work experience, most of the respondents have 3 to 5 years of work experience.
- Regarding the overwork per week, 65% of the respondents have more than 45 working hours per week.
- 45% of respondents work 6 days a week, while 30% work 7 days
- Most of the respondents work more than the official working hours, work on weekends and overtime.
- 80% of respondents have the opportunity to find another job, while 20% said no.
- 25% of the respondents stated that the employer did not pay the pension contributions, while 75% stated that the pension contributions were paid.

8. Recommendations

Based on the conclusions of the paper, the main recommendations are as follows:

- To increase the number of labor inspectors and strengthen the capacities of the Labor Inspectorate;
- To develop and strengthen the social dialogue (government, employers, unions);
- To change and complete the legal framework from the labor relationship in order to harmonize with the Conventions of the International Labor Organization, as well as the directives of the European Commission;
- Pension contributions should be paid to workers;
- Overtime work should be monitored in particular, work on weekends as well as on official holidays in the private sector.

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SOCIAL STRATIFICATION PERSPECTIVE. A THEORETICAL APPROACH ON THE MASSIFICATION OF HIGHER EDUCATION

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Abstract: *This paper discusses one of the main theores that addresses the explanation of the causes of the expansion of higher education as a social phenomenon, namely the theoretical perspective of social stratification. I will thus try to introduce some elements for the beginning of what social stratification is, as well as about social status and how it is closely related to participation in higher education. This theoretical perspective sees individual opportunities for access to higher education as being capitalized in order to accumulate a certain social status and not for the per se's intention to acquire certain knowledge, and skills. Also, it is not only the individual level that targeted in this paper, but also the collective one, given that the groups of individuals in a society will tend towards social emancipation, given the possibility of obtaining a university degree in this regard.*

Keywords: *Social status, Higher education massification, Access, Social Groups.*

JEL: B14, I23.

1. Problems and debates

The way in which individuals relate to the education system, the labor market, but also to other individuals in society is one of the pillars on which this paper is based, thus I intend to discuss in this section how individuals relate to their direct competitors. I am referring here to the concept of "*social status*" which in turn includes multiple explanations of how an individual is viewed in a society. The discussions of social status and that of obtaining a university degree intertwine, given that in modern society obtaining such a diploma can become a status indicator (Windolf, 1997). In this respect, there is a possibility that the educational decisions of individual actors will lead to long-term undesirable effects for the whole of society. The argument here is that educational expansion is not limited by a social need (as theorists hold the human capital perspective), but rather develops a "*status competition among individuals*" that stimulates them to overcome one another in order to achieve limited jobs (Ibid., p.12).

The demand for higher education underpins the explanations given by the individualistic perspective of the expansion of higher education, with emphasis placed on individual decisions. More specifically, according to this perspective, we can say that the educational expansion in the tertiary education sector is supported by the initiatives of individuals to obtain a university degree. In this way, they can compete with other individuals in society on a multitude of positions (Brown, 2001). Therefore, it is the dynamics of the need for university degrees and accreditations that influence the fluctuations of registrations in a higher education system. Thus appears the concept of "*social status*", whose roots can be identified in Max Weber's sociology in "Economics and Society", where he discusses the competition of status and membership groups, elements of interest for this chapter. By the "*social state*" I shall refer further to the prestige attached to the position of an individual in a society (Weber et al., 1978). It can also represent the position or rank that the individual occupies in a social group, a status that he can acquire either through his own achievements (status acquired) or through the inheritance of that position in the social hierarchy (status assigned). In the case of the latter, it can be acquired by an individual at birth, by his race, sex or by his social and economic context (Ibid.).

In this way, for Weber, social status represents the confluence of property, power and prestige, which are the three main components of social stratification. By property it refers to the material possessions of an individual that influence his chances in life, while prestige here represents the reputation and self-esteem associated with the position of the individual, and power is his ability to do whatever he wants, regardless of the wishes of others. Thus, says Weber, the development of modern bureaucracy has led incrementally to the substitution of symbolic goods (such as nobility) for goods such as university degrees for access to public office (Weber et al., 1978). Moreover, other authors consider social status as just as important as economic capital. Here I offer as an example the French sociologist Pierre Bordeu who considers that the status indicators of an individual are not limited to the amount of money he holds in the bank, but rather are closely related to the cultural tastes he acquires from his youth. Indeed, however, these tastes are influenced by the class from which it originates and the groups of people in which it develops, hence the importance of individuals acquiring new cultural perspectives that give them the

highest social status (Bourdieu, 1984).

As for groups of individuals, Weber argues that they are more likely to be formed on the basis of social status, rather than on the basis of the class to which they *belong: "In contrast to classes, membership groups are normally groups. However, they do not always have a regular structure. Unlike the purely economic 'class situation', we wish to designate as status any typical component of people's lives determined by a specific, positive or negative social estimation of honor. This honor can be linked to any quality shared by a plurality, and of course it can be linked to a class situation: Class distinctions are most variously linked with distinctions of status"* (Weber, Roth, & Wittich, 1978, 932). In this definition, the term "*honor*" means respect, esteem or distinction that is granted to an individual by other members of society, social recognition that can be both a formal process (obtaining a diploma, accreditation, award, distinction, etc.), but it can also have an informal aspect through social interactions in which individuals give or do not respect to others (forms of greeting, inclusion or exclusion from a social group) (Ibid., 34). For Weber, the concept of "*social honor*" underpins the formation of "*belonging groups*" in the idea that they are formed on the basis of characteristics that are socially accepted by other members of society. Thus, social honor can recognize features such as lifestyle, cultural, musical, sports tastes, etc.

However, Weber identifies three major categories of social honor that can underpin the acquisition of power and affect the life choices of individuals and groups: Property, lifestyles, and non-property groups. Of these, Weber is particularly interested in groups in which the opportunities offered to individuals in life are closely related to the membership group. Thus, property is a solid basis for a membership group, where those who have considerable resources and wealth have the means at their disposal to develop a certain lifestyle as they wish, which cannot be exercised by individuals who have much more limited resources (Ibid., p. 932). Lifestyles can also lead to groups of members of the Weberian family, given the income differences between individuals, the environment in which they live, their consumption habits, or the way they dress. Therefore, while income or property held are the underlying elements of how an individual consumes, the source of income is not specifically the reason for the formation of the membership group, but rather the set of objects or services consumed by the individual. Specifically, groups can be formed around a residential district, a profession or an educational level (community, professional associations) (Ibid., 933).

"Job education requirements in industrial society are constantly increasing due to technological change, either because the proportion of jobs requiring low skills decreases and the proportion of those requiring advanced skills increases, or the same jobs increase their qualification requirements (Collins, 2019)*"*. I am discussing here the first of the premises launched by Randal Collins regarding one of the functions of education today – technological function. Following the discussion in the previous section where we mentioned the role of technological progress in the development of the human capital factor, this time the perspective is one that sees the increase of university registrations as a consequence of the development of the labor market. In other words, increased educational requirements for employment create the need for as many individuals as

possible to spend as much time as possible in higher education, in order to obtain the necessary qualifications and accreditations. One of the available research that Collins is discussing in this regard is that, during the twentieth century, a percentage of about 15% of the educational growth of the United States workforce was due to the changes produced in the field of occupational structures. Specifically, decreased the number of jobs with low educational requirements (unskilled services or work sector) and increased the number of jobs requiring an increased educational level (technical, managerial professions) (Folger & Nam, 1967).

2. Questions and author hypotheses – theories of conflict and competition

The point from which I am going in this section is that of theories concerning conflict and competition both between individuals and at the level of belonging groups. In this regard, the positions in society for which higher education can facilitate access become the engine of expansion of higher education, with people eager to have the best position in society. This does not, however, lead to an expansion beneficial to all, but rather to a system in which university qualifications abound, but for which there are no available employment positions. I will discuss in this regard what credit inflation is and how over-qualification can create a problem such as the "tragedy of the common goods", where individual success can lead to the situation being made more difficult at the collective level.

One of the ideas proposed by the theories of conflict and competition is that the more valuable education will be in building a social status, the more the groups of individuals in a society will compete much more intensively for educational success. In this way, there will be an inflation of degrees and arrears in the labor market, which goes far beyond the initial functionalist need of society (Collins, 1971; Schofer & Meyer, 2005). A conflicting theory also assumes that elite groups in a society use education to perpetuate the dominance of the culture of the "status group", not just to ensure the success of their successors (Bourdieu et al., 1977). However, the common argument encountered is that expansion is indeed happening faster in the case of a high status competition, but it is less functional (Schofer & Meyer, 2005). This approach, thus, has at its center the idea of competition, but this time not between individuals for social status, but between social groups in order to be able to assert themselves on the political scene, in order to access the decision-making process. From this perspective, the expansion of higher education cannot be placed on the shoulders of an economic fluctuation, as long as it is supported by the pressing need of some groups in society to be listened to at the national level, such as the working classes in front of the burgesia, women in front of men or ethnic minorities in front of *the "Anglo-Saxon white Protestants"* (Windolf, 1997)

The theoretical perspectives of competition for social status and conflict are not mutually exclusive in terms of their perspectives on expansion in higher education. However, they differ in their approach to market competition and collective action. More specifically, both take into account that the driving factor behind the expansion of higher education systems is competition for positions in the labor market that offer a high social status. The difference is made by the opposing poles as competitors, the status competition being centered on competition between

individuals, where "*conflict theories*" discuss the "*collective struggle*" of social groups for equal rights and emancipation (Windolf, 1997). The consequence of the competition generated by the need to obtain diplomas creates for individuals an idea of "*the more, the better*", given that educational certifications serve a very important condition in terms of career options and the possibility to climb the hierarchical ladder in a meritocratic society. Thus, an approach which seems to be entirely rational from the individual point of view becomes socially irrational when we consider the unlimited possibilities and aspirations of individuals for the accumulation of qualifications (Ibid., p.12).

As for the competition for individual status, it is such an intense one that it is very unlikely to be affected by natural limits such as times of crisis or recessions. The argument here held is that individual status becomes all the more desired by individuals in the context of difficult times because of the limited positions that the labor market can offer, in contrast to the human capital theory that supports the opposite (the fact that a poor social situation would lead to low competition in the labor market). More specifically, the more people are looking for a job, the more rational it is for them to attempt to increase their own level of education in order to compete with other members of society and thus to have an advantage over those who have given up their educational path (Windolf, 1997). This discussion inevitably leads to one of the problems highlighted in the previous paragraphs, namely the inflation of university degrees, thus an oversaturation of qualifications in areas that are not sufficiently comprehensive on the labor market. In this regard, Weber says, the development of modern bureaucracy and the transition to democratic governance systems have contributed to the creation and spread of the practice of obtaining credentials. In this regard, obtaining a university degree by completing a course of study and taking an exam has become a way of monopolizing advantageous positions for the individual who has gone through these stages (Weber et al., 1978).

Therefore, the discussion goes to the significance and importance of obtaining a university degree, what it represents and what their role in a society is. As regards educational qualifications typologies, they can be divided at the highest level between diplomas and accreditations generated by public or private institutions. There are also prestigious hierarchies within each of the two categories. From this perspective, diplomas are seen as "*formal abstractions from material realities*" that individuals create in a society in order to transfer legitimacy (Brown & Bills, 2011). Diplomas thus function as sources of power that individuals possess and with which they effectively limit substantive judgments about their true abilities. In other words, having a diploma by the individual can represent a lower cost associated with the thorough examination of his qualifications by using standardization and equivalence procedures. Moreover, having diplomas can reduce the risk of failure in real situations due to the practical element included in the educational process, and coded information can be communicated much more easily to other organizations (Ibid., 135).

The need for formal training to be able to work in the public sector has become one of the engines of the evolution of the systems of diplomas and university accreditations in the modern period. In addition to the impact that the development and expansion of tertiary education has had on

university structures, they have also accelerated a process of modernization that Max Weber calls "*the bureaucratization and rationalization of Western nations"* (Schluchter, 1989). The new institutional arrangements aimed to replace aristocratic privileges from birth and patronage of political parties with meritocratic principles and values. In 1883, Japan introduced a system of examination for public service employees aimed at preparing candidates in legal and economic areas (Windolf, 1997). Also, before World War I, France introduced the exam as a mandatory stage for public sector work, which led to a very high schooling of a single private organization that trained civil servants. Thus a monopoly was created in 1900-1930 and thus the positions of high civil servants in France were occupied by the graduates of the *Ecole Libre des Sciences Politiques* in proportions ranging from 88% in the Foreign Ministry and up to 96.6% in the State Council (Windolf, 1997).

However, when university expansion is accelerating, there is a risk that the value of university degrees in the labor market will decrease with the increase in the number of diploma holders (Weber et al., 1978). Therefore, we are talking here about an inflation of diplomas/accreditations, a term that currently has a rather economic connotation when we talk about rising prices and decreasing monetary value. For this paper, however, diploma inflation represents the increased number of degrees and qualifications individuals obtain in order to compete on a limited number of positions in society (Windolf, 1997). In this way, Windolf points out that educational expansion, the structure of universities, the meritocratic selection of bureaucrats, and the political struggle of social classes for access to higher education are mutually reinforcing processes. Thus, the more important a university degree is for a higher office, the more the political conflict will intensify between those who have had access to higher education and individuals who have been excluded from this educational process (Windolf, 1997). What is happening in practice is that the increased flow of university degrees in the labor market is greater than the absorption capacity of the economy, which causes the real value of diplomas to decrease in relation to employers (Brown & Bills, 2011).

3. Statistics and conclusions

The third and last section of this paper aims to fix the previous theoretical notions with the help of statistical data that take into account both the global access of individuals to higher education and the world thresholds that determine from which moment we can discuss higher education systems with high participation. The intention of individuals to take part in higher education comes from the desire of their predecessors to facilitate them with the greatest possible opportunities for the future through their long participation in formal tertiary education. Also, the individual desire for personal affirmation and achievement is one of the factors that support this expansion which, given the inequalities already existing in society (income, ethnic affiliation, etc.), will inevitably lead to a strained system on all levels.

Given the data made available by UNESCO through the Gross tertiary Enrollment rate (GTER), global participation in higher education is increasing (up to 1%) year-on-year. Worldwide participation of individuals aged 18 to 22 in higher education is one third of the cohort of this age

range (Marginson, 2016). The trend toward high-participation higher education systems (i.e. where the number of people in the above-mentioned age range exceeds 50%) has expanded from countries in rich areas to countries in middle-income or even poor areas. Thus, the exaption of higher education systems has become both a normality in modern societies, as well as an indicator for social differentiation between individuals and for their allocation on the labor market through the obtained diplomas (Baker, 2011). Between 1970 and 2013, the number of students enrolled in higher education increased at a rate of 6.12, while the population of the world grew at a rate of only 1.93. Also, since 2000, the expansion has been accelerated and, as we mentioned earlier, the growth of 1% in a year represents 20% in 20 years This will lead to a gross global tertiary enrollment rate of 50%, i.e. during the next generation (World Bank, 2022).

Thus, according to statistics, all high-income countries and most middle-income countries tend to or have already exceeded the 50% higher education enrollment threshold for young people aged 18-22 years (Marginson, 2016). The world designed through the development of higher education requires a developed public infrastructure, properly managed resources, viable banking systems, all of them distributed as evenly as possible in society. From this point of view, high-participation higher education systems are initiated and regulated at state level, and graduates are inserted, in greater or lesser proportions, into national and global economy (Marginson, 2016). The moment when society and higher education intersect and when expansion is triggered is not represented by state regulations or by the demand of employers. More specifically, even though the social demand for higher education continues to grow, the real need for bureaucrats and employers is a "*partial and episodic*" one and their intersection with higher education institutions is not a daily one (Marginson, 2016). Also, according to Marginson, it is not research that facilitates university expansion, even though it leads to increased global knowledge and supports the social status and culture developed by elite universities (Ibidem).

What, however, influences the dynamism of higher education in systems that have gone from higher education for the elite to mainstream education is, in Trow's view, the ambition of individuals to occupy social positions and of students to realize themselves personally (Trow, 1973). In today's societies, the path to a better or even privileged job is paved with years spent in higher education, with parents' desire for their children being that formal education (especially tertiary education) is the path to success. This leads, according to Trow, to universal education systems, where access is very high and individuals can participate in as many as possible (Trow, 1972). On the other hand, Marginson argues, the opportunities that education should generate are not universal in capitalist societies. In other words, even if society is backed by a strong economy, or a weaker economy, it will inevitably be stratified on income levels and hierarchical scales. Therefore, at any time in any society there is a limited number of advantageous positions that individuals can occupy, no matter how many have gone through a tertiary education cycle (Marginson, 2016).

One of the reasons I opted here for a discussion on university expansion viewed from the perspective of social stratification is that, with the completion of the studies, the path of the students does not become as clear as they expect. While graduates enjoy advantages over non-

graduate individuals, students often create unreasonable optimistic expectations about their future prospects (Arum & Roksa, 2014, pp. 84-85). Also, the relationship between higher education and the labor market is fragmented (Robst, 2007) and thus the gains that mass education brings are unclear. From this point of view, human capital theory does not provide sufficient empirical data to support the argument that individuals invest in their own education to increase their future return. In the present case, the occupational status behaves as a motivational factor at least as strong as the economic factor, namely the expected income after graduation (Triventi, 2013, p. 57). The majority practice with regard to higher education systems is that states, through governments, regulate tuition levels, and the educational dimension is determined by factors such as regulations, policies, and funding. In this way, states play the most important role in creating demands for mass higher education by budgeting the costs of schooling and living (Marginson, 2016).

Although graduation does not guarantee a certain way forward for individuals, states find themselves in a position to support the development and expansion of higher education, given the pressure that is being brought about at the societal level. Both the social elites, middle classes in accendency have created pressure on governments to invest in tertiary education, with families wanting a better future for their children, rich in opportunities and perspectives (Marginson, 2016). The response of states to this is to invest resources in the creation and development of mass education, the main impetus being the social pressure that is formed from the bottom up Middle- and low-income countries are only able to begin the process of massification of higher education when the pressure from individuals becomes very stringent. This phenomenon occurs both in states with consolidated democracies and in those where democracy is defective or even non-existent because of the governance of a single party. In other words, university expansion is taking place directly in connection with the development of national political agendas. More specifically, it is much easier to create educational opportunities than jobs, which contributes to the transfer of social responsibility of results from the state to individuals and higher education institutions (Kemp & Norton, 2014).

In terms of social stratification and degree of inclusion, high-participation higher education systems are more socially inclusive compared to elite education systems. This trend toward widening access to higher education leads to an increase in the ability of individuals to discern, but also in the transversal capabilities they learn. The only condition for this process to be successful is that the higher education system is effective in training and improving the skills and future trajectories of graduates (Sen, 2000). From this point of view, individuals in a society where participation in higher education is high learn a set of skills specific to the academic environment. Therefore, on average, individuals are more accustomed to assimilating new information, more reflexive, more likely to understand how government or the private environment works, but also have the potential to be more productive at work (Marginson, 2016, p.422). However, higher education leads to stratification of the structure of oporunits, since not all higher education participations have attributed the same value to the labor market. In this manner, populations of individuals are stratified, higher education is stratified, but the results generated by universities are stratified (Ibid., p. 422).

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