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ADMINISTRATION**

**Doctoral School in Political Science**

**Ph.D. Thesis Summary**

**UE FISCAL POLICY  
THREATS AND OPPORTUNITIES**

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## 2. Ph.D. Thesis Summary

### 2.1. Introduction

Considering the current situation of the European Union, both socially, medically, economically, financially, still amid a pan-crisis, with significant political and economic implications, the subject of the doctoral thesis is topical. As we will see in the following chapters, throughout history, the European Union has generally taken measures with a much more substantial impact after a crisis, regardless of its nature, whether a humanitarian or an economic crisis.

The European Union was born in the wake of such crises and has continued to reform itself in the same historical pattern, which the thesis will capture in the following chapters. Given that the analysis of fiscal policy follows a theoretical paradigm of European integration, in the first chapter, we will look at the two theories of European integration which, following an in-depth study, will: The thesis concluded that it best explains the development of tax integration at European level, namely *intergovernmentalism*, and neo-functionalism. As the various authors before have said very well, many European policies cannot be analyzed only by a single paradigm of European integration. Different historical moments, socio-economic and financial contexts, and measures can be explained using different theories. There is no universal theory that can be applied to all facts and situations.

The thesis follows the track record of the development of a centralized European fiscal policy, which we have detailed in chapter two, where we have looked at the evolution of primary legislation, namely from the treaty of Rome from 1957 to Lisbon, and highlights important points that have an impact on the shaping of a European public policy on taxation. Moreover, the sentence also follows developments in secondary legislative context through decisions taken by the European institutions with fiscal authority.

Given the international context, the Organization for Economic Co-operation and Development (OECD) has proposed 15 actions to amending the treaties to avoid double taxation and prevent tax evasion concerning taxes on income and capital to solve problems of a fiscal nature. They are

aimed at eroding the tax base through amendments to bilateral conventions concluded by states. In parallel with the debates launched in international tax policy by the OECD on the issues mentioned above, the European Commission has taken several complementary measures and in line with the OECD recommendations to ensure fair corporate taxation, to create a system of collaboration more efficiently between European Union (EU) states and to ensure the taxation of income in the countries where it should have been taxed. Furthermore, Member States have taken various national measures to combat the shift of profits to more favorable tax jurisprudence and to ensure that profits are taxed in accordance with the legislation of those States.

Considering:

- the current situation present at the level of the European Union regarding the fiscal measures that can be interposed and issued by the European Union;
- taking into account the sovereignty of the Member States concerning the tax system and the isolated tax measures taken by the European Union in particular through the directives issued; the thesis considers it opportune and impactful in the field of research to present the need for a unitary fiscal policy at the level of the European Union.

We can say that, at the level of indirect taxation, given the protection of fundamental rights and freedoms at the Union level, the free movement of capital and persons, among others, there is an attempt to harmonize the tax principles governing indirect taxation. Until 1990 we certainly could not discuss regulation of direct taxation at the European Union level; things changed in that direction once the Union issued directives on direct taxation of cross-border transactions, again to protect the rights and freedoms fundamental rights of the Union. Among other legislative measures taken at the EU level, they refer strictly to better communication and exchange of information between the tax authorities of the Union and to measures to combat tax evasion/avoidance of tax payments. Moreover, the Court of Justice of the European Union (CJEU) has strengthened the need for a fiscal policy at the Union level, appealing to the fundamental rights of the European Union (Kube, Reimer, Spengel 2016). In 1995 a decision of the ECJ (Decision No C-279/93, Finanzamt Köln-Altstadt v Roland Schumacker) started a trend of regulating direct taxation against the previous judicial practice (see Decision No C-246/89 Commission v United Kingdom [1991]). The decision states that, although direct taxation is the

responsibility of each Member State and is not the Union's responsibility, Member States must take it into account and comply with European law and principles. The decision set a precedent for "negative integration," whereby the Member States must align their direct taxation in the light of the principles of European law.

According to the theory put forward by Tibeaut (1956), in connection with the principles set out by Edwards & Keen (1996), the choice between standardizing tax legislation at the EU level or maintaining a competitive system in tax matters is currently the sole priority of the governments of the Member States. . States are in direct competition to attract mobile capital present at Union level, which in Oates' (1972) view will only reduce the tax rate to a minimum. This, according to Oates, can be avoided by harmonizing the tax matter concerning direct taxation.

We can see from previous decisions that the Member States have been reluctant to relinquish their autonomy in taxes and duties, especially about direct taxation. The vote of the Republic of Ireland on the amendment of Article 115 of the Treaty on the Functioning of the EU, on the abolition of the principle of unanimity in direct tax law and its replacement by the principle of majority, reinforces the reluctance of the Member States, especially small ones, to abandon fiscal autonomy and to continue fiscal competition within the European Union law.

Therefore, taking into account the course of tax legislation in the European Union, the favorable international, European, and national context, the measures taken, and the public statements of the High Representatives of the Union, the reserach considers it appropriate to research the formation of a unitary policy at EU level.

The doctoral thesis supports, through empirical evidence, both the need and the opportunity currently enjoyed by the European Union (i.e., Brexit, the pandemic crisis, budget negotiation) to announce and propose a public policy in fiscal matters.

The research aims to set out and analyze the legislative issues that may arise in the implementation of a public policy of the European Union, including, in addition to the analysis of existing legislation, the national policy of Member States on accepting an EU public policy on taxation. The analysis follows both the statements of the Heads of State / Government of the Member States and those at the level of the European Union in order to present topical arguments and to be able to propose relevant scenarios.

Given the already existing tax legislation we have set out above, namely, the legislative role that the EU has in regulating indirect taxation (VAT, excise duties, and customs duties), together with the primary legislation originally stipulated in the Treaty of Maastricht and in the current form established by the Treaty of Lisbon which sets out certain criteria of public fiscal policy and imposes certain conditions of fiscal prudence, I considered it important that the doctoral thesis focuses on a fundamental side of fiscal policy, namely direct taxation and in particular corporate taxation. Therefore, the rest of the chapters of the thesis focus on the analysis of corporate taxation, where, moreover, there is a proposal for a directive in two stages of adoption: in the first phase creating a common tax base at the European level, then the companies will have an obligation to strengthen the common base at European level. Moreover, given that the thesis analyzes not only the fiscal policy of the European Union or its efficiency but also the way of financing the European Union, arguing based on studies that it is possible, following the consolidation of direct corporate taxation, that this income can be directly attributed to the European Union budget as the first source of financing, thus replacing the current financing method (i.e., own sources, GNI + revenues from customs duty and indirect taxes).

The first case study analyzes the public position assumed by Romania's representatives during the Romanian state's membership of the European Union, analyzing the public speeches and debates at both the National Parliament and the analysis of the speeches of Romanian representatives in the European Parliament on the adoption of the company tax directive.

The second case study shows the tumultuous history of adopting the Common Consolidated Corporate Tax Base Directive at the European level, analyzing both primary and secondary legislation and the official positions of member countries on the legislative proposal and the reasons why it was not adopted. I will also consider moving to the adoption procedure by qualified majority vote versus unanimous vote, as is the current situation.

The third case study presents the economic and financial impact on the national budget. The study was conducted taking into account a number of over 300 companies that meet the criteria set out in the directive and present the impact on the state budget of Romania if the directive is adopted. I consider it of paramount importance to conduct such a study in defining Romania's state position in the discussions organized at the European level, in the council, and in parliament.

## 2.2. Research questions

Is there a fiscal policy of the European Union or not, and what do we mean by the fiscal policy? This doctoral thesis aims to analyze the current situation of European fiscal policy. First, an analysis of the past and present legal framework is required. I believe that it is imperative to analyze the evolution of policies with an impact on fiscal matters in order to be able to understand in one form or another the future of a unitary fiscal policy at the European Union level. Therefore, in the first chapters, the thesis aims to highlight the historical evolution in the field of European tax law, both at the level of primary legislation and the level of European secondary legislation. First of all, it is crucial to understand the legal limitations that a European fiscal policy might encounter in its implementation.

Given the existing gap in the literature between, on the one hand, the legal possibility to pursue a European fiscal policy and, on the other hand, the political will to achieve it. As we have seen over time in European public policies, the political will of the Member States is crucial.

The thesis aims, first of all, to answer the main research question, namely, to what extent there is the possibility of achieving a public fiscal policy at the European level.

In order to answer the main question, the thesis pursues different complementary and necessary angles to answer the main question, combining elements of legal, political, economic, and social knowledge.

To begin with, it analyzes the present and past legal framework and the opportunities through which a fiscal policy of the European Union can be achieved, makes a passage through the EU treaties, from the beginnings of the communities to the present. Also, to explain the process of achieving a public fiscal policy, the thesis goes through theories of integration in the European Union, especially to choose the right paradigm in explaining the current state of European taxation and its future. Moreover, as I mentioned above, I do not think that there is a single suitable theory to analyze the entire fiscal course of this broad political project that today is called the European Union.

Therefore, to answer the main research question, I will use theories of European integration such as intergovernmentalism, a theory which, according to current primary legislation, best explains the current situation of European taxation at the macro level.

The thesis will analyze and differentiate the implications of a fiscal policy, which are the component elements, and I will show which of them are regulated at the European Union level at present, especially after the amendments brought by the Maastricht Treaty.

### 2.3. Research methods

The research is based on arguing the central hypothesis on a bibliographic analysis. Episodic hypotheses are formulated in such a way as to allow answers to be found to confirm or refute the above hypotheses and then to allow testing of the central hypothesis. In this sense, the study uses the model of "changing plans" from one chapter to another. The study is an interpretive one (Rotariu, 2014). The collection of information was performed using quantitative methods, interpreting data to test hypotheses, analyzing and comparing statistical information, and observing the evolution of the literature.

Given the complexity of the subject, we decided to divide the doctoral thesis into four main chapters:

- research of the legislative framework
- research of the current economic and fiscal situation
- Romania's position on the adoption of European tax legislation
- the impact on Romania's budget

On the consolidated corporate taxation would be adopted. As we will see in the following chapters, we have chosen only the analysis of the European Company Tax Directive as a critical element in arguing the existence or formation of a public fiscal policy.

Therefore, the doctoral thesis researches each presented chapter differently and uses different research methods to test the presented hypotheses.

First of all, given the current legal situation and the central paradigm used, namely intergovernmentalism, we decided that it is essential to analyze Romania's public position on adopting the common (consolidated) corporate income tax base directive (CCTB / CCCTB), namely public statements made in the press by Romanian politicians.

Moreover, the present study used to test the primary and secondary hypothesis, qualitative research methods, namely the analysis of the available documentation and the official position

issued by the Romanian state leadership on the European legislative proposal during the legislature.

Because the primary and secondary hypotheses consider three different perspectives, namely, the individual vision of the Romanian politician, the vision of the party, and the country's positioning, the research study uses an embedded design model (Eisenhardt, 1989). This method takes into account the complexity of the subject. Adoption by the European Union Council involves negotiations at different levels, with different people and institutions being involved in the negotiation process. Moreover, given the history of the legislative proposal that the study mentions in the first chapter, although the legislative proposal is currently in the final stage, I consider it relevant to support the central hypothesis, analyzing the three distinct perspectives.

To support the research results, the thesis used extensive documentation from various sources. The research development involved reviewing the specialized literature concerning the researched topic (classic, relevant works, current works). The concrete way of documenting followed both the entire books and the discovery of the latest books or articles in the international databases (EBSCO, SSRN, JSTOR, RePEc, HBR, etc.) using the search by key terms, i.e., CCCTB, CCTB, fiscal policy, analysis of the vote of the members of the European Parliament, positioning of the Romanian state regarding the adoption of the CCCTB / CCTB directive.

Moreover, the study analyzed official documents issued by both the Romanian Parliament and the European Institutions involved in the legislative process, such as minutes of meetings at various levels, written reports, amendments tabled, etc.

The working hypotheses are tested both at theoretical and situational level, through the practical analysis of the documents issued by public institutions both at the national and European level, of the public statements made by the representatives of Romania in different forums and circumstances.

Also, given the history of the legislative proposal and the impact it has had at the European level, the study presents the historical evolution of the directive on the common consolidated corporate tax base.



Another critical part of the doctoral thesis is the analysis of the legal levers available at the EU level to adopt the directive on the common consolidated basis of the European Union.

In order to have an objective and completed research, the approach was interdisciplinary, using tools and perspectives in the field of political science / international relations, legal and economic sciences. Given the field of research, the methodology used has both a quantitative and a qualitative dimension, the central paradigm being intergovernmentalism.

I believe that intergovernmentalism best captures the current state of tax cooperation, given primary European legislation, and will soon be the basis for discussions on finalizing and approving the directive on the common consolidated basis of EU companies and the road to fiscal policy. Moreover, to explain the chapter that focuses on the legal basis for establishing a common consolidated basis for taxation of European companies, this thesis used secondary theories institutionalism and other minor theories of international relations.

The research was based on arguing the central hypothesis on a bibliographic analysis. Episodic hypotheses are formulated in such a way as to allow answers to be found to confirm or refute the secondary hypotheses mentioned above and then to test the central hypothesis:

1. Is it possible to adopt the company taxation directive through the ordinary legislative procedure?

In this sense, the research uses the model of "changing plans" from one chapter to another. The study will generally be interpretive; the information is collected using qualitative methods.

The first step in the research was to review the existing literature, both in terms of the theoretical approach and in connection with the evolution of tax legislation, both in a national, European, and international context.

The analysis is based on the study of existing regulations, both at the level of primary legislation and secondary legislation. The study presents the current legislative path of the proposal for a directive presented by the European Commission and presents the legal and political direction in which this proposal is heading.

Moreover, similar proposals as a fiscal impact that have taken another legal path, namely the procedure for adoption in enhanced cooperation, will support the comparative analysis.

The analysis combines both the official statements of European and national representatives with the assessment of the existing legislative framework.

The study considers the actors' interests involved, events that determined certain behaviors of decision-makers or other actors in the system, official statements, theoretical analysis, and specialized studies. Also, from a qualitative point of view, the study aims to present the events, analyze their significance, and impact the adoption of the directive on the common consolidated tax base.

From a quantitative point of view, the study used the interpretation of data to test hypotheses, analyze and compare statistical information and observe the evolution of the literature.

The third complementary study refers to the impact on the national budget of Romania in the situation in which the consolidated corporate taxation directive would be implemented. The research methods were different from the other chapters; namely, the empirical analysis is based on the company-level data from the TP Catalyst database, which Bureau van Dijk provides. These data have been taken from the database update (August 2020), including standardized financial information of over 18 million public and private companies in 43 European countries.

For a relevant but static analysis of existing data, this study uses a hypothesis found in the literature, respectively the behavior of companies will not change in response to tax reform, which is mentioned in studies by Devereux and Loretz (2007). Furthermore, the paper follows the approach of Devereux and Loretz (2007), Fuest, Hemmelgarn and Ramb (2006) or Clien, Neubig, Phillips, Sanger, and Walsh (2010), which are based on data from the databases provided by the statistical office of the from Moody's and Bureau van Dijk (i.e., Amadeus, TP Catalyst, Orbiz), because it contains data on over 18 million companies.

In selecting the representative sample, the study takes into consideration the legal requirements set out in the Common Consolidated base Directive, i.e., as the first selection criterion; the study refers to the obligation to consolidate financial situations in line with current European directives, namely:

- The companies analyzed must belong to a European multinational group;
- In order to analyze the situation of a group and the legal need to consolidate the financial situation, the companies analyzed must meet two criteria, namely, to control or to be

controlled by a European multinational group, this means 50,01% in the controlled company and at least 75% ownership of the company's capital.

In the next step, the companies that fulfilled the above conditions remained in the research sample. The second selection criterion was for the selected companies to comply with the geographical principle, i.e., the parent company and the subsidiary/permanent establishment are in a Member State of the European Union. The two types of companies should be present in Romania.

Regarding the mandatory accession to the tax rules proposed by the Common Consolidated base Directive, all entities with consolidated turnover exceeding EUR 750 million will be obliged to adopt the tax rules laid down in the Directive.

Considering the above-mentioned conditions, 811 European multinational companies have been identified which operate in one form or another in Romania.

Secondly, a detailed analysis of the situation in Romania has been made. The financial statements of companies located in Romania and subsidiaries located in the other EU Member States have been analyzed to obtain the taxable gross profit (profit or loss of companies before tax).

In order to estimate the overall impact of the CCCTB on the total income tax collected at the Romanian level, the corporate tax reported by the companies found in the database is summed up and compared to the total tax collection in Romania reported in Eurostat.

The results were compared with the total tax collections in the Member State by applying an adjustment of factors that increase or decrease the tax reported in the database equal to 100% of the aggregated tax collection. This adjustment implicitly infers that companies not observed in the database have the same ownership characteristics and are affected by the CCCTB to the same extent as the modelled companies.

Differences in the total income tax reported for the companies in the database against actual government income tax collections could result from:

- incomplete coverage of companies in the TP Catalyst database
- include more than the company income tax in the income tax reported in the financial statements

- the inclusion of both current fiscal debts and deferred taxes reported in financial statements or taxes paid in countries other than the country of residence of the company, among others.

In order to identify individual EU Member States' shares in group tax bases, a detailed comparative analysis of group tax systems and consolidation regimes has been carried out. On this basis, EU Member States have been classified into four groups according to the rules they apply. These rules were then used to calculate the total tax base of subsidiaries of Romanian resident companies in the respective EU Member States.

#### 2.4. Research findings

Given that the formation of a European public policy on taxation pursues three plans, namely:

- i. First of all, the general legislative framework, namely the Treaties of the European Union, Ph.D. thesis analyzed the existing legislative feasibility to form a public fiscal policy at the European level with direct applicability in direct taxation. Given the provisions of the EU Tax Treaties and the history of the proposal to regulate direct taxation applied to companies, the case study summarized below refers to the possibility of adopting secondary legislation based on existing rules;
- ii. the second case study analyzes the attitude of the Romanian representatives regarding the possibility of European regulation in tax law, especially the taxation of companies at the European level and the creation of common rules at the EU level regarding their taxation. The case study summarized below analyzes both the documentation available at the level of Romanian institutions and the level of European institutions (i.e., issued documents, speeches, country positions, etc.);
- iii. the third case study, complementary, aims to impact the national budget if the EU adopts the directive on consolidated and common corporate taxation.

#### 2.4.1. Unlocking the project to create a common tax base for companies. From unanimity to a qualified majority or enhanced cooperation?

The harmonization of European taxation is a process that began in the 1960s, but we cannot speak of a fiscal policy of the European Union even 60 years after the first proposal for the harmonization of tax legislation. Especially since 60 years later, we are talking about a much larger and more diversified European Union in the current context.

The present study aims to analyze why there is a deadlock at the European Union level regarding the adoption of a European fiscal policy, primarily focused on direct taxation.

Therefore, the study examines the current legal and political situation of the European Commission's proposal for a directive on the creation of a common (consolidated) tax base, hereinafter referred to as the CC (C) TB Directive, highlighting legal and political issues of stagnation in the implementation of common policies. European corporate taxation.

Moreover, the study draws a parallel between the current legislative state of the proposal for a directive on the common consolidated tax base and the directive on the taxation of financial transactions in the European Union, hereinafter referred to as "FTT."

The study considered it appropriate to compare the joint and consolidated corporate tax proposal with the Financial Transaction Tax Directive. Given that both the CCCTB Directive and the FTT Directive were received in opposition from some Member States, those who supported the adoption of the FTT continued the legislative process using the principle of Enhanced Cooperation. Was it appropriate to change the legislative process? Is it a starting solution for CC (C) TB as well?

The progress of fiscal integration, conditioned by the consensus of 28 heterogeneous economies, is debatable. The unanimous vote requirement gives each country a protective veto power that allows it to secure national fiscal interests from what Tocqueville once called the "tyranny of the majority." The Commission's initiative to move from a unanimous majority to a qualified majority in certain areas of taxation, which had been proposed during the negotiations for the Constitutional Treaty, has met with strong resistance from the EU Member States.

The proposed areas included "the functioning of the internal market, i.e., modernization and simplification of existing legislation, administrative cooperation, combating tax evasion or avoidance, measures on tax bases for companies, but not including tax rates; aspects of the free

movement of capital related to the fight against fraud; environmental taxation." This proposal was discussed at the Intergovernmental Conference on a Constitutional Treaty, which began on 4 October 2003 and resulted in the adoption of a Constitutional Treaty on 18 June 2004; See Commission Opinion of 17 September 2003 on the Intergovernmental Conference, COM (2003) 548, 7.

Given the historical past and the fact that the proposal for a European Union fiscal policy has been reluctantly received by certain Member States, such as Ireland, the Netherlands, and Poland, there is another legal way the Commission can promote its European project a harmonized taxation.

Next, the doctoral thesis will analyze two legal levers stipulated by the Treaties of the European Union through which the Commission, according to official statements, will try to push the project of fiscal harmonization. Furthermore, the thesis will also focus on the current issues that the Commission may encounter in its proposals.

The question remains, however, how can we draw a line between coordination to ensure that national tax systems meet the proposed purpose - as set by each Member State - without affecting the internal market and, preferably, improve it, and coordination with in order to ensure that tax systems are more in line with "best practices" or acceptable standards for the EU's largest economies.

Given the political stalemate in the EU, namely the need for a unanimous vote in the Council of the European Union to harmonize fiscal policy at the EU level, both the Juncker Commission and the current Von der Leyen Commission have promoted the need to move to the ordinary legislative procedure. The vote on fiscal matters goes from the exclusive decision of the Council to the co-decision between the European Parliament and the Council of the European Union, with a qualified majority vote at the Council level.

In this sense, since the Juncker Commission, the tendency has been to give the European Parliament an active voice in EU tax regulation, announced in the Union State by the President of the Juncker Commission. Its 2019 Communication was entitled: "Towards more efficient and democratic decision-making in EU fiscal policy."

Words like "more efficient and more democratic" make it difficult for any EU supporter to put the brakes on. Nevertheless, from a fiscal policy perspective, we need to keep in mind that taxation and spending should go hand in hand. As long as budgets for social security, education,

transport, defense, and others are still set at the national level, there should also be the prerogative to design an appropriate tax system that meets the needs of a Member State. Taxation is not an end in itself: it serves primarily to facilitate government spending (even if it could be used for redistributive purposes and to push taxpayers' behavior as well) (Luja, 2019).

In order to guarantee adequate taxation, as provided for by the Member States, European and international cooperation is a necessity to ensure that taxation works according to the legislator's intention and not according to the legislative form.

In order to tackle tax evasion, tax fraud, and double taxation, a degree of coordination at the EU level is, according to Juncker's statement, "a luxury we cannot do without for a functioning internal market." (Juncker, 2019).

The Von der Leyen Commission also took over the points set by the Juncker Commission. According to the statement by the President of the European Commission, Von Der Leyden, the mission of the Commissioner for the Economy Paolo Gentiloni is to:

- "Your task in the next five years will be to make sure that fiscal policies are fair, appropriate for the digital economy, and to facilitate the work of businesses and people across borders. We will have to adapt our tax systems to a changing labor market and new and emerging business models;

- You should focus on simplifying, clarifying, and using our tax systems. As part of this, you should lead efforts to make the draft legislation on the creation of a common consolidated corporate tax base a reality. "(Ursula von der Leyen)

The Treaty of Lisbon extended the ordinary legislative procedure and qualified majority voting to many policy areas. The aim is to contribute to EU integration by streamlining decision-making: in the ordinary legislative procedure, EU countries do not have the right to veto, and there are more opportunities to reach an agreement.

However, EU countries are not always willing to give up some of their power in specific policy areas. These areas are those known to be the most "sensitive," where the share of national suzerainty is essential, including foreign policy, immigration, or justice. In these areas, a particular legislative procedure or unanimous vote is often maintained.

In addition, the Lisbon Treaty introduces several types of institutional clauses, offering different institutional mechanisms but pursuing a common goal. The aim is to facilitate EU integration in "sensitive" areas if EU countries so wish.

Thus, the Treaty of Lisbon introduces three types of clauses:

- "Gateway" clauses;
- "Braking" clauses;
- "Acceleration" clauses.

From the study, we can conclude that the European project of fiscal harmonization is far from being realized, and although there are legal levers that the Commission could use, they are limited.

Moreover, given the suzerainty of the national states, I believe that the proposed tax harmonization can only be achieved if the Member States have the political will.

The study analyzed the available legal levers of the European Commission to unblock and facilitate in their acceptance the legislative process instead we could observe the following:

1. If the European Commission has legal, economic, political arguments to resort to Article 116 of the TPFU and to apply the simplified legislative procedure and involvement in the political decision of the European Parliament as co-decision in tax matters, it still needs to vote unanimously of the European Council to activate Article 116.

Indeed, a future study could draw on elements comparable to other situations where the Council has waived the single right of approval and shared this responsibility with the European Parliament to state better what would lead to the adoption of the tax co-decision.

2. Another legal lever of the European Commission analyzed in this study referred to the possibility of starting fiscal integration in a smaller number of states using enhanced cooperation.

Instead, the entire present study concluded that the limitations of such a legal lever. Not only can the EU Council oppose it, but the unanimous vote to start enhanced cooperation does not guarantee its success. It is still up to the participating Member States to reach a final form of the proposed legislation. Moreover, as the case of the FTT Directives has shown, the States not participating in enhanced cooperation may challenge the legality of the legislative proposal issued by the participating States before the European Court of Justice.

**In conclusion, therefore, I believe that only if the Member States unanimously agree to adopt a European fiscal policy will the chances of becoming a reality be minimal.**



Given that the directive on the taxation of profits made by European companies has the support of Romanian policymakers both at the European and national level and taking into account the legal and legitimate levers by which the EU could introduce the directive analyzed in this sentence, I consider it opportune for Romania's country position in the European negotiations to be supported by a comprehensive impact study in the situation in which the analyzed directive will be adopted. Therefore, the next chapter includes an extensive study of the impact on the national budget if the EU adopts the corporate income tax directive.

#### 2.4.1. Behavioral analysis of Romanian politicians in different institutions, namely the Romanian Parliament, the European Parliament and the Council of the European Union regarding the common consolidated tax base

The study focused on the entire period in which the proposal to legislate a common consolidated basis was on the agenda of the public debate, namely the period between 2011-2017. During that period, the composition of the Romanian parliament changed three times, given the parliamentary election of 2012 and 2016, respectively. So at the time of the initial proposals for a common consolidated corporate tax base in the European Union, the ruling party was PD -And at the time of the parliamentary opinion, the president of the Chamber of Deputies was Mrs. Roberta Anastase.

Given the long history of the European legislative proposal and the legislative requirements established by the Lisbon Treaty, and the initial opinion of some Member States to reject the proposal to form a common consolidated corporate tax base, the Romanian Parliament was a consultant in two courts.

Per Article 5 (3) of the Treaty on European Union (EU Treaty) and Protocol no. 2 on applying the principles of subsidiarity and proportionality, The exercise of European Union powers must respect the principles of subsidiarity and proportionality. In areas that do not fall within the exclusive competence of the European Union, the principle of subsidiarity provides for the protection of the decision-making and action capacity of the Member States. It legitimizes Union intervention if the Member States cannot sufficiently achieve the objectives of an action. Better achieved at Union level, "due to the size and effects of the planned action." The purpose of including the principle of subsidiarity in the European Treaties is to exercise these powers as

closely as possible to the citizens, per the principle of proximity, as set out in Article 10 (3) of the EU Treaty. (EU, 2020).

Per the second subparagraph of Article 5 (3) and Article 12 (b) TEU, national parliaments shall verify compliance with the principle of Subsidiarity per the procedure laid down in Protocol No 1. 2. Per this procedure (ex-ante "early warning"), within eight weeks of the date of transmission of a draft legislative act, any national parliament or any chamber of a national parliament may address the Presidents of the European Parliament of the Council. and, respectively, a reasoned opinion from the Commission setting out the reasons why it considers that the draft common tax base does not comply with the principle of Subsidiarity. When a reasoned opinion is supported by at least one-third of the votes allocated to national parliaments (one vote for each chamber in bicameral parliaments and two votes for unicameral parliaments), the draft must be re-examined ("yellow card"). The Commission may decide to maintain, amend or withdraw it to state its reasons.

In the present proposal, the required number of votes was not met for the draft to be re-examined. At the time of 2011, for the project to be re-examined by the European Commission, it had to obtain at least 18 reasoned opinions from national parliaments, i.e., one-third of the total number of 54 national opinions.

In 2011, the draft law met 13 national opinions from Bulgaria, Malta, the Netherlands, Poland, Romania, Slovakia, Ireland, the United Kingdom, and Sweden.

The Committee on Budgets, Finance, and Banking in the Chamber of Deputies examined the legislative proposal submitted by the European Commission and voted unanimously to give a reasoned opinion, arguing that the Directive does not respect the principle of Subsidiarity.

The main ideas that were discussed in the committee were:

1. Analyzing the principle of Subsidiarity, presented by the vice-president of the Commission, Mr. deputy Adrian Nițu, who explained to the colleges within the Commission what the principle of Subsidiarity means;

2. The Minister of Finance, Mr. Ioan Botiș, was present during the discussion, arguing that the Ministry of Finance did not complete the impact analysis on the Romanian budget;

3. Mr. Adrian Nițu presented the conclusions of some studies and the opinion of the Netherlands, which according to Mr. Nițu, will issue a reasoned opinion.

Therefore, according to the analysis of the discussion held by the members present in the Committee on Budget, Finance, and Banking of the Chamber of Deputies, the reasoned opinion that according to the procedures, Romania challenged the legislative proposal was based on economic issues. In the opinion of the vice-president of the budget/finance commission within the Chamber of Deputies of the Romanian parliament, the beneficiaries of the implementation of the proposed directive are the states with strong and active capital, this being due to the profit allocation key once consolidated. This aspect was also emphasized by the chairman of the Commission, Mrs. Eugenia Barna.

In conclusion, the ideological or legal issues did not impact; the motivation of the opinion was strictly from an economic perspective.

Therefore, in 2011 the Romanian Parliament submits a reasoned opinion on the proposed directive submitted to the European institutions.

The criteria put forward by the Joint Committees of the Romanian Parliament to the European institutions were that the directive does not solve the problems it sets out, namely the insufficiency of national action and the added value for which it considers necessary Union intervention (Chamber of Deputies, 2011).

The reasoned opinion sent by the Chamber of Deputies argues that the European institutions should focus on the exchange of information and good cooperation between national tax administrations, which in the perception of the Romanian national authorities would solve the problems highlighted in the reason for adopting the proposed directive (Cdpr, 2011).

Given the reaction of particular States to the European Union's proposal to strengthen a common corporate tax base, namely reasoned opinions and public opinion expressed by them, taking into account the need for a unanimous vote in the European Union Council, the Commission decides to withdraw the proposal.

Following the international and European context, namely the allegations of tax evasion of certain multinational companies, the European Commission decides to bring back into public debate the proposal to legislate direct taxation at the European level under certain conditions.

Considering the opinion of the Member States, the European Commission proposes to legislate taxation directly in two separate stages; namely, in the first stage, certain multinational companies may apply common tax rules at the Union level except for the possibility to strengthen their tax base. In the second stage, the Commission proposes that certain companies consolidate their tax base, in particular, to offset their tax losses across borders.

Therefore, considering the new developments at the European level, the Romanian Parliament has again ruled on European issues in tax matters. The opinion of the Committee on European Affairs was favorable this time.

On 23 May 2017, the Committee on European Affairs voted unanimously to implement the proposal for a European directive. This time, the Committee of the Chamber of Deputies considered it appropriate to adopt common corporate tax legislation and strengthen the tax base. "Creating a better and more efficient corporate tax environment, which requires a simple and robust single corporate tax system that improves the functioning of the single market from a fiscal point of view and that should lead to combating tax abuses, ensure that state revenues are sustainable and support the improvement of the business environment in the single market." (Cdep, 2017).

In both situations, the argument of the Romanian politicians in the legislative forum was economic. Given that although diametrically opposed to the vote, each time, it was unanimous.

Considering the results of theoretical studies showing the ideological differences in economic matters between the center-right and the center-left parties, namely that the center-right parties in general and under normal market conditions do not want state intervention in the economy, promoting a laissez-faire policy and the ideological left promoting state intervention in the economy and the social environment.

Given the studies mentioned above by which the chairman of the committee/chamber influences the vote of members, we can consider that the vote in 2011 had an ideological composition given that at that time, the chamber of deputies was led by Mrs. Roberta Anastase, a member of a center-right party, PD-L, and the vice-chairman of the commission for budget, finance, and banks, deputy Adrian Nițu was also a member of a center-right party, respectively PD-L. Moreover, at that time, the right-wing parties held the political majority in the commission for budget, finance, banks.

The political situation in 2017 is different. The ideological left dominates the Romanian legislature, holding a majority in the Commission for European affairs, chaired by Mr. Victor Ponta. Considering the conclusions of the studies mentioned above, we can conclude that the favorable vote in the Romanian legislative forum is also due to the dominant ideology of that time.

Throughout the history of the proposal, both the European Commission and the European Parliament have supported introducing the Directive governing the common corporate tax base and the strengthening of corporate income tax at the European level and lobbied the Member States to get their vote in the Council. European Union.

Shortly after the 2011 announcement of the Commission's legislative proposal on the common consolidated corporate tax base, the proposal was transferred by the Commission to the European Parliament (EP) (Roggeman, 2016).

At that time, the European Parliament had 754 members elected from various European and independent parties. According to Rule 115 of the Treaty on the Functioning of the European Union, the Commission's procedure for consulting the European Parliament applies to direct taxation, with Parliament having an advisory role. Therefore, according to specialized studies (Kardasheva, 2009), the EP's opinion in the legislative process of adopting the Directive on the common consolidated basis of companies is not binding, as the Commission may ignore the recommendations made by the European Parliament. Given the EP's advisory role in this case, we can also argue that members of the European Parliament will unreservedly express their actual views on the proposal put forward by the European Commission (Roggeman, 2016).

The study followed the behavior and positioning of Romanian politicians both nationally and in Europe. The official documents of the Romanian Parliament, the European Parliament, the Council of the European Union, and the European Commission were analyzed, together with an analysis on the subject of the existing literature, to recognize trends and test the primary and secondary hypotheses.

Two crucial periods in the evolution of the Directive were tested: the years 2011-2012, when the Directive was first launched for public debate in the European Union, and the period 2016-2018, when it was re-launched for public debate by the European Commission.

Three perspectives were tested to follow Romanian politicians' behavior, namely the legal aspect of the proposal and its course, the economic and ideological aspects.

Following the analysis carried out in the study, the economic side is the most relevant, mentioned by almost all politicians analyzed both in Romania and in Europe. Given the nature of the proposal, namely the strengthening of the tax base of companies at the European level directly impacts the countries' national budget.

An ideological division was observed throughout the analysis, with a predisposition in favor of adopting the directive by the center-left parties, PSD and S&D, over time in opposition to the center-right parties. Another difference could be seen between the attitude of the national party in contrast to the attitude at the European level. Although in 2011, the center-right parties voted against the adoption of the directive, members of the same party voted in favor of adopting the directive in the European Parliament.

Given the current context and the trends created in the situation where the updated impact study by the European Union concludes that the adoption of legislation will have a positive impact from an economic point of view, there is a certainty that Romania will vote in favor of adopting legislation if a vote in the Council of the European Union. Moreover, if a representative of the Romanian left at that moment will be at the head of the Romanian state, the probability of a favorable vote increases.

Given the conclusions of the above chapter of the doctoral thesis and taking into account the existing legislative framework and the history of the proposed directives governing corporate taxation at the European level from the perspective of corporate tax, the study consider it necessary to find a legal and legitimate solution to unblock this approach in the EU. The chapter below examines the legal levers available to the EU to promote and enact the draft legislation on joint and consolidated corporate taxation.

#### 2.4.2. Impact on Romania's state budget if the directive on the common consolidated corporate tax base (CCCTB) will be adopted by the European Union and implemented by Romania

The CCCTB is currently the tool for tackling aggressive tax planning due to the gaps in national corporate tax systems and bilateral treaties signed by the Member States with each other and with other national States outside the European Union.

Thanks to this, on 17 July 2015, as part of the Action Plan for fair and efficient taxation, the Commission relaunched the CCCTB project, which should take place in two stages of implementation. Firstly, only common rules for constructing the corporate tax base should be implemented, together with the possibility of offsetting cross-border losses. Following the implementation of the CCTB, CCCTB would be implemented in the second phase.

The purpose of the work was to simulate the impact of introducing cross-border loss relief (i.e., the first step in implementation) and the impact of full implementation of the CCCTB on the tax bases allocated in Romania. The empirical analysis is based on the data set of companies that meet the cumulative conditions set out in the CCCTB Directive and presented in this study.

Based on the legal requirements laid down in the Directive, 381 were identified by the company on which the necessary adjustments were made to enable the complete financial information to be analyzed. The study took into account both the information available in the TP Catalyst database and the information available on the Ministry of Finance website, and the consolidated budget information provided by Eurostat.

Based on the research results, also taking into account the limitations presented, the study concludes that the introduction of the Common Consolidated base Directive would increase the contribution of corporate income tax by 28%.

The results show that the impact of the CCCTB on the Romanian budget on the static statistical model used would have a positive fiscal and budgetary impact.