

# IMPORTANCE OF RENEWABLE ENERGIES RESOURCES FOR SUSTAINABLE DEVELOPMENT OF LOCAL COMMUNITIES IN THE CONTEXT OF EXISTING FINANCIAL INSTRUMENTS ON THE EUROPEAN LEVEL

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**ABSTRACT:** *In the human history, the energy was the key development of human civilization, thus its future lies under the sway of energetic resources, a future that we can't perceive separated from that of energy. The coal, oil and atom are a huge source of pollution or a significant threat to the future history of mankind. In this context, on the background of scientific and technical research development have been developed forms of energy derived from renewable natural resources (sun, water, wind), which in addition to the incontestable environmental benefit are not a source of waste. Thus, renewable energies like solar and wind energy have brought in the context of new problems facing the world economy, a new concept to tackle environmental protection, parallel with the gradual disappearance of polluting energy resources.*

**KEYWORDS:** *pollution, renewable natural resources, solar and wind energy, environmental protection, European financial instruments*

**JEL CLASSIFICATION:** *K 32*

## ***I. General aspects regarding the renewable energies***

In the human history, the energy was the key development of human civilization, thus its future lies under the sway of energetic resources, a future that we can't perceive separated from that of energy.

Nineteenth century was the coal century<sup>1</sup>, energy source on which both Europe and the United States built their industrial power. The second half of the 20<sup>th</sup> century noted "a bulimic appetite for oil"<sup>2</sup>, due to the new industrial discoveries. Through its

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<sup>1</sup> By the end of last century, coal provided 90% of energy needed in Europe, while oil provided only 1% in the energy balance of our continent. Please also see I. Grigorescu, *Paradisul murdar*, Ed. Cartea Românească, 1974, p. 262.

<sup>2</sup> J.J. Servan-Schreiber, *Sfidarea mondială*, Ed. Politică, Bucharest, 1982, p.54.

properties, oil<sup>3</sup> led to the creation of over 80,000 products such as: fertilizers, fibers and synthetic rubbers, insecticides, paints, medicines, plastics, dyes, etc. Thus, oil has become the pedestal on which the entire world economy was built on, this fact determined a very rapid increase of global production<sup>4</sup>, which could not be stopped by the constant increase of its price or by the fact that oil extracted from different locations was not having the same quality<sup>5</sup>.

The atom was the next energy source which at the end of the 20<sup>th</sup> century replaced the oil as main energy source. The terrible Holocaust<sup>6</sup>, which highlighted the new energy resource, didn't prevent scientists from considering it the energetic hope for the coming years. It is well-known that by the fission<sup>7</sup> of one kilogram of uranium we obtain an energy equal to that produced by burning of 2500 tons of coal, and by converting a kilogram of hydrogen to helium – by fusion<sup>8</sup> – we obtained energy equal to that produced by the burning of 20,000 tons of coal.

However, the atom solution can be extremely dangerous, seen as a pact with the devil<sup>9</sup>, built on the immediate comfort needs, shall bring us not only the selling of our existence, but also of the future generations<sup>10</sup>.

The coal, oil and atom are a huge source of pollution or a significant threat to the future history of mankind. In this context, on the background of scientific and technical research development have been developed forms of energy derived from renewable natural resources (sun, water, wind), which in addition to the incontestable environmental benefit are not a source of waste. Thus, renewable energies like solar and wind energy

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<sup>3</sup> Fluidity, energy density, handling

<sup>4</sup> Since the 50's oil production escalated from 500 million tones to 1.086 billion in 1960. Mandravel, M. Guțul-Văluță, *Pământeni dușmanii Terrei ?*, Ed. Albatros, Bucharest, 1987, p. 142-143.

<sup>5</sup> The existence of oil called "heavy" because it is difficult to extract and at high costs (e.g. the situation of wells in the U.S. that provides on average 17 barrels per day). In contrast in the Middle East, oil is extracted easily (e.g. Libya, Kuwait or Saudi Arabia pump between 12,000 and 20,000 barrels per day"). J.J. Servan-Schreiber, *op. cit.*, p. 56-57.

<sup>6</sup> Bombs on Hiroshima and Nagasaki have made over hundreds of thousands of victims. A ball of plutonium in a smaller size than that of an orange can kill the entire population in the world (in addition, radioactive plutonium 239 has a radioactive life of more than 24,000 years), M. Mesarovic, *op. cit.*, *Omenirea la răspântie*, p. 143.

<sup>7</sup> Fission: the phenomenon of splitting an atomic nucleus into fragments, usually two fragments of comparable mass. *Dicționarul explicativ al limbii Române*, Ed. Academiei, Bucharest, 1984, p. 360; A nuclear reaction in which an atomic nucleus, especially a heavy nucleus such as uranium, plutonium, etc. splits into fragments. Fission is accompanied by the release of significant amounts of energy that can be used by nuclear reactors. *Micul Dicționar Enciclopedic*, Bucharest, 1973.

<sup>8</sup> Fusion: a nuclear reaction in which light nuclei combine to form more massive nuclei with the simultaneous release of energy. *Dicționarul explicativ al limbii Române*, Ed. Academiei, Bucharest, 1984, p. 336; Bringing the two nuclei in contact encounters strong repulsion of nuclear forces; therefore ignite a fusion reaction is difficult and can be accomplished, for example, by heating a plasma to tens of millions of degrees. Fusion is accompanied by the release of large amounts of energy. *Micul Dicționar Enciclopedic*, 1973.

<sup>9</sup> Affirmation of scientist John W. Gofman, the discoverer of uranium 233 and its fusion, participant to achieve the famous "Manhattan Project" which was the basis for the manufacture of nuclear bombs that have rocked Hiroshima and Nagasaki in 1945. Named by the U.S. Atomic Energy Commission for atomic energy to calculate the risks of using nuclear energy and its environmental influences, he showed that "the nuclear industry is one of the most gigantic fraud to which humanity has fallen victim and this because we are dealing with a double fraud because on one hand, mankind is forced to become in its whole a guinea pig for an experience whose consequences have not yet been elucidated, and on the other hand, have to swallow the lie that fusion power plant would be some one hundred percent Secure" I. Grigorescu, *op. cit.*, p. 86-87.

<sup>10</sup> M. Mesarovic, E. Pestel, *Omenirea la răspântie*, Ed. Politică, Bucharest, 1975, p. 145.

have brought in the context of new problems facing the world economy, a new concept to tackle environmental protection, parallel with the gradual disappearance of polluting energy resources.

**Solar energy.** Electricity produced by converting sunlight is frequently used since the 60's using photovoltaic solar cells<sup>11</sup>. Made of silicon - the second element in order of abundance in earth's crust - does not require any maintenance<sup>12</sup> and have been used in several purposes: power supply of the devices installed on board satellites and other space ships, powering television stations from remote areas, solar houses. The helio-thermic plants are made of thousands of movable flat mirrors, slightly curved or parabolic, oriented in order to capture and concentrate sunlight to a boiler, where a set of tubes through which water circulates stands, placed on the top of a building at 100-150m height. Thus heated, water can reach temperatures of 500°C and the steam produced in this way acts as a classic plant, a turbo-generator<sup>13</sup>.

Initially, such energy required much higher cost than conventional sources of electricity. Human ambition to go outside the terrestrial space led to the depiction of identifying new sources of electricity for space programs<sup>14</sup>, has led to fund allocation<sup>15</sup> for experiments and researches, have made solar cells to be produced with lower costs, this fact made possible its apparition on the market. A question still unsolved is regarding its capture and storage.

The European Union has set as target, for the Member States, that is to say, the procurement by 2010, of 12.5% of electricity from alternative sources. From the Member States only Germany had obtained from renewable sources (wind, biomass and other alternative sources) 14.2% of the total amount of electricity<sup>16</sup>.

National Strategy for Sustainable Development of Romania<sup>17</sup> Horizons 2013-2020-2030 (the version from July 1, 2008) provides in Part III (targets and means of action on the horizon in 2013, 2020, 2030, under the EU strategic guidelines; 1. Crucial challenges 1.1. Climate change and clean energy) that Romania, as EU member, is responsible for growing until 2020, with 20% of renewable energy from the total energy consumption, "given that the target goal for the whole European Union is that 20% of total energy consumption comes from renewable sources by 2020, the Romanian objective is a more ambitious one: about 33% in the year 2010. It aims, in 2010, about 12% of gross domestic energy consumption to be covered from renewable sources.

<sup>11</sup> Converts that renewable energy source (of the Sun) into electricity.

<sup>12</sup> L. Brown, W. Chondler, Chr. Flavin, C. Pollock, S. Pastel, Ed. Wolf, *Probleme globale ale omenirii*, Ed. Tehnică, Bucharest, 1988, p. 127.

<sup>13</sup> S. Neagu, *Un singur pământ*, Ed. Albatros, Bucharest, 1978, p. 267.

<sup>14</sup> *Idem*.

<sup>15</sup> For some countries, these costs jump were spectacular. Example the U.S., which in 1971 gave 1.2 million dollars and in 1976 they gave 120 million dollars, S. Neagu, *op. cit.*, p. 268.

<sup>16</sup> A.I. Dușcă, D.D. Dănișor, *Energile regenerabile – cheia viitorului energetic al omenirii*, in „Revista română de dreptul mediului” no. 2/2008, p. 24.

<sup>17</sup> Reviewed under the revised strategy for sustainable development of the European Union (Please also see G.O. no. 1216/2007, Of. M. of Romania no. 737 from October 31, 2007 – to approve the Memorandum of Understanding between the Ministry of Environment and Sustainable Development and United Nations Development Programme in Romania on the review of national strategy for sustainable development, given the objectives of the renewed EU Sustainable Development.)

Compared to the bold objectives and not too remote deadlines, in theory was shown that it would have been useful to see different changes in the legislation or legislative passing as follows<sup>18</sup>:

A first piece of legislation that would have to undergo changes in this regard is Law no. 350/2001 on territory management and urbanism<sup>19</sup>, which after declaring - in art. 1 - that "the Romanian territory is the needed territory for sustainable development process<sup>20</sup>" states, in art. 7, that "the basic purpose of territory management<sup>21</sup> is the territory-wide harmonization of economic, social, environmental and cultural rights established at national and local levels to ensure balance in development of different areas of the country. Performed to the entire territory of Romania on the principle of hierarchy, cohesion and integration on a national, regional and county level<sup>22</sup>, the territory management has as main objectives to ensure: a) a balanced economic and social development of the regions and zones, respecting their specificity, b) the improvement of life standards for individuals and human collectivities c) a responsible management of natural resources and environmental protection, d) a rational use of the territory<sup>23</sup>". We join the opinion of the authors mentioned above as being necessary to amend Law no. 350/2001 for several reasons.

Thus, local urban plans should contain specific rules on the orientation (as sunny as possible<sup>24</sup>) of the buildings benefiting from solar captures. It should also be provided areas where the solar capturers will be placed, areas which, in time, may increase in size<sup>25</sup>.

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<sup>18</sup> A.I. Dușcă, D.D. Dănișor, *op. cit.*, in „Revista română de dreptul mediului” no. 2/2008, p. 24-26.

<sup>19</sup> Of. M. of Romania no. 373 from July 10, 2001 (modify and completed by: Ordinance no. 69/2004, Of. M. of Romania no. 773 from August 24, 2004, to complete art. 38 from Law no. 350/2001; Law no. 289/2006, Of. M. no. 606 from July 13, 2006, to modify and complete the Law no. 350/2001; Ordinance no. 18/2007, Of. M. of Romania no. 81 from February 1, 2007, for modifying alin. 3 of art. 51 from the Law no. 350/2001; Law no. 168/2007, Of. M. of Romania no. 406 from June 18, 2007, to modify alin. 3 of art. 51 from the Law no. 350/2001 Of. M. of Romania no. 628/2008).

<sup>20</sup> „(...) and it is part of the national wealth enjoyed by all citizens”. de care beneficiază toți cetățenii țării”.

<sup>21</sup> Art. 3: "The territory management must be globally, seeking coordination of various sectoral policies in an integrated ensemble, functional, must take account of the natural environment and built based on cultural values and common interests; perspective, to analyze long-term development trends of economic phenomena and interventions, environmental, social and cultural rights and take them into account in implementation; democratic, ensuring public participation and its political representatives in decision making".

<sup>22</sup> Art. 8 from Law no. 350/2001 on territory management and urbanism.

<sup>23</sup> Art. 9 from Law no. 350/2001 on territory management and urbanism.

<sup>24</sup> The meaning of the word "sunny" is that such a building should receive maximum solar radiation. We make this statement in order not to make a confusion with the meaning used by the G.O. no. 525/1996, Of. M. of Romania no. 149 from Jun 16, 1996, for approval of the general urbanism regulation (modified by: G.O. no. 789/1997, Of. M. of Romania no. 356/15 December 1997, for modifying and completing the General Urbanism Regulation, approved by G.O. no. 525/1996; G.O. no. 960/1999, Of. M. no. 567 from November 19, 1999, concerning the modification and completing G. O. no. 525/1996; G. O. no. 59/1999, Of. M. no. 55/8 February 1999, for the changing of art. 2 of G. O. no. 525/1996; G. O. no. 855/2001, Of. M. no. 576 from September 14, 2001, concerning the changing of G.O. no. 525/1996). Specified in Annex 3, section 3.1, "Banking and Financial Administrative Construction:" "For all administrative, banking and financial constructions it is recommended to ensure sunny spaces for public and offices". Also, the section 3.2 "Commercial construction" states "for all categories of commercial buildings such guidance is recommended to ensure sunny spaces for public and offices." The meaning used by G.O. no. 525/1996 is light, more precisely those spaces (public and office) must benefit from natural light.

<sup>25</sup> In France these areas increased from 409,000 m in 1996, to 674. 000 m in 1999. For details, also see M. Prieur, *Droit de l'environnement*, 5 edition, 2004, Dalloz, p. 732-733.

However, the same authors<sup>26</sup> show that Law no. 50/1991 – on authorizing execution of construction works<sup>27</sup> and some measures for building houses should be amended so as to specify whether when building solar facilities you need to meet certain specific requirements, reflected in a special building permit or will need to appeal to a "normal" authorization. Such specification is necessary because, once stated in art. 1, "civil, industrial, agricultural or any other construction may be achieved only by respecting the building permit issued under this Law and regulations on the design construction and performance" art.3 contains a list of works that require authorizations.

These are: a) works of construction, reconstruction, alteration, rehabilitation, extension of buildings of any kind, b) works of construction, rehabilitation, protection, restoration, conservation, and any other work, regardless of their value following to be made in building monuments and ensembles representing historical, archaeological, architectural, art and culture, including their areas of protection, c) for construction, reconstruction, alteration, extension or repair of communication routes, technical and municipal facilities underground and overhead, fences and street furniture, management of green spaces, parks, squares and other public works d) drilling and excavation necessary for geotechnical and topographical studies, exploitation of quarries, gravel pits, and oil and gas wells and other holdings, e) necessary temporary buildings for the site work needed for the execution of basic works, if not authorized with this; f) organization of tent camps, cottages or trailers; g) works on a provisional basis: Tents, simply stands, booths, exhibition spaces located inland and in public spaces, bodies and billboards, advertising".

**Wind energy.** It is a source of renewable energy generated from wind power. In late 2006, global wind generators capacity was 73,904 MW, they produce slightly more than 1% of world electricity. Wind energy production worldwide has increased almost five times between 1999 and 2006, coming, in some countries the share of wind energy in total energy consumption to be significant: Denmark (23%), Spain (8%), Germany (6%).

**Advantages.** The alarming increase of pollution resulted from the combustion of fossil fuels is vital to the decrease of their use in the context in which this type of energy production: has zero emissions of pollutants and greenhouse gases; does not produce waste; has lower costs per unit of produced energy<sup>28</sup>. These advantages and the imminent increase in fossil fuel prices have increased significantly the number of wind farms<sup>29</sup>.

<sup>26</sup> A.I. Dușcă, D.D. Dănișor, *op. cit.*, in „Revista română de dreptul mediului” no. 2/2008, p. 25-26.

<sup>27</sup> Published in Of. M. of Romania no. 163 from August 7, 1990, with changes and adding.

<sup>28</sup> The cost of electricity obtained in modern wind plants has decreased substantially in recent years, and in the U.S. they were even lower than the energy produced by fuels, even if not taken into account negative externalities inherent when using classical fuels. Also see: C. Mitchell „Price of Wind-Generated Electricity Plummeting”. <http://www.digitaljournal.com/news/?articleID=4554>; E-Letter responses to: The Real Cost of Wind Energy”. Science <http://www.sciencemag.org/cgi/eletters/294/5544/1000>. In 2004, wind energy prices had already reached a fifth compared to the 80s and are forecast to continue their decline, as it put into place more and more wind power units having installed several megawatts.

<sup>29</sup> Wind power installations have been erected in Denmark, Netherlands, United States, Canada, Sweden, Great Britain, Russia, Germany.

*Disadvantages:* they are relatively limited energy resource, inconstancy due to the wind speed variation<sup>30</sup> and the low number of possible locations, covering relatively large areas of land, annoying noise and inaudible vibrations made complain that residents in neighboring areas, the high risk of damage during storms, if wind speed exceeds acceptable limits they were designed. However already electricity is produced at a price not exceeding 10 cents kw / h. In this context Britain has started work to build the biggest wind farm in the world. Its work will be completed in 2011, and its total power - provided will be sufficient to supply 415,000 homes. Globally there is a growing use of this type of energy (only in the last 10 years there is an average growth of about 29% annually - as the year 2005 grew by more than 49%: 2.5% coal, 1.8% nuclear power, 2.5% natural gas, 1.7% oil) is expected to increase in the coming years due to the impending fuel crisis and the alarming effects of global warming.

Renewable energy legislation in Romanian law is given in Chapter V of Law no. 13 of January 9, 2007 on electric energy<sup>31</sup>, "Provides the regulatory framework for the performance of activities in sectors related to use of electric energy produced from renewable energy sources and high efficiency cogeneration", and includes wind energy among renewable energy sources. More precisely, art. 61 of this Law provides:

"In accordance with the present Law, are defined as renewable energy sources: a) wind power; b) solar energy; c) tidal and wave d) geothermal energy; e) hydroelectric energy; f) the energy contained in the biodegradable split of products, waste and residues from agriculture (including vegetable substances and animal waste), forestry and related industries, including the biodegradable fraction of industrial and municipal waste products, town and city, called biomass; g) the energy contained in landfill gas, also called gas storage; h) the energy contained in gas fermentation sludge, in sewage treatment plants; i) the energy contained in gaseous secondary products obtained by fermentation of waste materials to form the category of fuel gas, called biogas; j) the energy contained in the liquid obtained by distillation of fermented organic matter, forming the category of liquid fuel, called alcohol fuel; k) the energy obtained from renewable sources unexploited today". The doctrine reported some criticism, to which we agree, namely the fact that the law treats all renewable sources together without making a separate or different rule<sup>32</sup>. In this respect Art. 65 which states that "the criteria for promotion of electricity produced from renewable energy sources have in mind the following: a) achievement of national targets for the share of electricity from renewable energy sources; b) compatibility with the principles of market competition; c) characteristics of different renewable energy sources and electricity production technologies; d) promoting the use of renewable energy sources in the most efficient way". In the same way is the art. 66 which states that "to promote electricity production from renewable sources of energy, support schemes are applied, including measures of accelerated depreciation for investment in renewable energy sources" (renewable and support schemes are established by Government decision, to the proposal of the minister).

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<sup>30</sup> Periods of strong winds lead to accumulation of double amount of wind energy which leads to overloading of the power grid (e.g. Denmark); to solve this problem, Denmark has in view a project of networks for charging electric vehicles using the excess of energy resulted from days with strong wind.

<sup>31</sup> Published in the Of. M. of Romania no. 51 of January 23, 2007, with later changes.

<sup>32</sup> A.I. Dușcă, D.D. Dănișor, *op. cit.*, in „Revista română de dreptul mediului” no. 2/2008, p. 30.

Therefore, the authors show that necessary provisions are needed, (similar to solar energy) which relate to cases of necessity or waiver of building permits for construction of wind farms (depending on their height or area of land extending), the need for impact study for all buildings or just for those that exceed certain limits.

### ***II. European legislation on environmental liability protection.***

The question of the environmental protection in the context of increasing pollution - being necessary a legislation to address the polluter's responsibility - has become current European legislation, which caused, in the Romanian objective law<sup>33</sup>, a practical approach regarding these problems.

The European Union has drafted a legislative instrument on civil liability in environmental matters in 2004 - Directive no. 2004/35/EC<sup>34</sup> of the European Parliament and the Council of April 21, 2004 on environmental liability - and another Directive on environmental protection through criminal law in 2008 - Directive 2008/99/EC<sup>35</sup> of the European Parliament and Council of November 19, 2008. Both legislative instruments contain express reference to environmental civil and criminal liability of legal persons based on the premise that prevention and repair, as far as possible, of environmental damage contributes to the objectives and application of principles of the Community policy environment<sup>36</sup>.

### ***III. Financing Instruments of the E.U. and their implications in the development of local communities.***

Local public administration is essential in developing local infrastructure, social services and the business environment as a result of the benefit arising from knowledge of the problems and needs of the community. From this perspective attracting structural funds<sup>37</sup> by the administration or local business entities is an element that can't be neglected in view the objectives for economic and social cohesion<sup>38</sup> of the EU regional policy.

<sup>33</sup> For an ample approach of juridical environmental liability, see E. Lupan, *Handbook of environmental law*, Ed. C.H. Beck, Bucharest, 2009, p. 514-590.

<sup>34</sup> Published in JO L 143 of 30.04.2004, p. 56 and next. In Romania the provisions of the directive have been transposed through the Emergency Ordinance no. 68 of Jun 28, 2007 (published in Of. M. of Romania no. 446 of Jun 29, 2007), approved by Law no. 19 of February 29, 2008 (published in Of. M. of Romania no. 170 of March 5, 2008).

<sup>35</sup> Published in JO L 328 of 06 12 2008.

<sup>36</sup> For a comprehensive analysis of the issue of liability of legal persons in matters of environmental protection in terms of law, see A. Kajcsa, *Aspecte privind răspundere persoanei juridice în materia protecției mediului din perspectiva dreptului european*, în publicația conferinței internaționale din 26-28 noiembrie 2009, Sovata, Romania, having the theme „Răspunderea persoanelor juridice în contextul activității de codificare în drept” conducted under the auspices of the University „Petru Maior” of Tg. Mureș, Ed. Universul Juridic, Bucharest, 2009, p. 199-208.

<sup>37</sup> Structural funds (SF) - financial instruments through which European Union (EU) works to eliminate economic and social disparities between regions, in order to achieve economic and social cohesion. SF are: European Regional Development Fund (ERDF) and European Social Fund (Regulation (EC) no. 1080/2006 of the European Parliament and the Council).

<sup>38</sup> Maastricht Treaty, entered into force in 1993 defines the economic and social cohesion as one of the main objectives of the Union, besides the Economic Union and Single Market.

European Commission proposed on November 26, 2008 an economic recovery plan<sup>39</sup>, and in the same time has decided to reallocate the funds targeted - with priority to disadvantaged areas in the Union. Based on the analysis of the European Commission, necessary measures had to be enforced in order to accelerate payments for projects carried out on structural funds<sup>40</sup>.

On the grounds of the attempt of the governing to modernize the Romanian administration, the need to improve the administrative management in local government, through the separation of the administrative and political fields by attracting highly skilled professionals was felt. The proposed solution<sup>41</sup> – public administrator –, determined the introduction of the concept public administrator in the Law. No 286/2006<sup>42</sup> which amends and supplements the Law No 215/2001<sup>43</sup> of the local government.

As it is known, Romania as EU member, receives large amounts of money coming from the EU budget, known as structural funds. Accessing the funds involves a laborious procedure, through which are identified by specialists in public administration (the case of public investment), public interest objectives that are found in programs financed by these funds. Here, we consider that the institution of public administrator may have a crucial role - as professional in this domain - it can identify and promote successfully public objectives which may be subject to European funding<sup>44</sup>.

Romania will benefit from receiving structural funds of around 28-30 billion euro from EU in 2007-2013, which means that after January 1, 2007 they will have to spend 8.5 million euro, daily, including Saturdays and Sundays. These financial resources will have to be effectively managed being necessary to get where they are needed, with their impending loss. Even though money will not be attracted to projects in Romania, each taxpayer will contribute to the amount by which Romania will contribute to the EU's budget<sup>45</sup>.

Now, for the period 2007 - 2013, at the level of EU are operating three structural funds<sup>46</sup> who represent the most important instruments in regional policy<sup>47</sup>, being created at different times with the role to coordinate regional policy at European level and to come in addition to national and local budgets for the development of regional policy projects<sup>48</sup>, as follows<sup>49</sup>:

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<sup>39</sup> Dumitru Mazilu, *Uniunea Europeană - un rol activ în eforturile de combatere a efectelor crizei financiare mondiale*, in *Revista Română de Drept Comunitar*, no. 1/2009, p. 76.

<sup>40</sup> Dumitru Mazilu, *op. cit.*, p. 76.

<sup>41</sup> We are talking about U.C.A.R.P. project –Central Unit for Public Administration Reform – regarding the promoting of the public administrator function.

<sup>42</sup> Published in the Of. M. of Romania no. 621/18 July 2006.

<sup>43</sup> Published in the Of. M. of Romania no. 204/23 April 2001. Republished in the Of. M. no. 123/20 February 2007.

<sup>44</sup> I. Lazăr, „Administrația publică, managementul public și sursele europene de finanțare în contextul noilor provocări impuse de conjunctura actuală a economiei mondiale”, in „Pandectele Române” no. 2/2009, p. 80.

<sup>45</sup> I. Lazăr, *Aspecte privind Bugetul Uniunii Europene*, during the International Conference „Realități și perspective ale procesului de integrare europeană în era globalizării”, conducted under the auspices of the University „Lucian Blaga” from Sibiu, Faculty of Law, Simion Bărnuțiu, Sibiu, 16-17 May 2008; Ioan Lazăr, A. Drăgoi, *Drept financiar*, Ed. Risoprint, Cluj Napoca, 2008, p. 118-119.

<sup>46</sup> For an analysis of structural funds see D.C. Valea, R. M. Moldovan, *Drept financiar și fiscal comunitar*, paper made at „Petru Maior” University, Tg. Mureș, 2009, p. 44-48.

<sup>47</sup> M. Achim, H. Teodor, *Managementul și Finanțarea Afacerilor*, Ed. Risoprint, Cluj Napoca, 2007, p. 211.

<sup>48</sup> C. S. Ghiolțan, *Legătura dintre regiunea administrativă și politica locală*, in *Revista Transilvană de Științe Administrative*, no. 1(22) 2008, p. 31.

- European Regional Development Fund (ERDF)<sup>50</sup> ;
- European Social Fund (ESF)<sup>51</sup>;
- Cohesion Fund (CF)<sup>52</sup>

to which are added another two complementary actions:

- European Agricultural Fund for Rural Development (EAFRD)<sup>53</sup>;
- European Fishing Fund (EFF)<sup>54</sup>.

Financing is accomplished on the basis of some projects where the local administration will be eligible to access them - alone or in partnership - in all Operational Programs<sup>55</sup> - except to the Transport and Technical Assistance in which the public authorities are not listed as eligible beneficiaries – the condition of eligibility for the local authority is to ensure technical capability and financial resources necessary to the co-financing the project.

Romanian funding regards, as noted, environmental issues and renewable energy, which did not remain without response in the European business environment.

The Companies Iberdola Renovables and Eolica Dobrogea (Schweiz) A.G. have contracted the biggest renewable energy worldwide. The investment value is between 200 and 300 million euro and the contract involves developing a portfolio of 50 wind projects located in Romania<sup>56</sup>.

It will be installed wind generators, each of them with a capacity of 2 MW, and the towers will have 90-100 meters height and the zone diameter interlaced blades of 80-90 meters. In total, the power stations will be located in 800 places and the main area of interest is Dobrogea. All 50 farms will have a total capacity of 1,600 MW. Building the first wind farm will start in 2008, and the power stations will be operational starting with 2009.

<sup>49</sup> M. Achim, H. Teodor, *op. cit.*, p. 211.

<sup>50</sup> European Regional Development Fund (ERDF) - the first Structural Fund aims to strengthen economic and social cohesion in the European Union by correcting the imbalances between its regions, upholds structural development and structural adjustment of regional economies, including the redevelopment of declining industrial regions.

<sup>51</sup> European Social Fund – the second structural fund, sets out to improve employment and job opportunities in the European Union.

<sup>52</sup> Cohesion Fund - used to finance transport infrastructure projects and environmental protection in those Member States of the EU where the GDP per citizen is lower than the average of 90% of the EU.

<sup>53</sup> European Rural Development Fund - helps to increase agricultural and forestry competitiveness, agricultural management, environment and diversification of economic activities in areas with low urban population.

<sup>54</sup> European Fishing Fund - aims to ensure continuity of measures for fishing and the rational exploitation and protection of fishery resources, development of viable enterprises in the fisheries sector.

<sup>55</sup> It's about: Sectoral Operational Program - Increasing economic competitiveness; the Sectoral Operational Program – Transport; Environment Sectoral Operational Program, Sectoral Operational Program Administrative Capacity Development, Operational Program Technical Assistance, Program-border cooperation in the EU's internal borders, transnational and interregional; The cross-border cooperation at the external borders of the European Union, the National Program of Rural Development, Operational Program for Fisheries. For more details please also see: M. Achim, H. Teodor, *op. cit.*, p. 211; *abc-ul fondurilor structurale*, Publicație editată de Ministerul Integrării Europene; [www.mie.ro](http://www.mie.ro).

<sup>56</sup> <http://www.green-report.ro/revista/300-de-milioane-de-euro-pentru-ferme-eoliene-dobrogea>.

The company that will develop these projects, Eolica Dobrogea (Schweiz) AG, has in the structure the Romanian society Rokura and Swiss company NEK Umwelttechnik AG, both active in domain of renewable energy.

Iberdola Renovables SA is subsidiary to operate the wind farm of the national Spanish operator Iberdola SA Spanish and holds a portfolio of 7700 MW wind energy. The company has the prospect of operating 43,500 MW of wind energy, and the contract signed in Madrid for the operation of farms in Romania is very important for the development plan of the Spanish giant.

"The completed transaction, through the far-reaching of the energetic potential, envisaged the scale of investment, the largest recorded so far in this field worldwide," stated the representatives of the company "Rokura.

Another investor, the company Eviva Energy, a subsidiary of Portuguese group Martifer, this year plans to build wind turbines in Romania with a total installed capacity of 50 MW which will start producing electricity in the last quarter, seeking acquisition opportunities on the market energy<sup>57</sup>.

"There are several stages of wind farm development. Some are only just starting, others in the final phase of obtaining the necessary approvals. Eviva is working with local companies and studying the possibility of acquisitions", declared for MEDIAFAX the general manager of the company, Nuno Costa Alemao.

Martifer carries out activities in Portugal, Spain, Germany, Czech Republic, Poland and Slovakia, and in Romania it is currently on the bio-fuels market, with a factory of biodiesel fuel plant in Lehliu, and also acts in construction field, real estate investment and energy production from renewable sources. The group is operating in Romania in metal construction, retail and logistics.

The objective of the Portuguese group is to hold in Romania, by 2012, wind farms with a total installed capacity of 400 MW, an investment that could amount to 600 million euro, since the construction of a MW in wind farm, the costs reach 1.5 million euro.

However, the stake building of wind farms with EU financing aimed at those communities where the topography allows their optimal location. Public-private partnerships can play a major role in identifying and implementing such projects.

Public-private partnership contract<sup>58</sup>- one of the instruments to carry out good governance<sup>59</sup>- is of particular importance in the administrative work of the European states, amid explosive development of the relationship between the administration and private investors, which resulted in a wide regulatory law. In Romania, the legislator considered it necessary to repeal the provisions of Ordinance no. 16/2002 on public private partnership contracts<sup>60</sup> with GEO no. 34/2006.

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<sup>57</sup><http://209.85.135.132/search?q=cache:pw39apoFA8IJ:www.mediafax.ro/economic/compania-eviva-construieste-in-romania-ferme-eoliene-2377891+ferme+eoliene&cd=6&hl=ro&ct=clnk&gl=ro>.

<sup>58</sup> Regarding the public private partnership contract please also see, D. A. Tofan, *Drept Administrativ* vol. II, Ed. All Beck, Bucharest, 2004, p. 172; D. A. Tofan, *Unele considerații privind legislația în domeniul parteneriatului public-privat*, in "Revista de Drept Public" no. 2/2004, p. 93.

<sup>59</sup> A comprehensive approach regarding the concept of "good governance", also see E. L. Cătănă; *Principiile bune-guvernării: evoluții europene și studii comparative*, Ed. Universul Juridic, Bucharest, 2009, p. 44 and next.

<sup>60</sup> Published in Of. M. of Romania no. 94 of February 2, 2002.

The new regulation does not contain provisions on such contracts or even a definition of the public partnership contract, as it existed in the previous legislation<sup>61</sup>. However, in the present context, in the Romanian legislation there is no body to advise the administrative contracts<sup>62</sup>, excepting public procurement, for which it is operating the National Authority for Regulating and Monitoring of Public Procurement<sup>63</sup>. We consider vital the existence of uniform procedures regarding the administrative contracts, just to avoid arbitrary bureaucracy to manage the relationship of those administrated with the powers vested with public powers. The problem can be solved in the context of clarifying the legislative gaps in an administrative code and administrative proceedings. Having the same opinion as Prof. I. Alexander<sup>64</sup>, we consider necessary this regulation - through an administrative code and administrative procedure - the rights and citizens' relations with the administration and the procedures to be followed in these cases.

**IV. The Sectoral Operational Programme "INCREASE OF ECONOMIC COMPETITIVENESS" (further referred to as SOP IEC) 2007-2013, PRIORITY AXIS (PA) 4 – Increasing energy efficiency and security of supply, in the context of combating climate changes, AREAS OF INTERVENTION 1 (DMI 1) - Efficient and sustainable energy (improving energy efficiency and sustainable energy system in terms of environment), OPERATION A - Supports investment in plant and equipment for the companies in the industry, leading to energy savings to improve energy efficiency.**

The Sectoral Operational Programme Increase of Economic Competitiveness (SOP IEC)<sup>65</sup> was approved on July 12, 2007 by the European Commission. Under this programme may be co-financed by public funds<sup>66</sup> (ERDF and state budget) investment projects in the energy sector during 2007-2013.

By SOP IEC, can be financed from public funds, projects which respond to the objectives of the programme and are in accordance with European legislation and national legislation.

SOP IEC management responsibility lies with the Managing Authority for SOP IEC (MA SOP IEC) of the Ministry of Economy. Implementation of **AP 4 „Increasing**

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<sup>61</sup> G.O.no. 16/2002 defines in Art. 1.1 the Public-Private Partnership contract for works concession: "it is a contract having as aim the execution or, where appropriate, both the design and implementation of one or more construction works as those contained in official statistical classifications, or the execution by any means of any combination of such constructions, which meets the requirements of the contracting authority and which results in a product designed to satisfy, by itself, a techno-economic function. In return the contractor executed works, as the operator receives the right to operate based on work in whole or in part, as that may be added, if necessary, the payment of an amount of money."

<sup>62</sup> For an analysis of administrative contracts, see: L. Chiriac, *Activitatea autorităților administrației publice*, Ed. Accent, Cluj Napoca, 2001, p. 200-2008.

<sup>63</sup> Found by E.G.O no. 74/2005, published in Of. M. of Romania of July 4, 2005.

<sup>64</sup> I. Alexandru, *Criza administrației*, Ed. All Beck, Bucharest, 2001, p. 12.

<sup>65</sup> The mentioned programme can be seen on the web site: [www.minind.ro/oiie.html](http://www.minind.ro/oiie.html).

<sup>66</sup> Public co-financing – any contribution to finance eligible expenditures related to projects financed under the operational programs, allocated in the budgets under Art. 1 (2) of Law no. 500/2002 on public finance, as amended in art. 1. (2) of Law no. 273/2006 on local public finance, with subsequent amendments (including financing from state budget given for persons other than those specified in Art. 5. (1) - (3) of GEO no. 64/2009, and other similar expenses, according to GEO no. 64/2009).

**energy efficiency and security of supply, in the context of combating climate changes”** from SOP IEC goes to the Intermediate Body for Energy from the Energy General Direction, Oil and Gas of the Ministry of Economy (ME) under Order no. 273/2008, of the Minister of Economy and Finance.

The strategy for increasing economic competitiveness SOP IEC, identified five priority axes (AP):

PA 1 – An innovative and eco-efficient productive system;

PA2 – Research, technological development and innovation for competitiveness;

PA 3 – Information and communication technology for private and public sectors;

**PA 4 – Increasing energy efficiency and security of supply, in the context of combating climate change**

PA 5 – Technical assistance

**PA4 of SOP IEC Contains 3 Major Areas of Intervention (MAI):**

DMI 1 – “Efficient and sustainable energy (improving energy efficiency and environmental

sustainability of the energy system”

DMI 2 - “Valorization of renewable energy resources for producing green energy”

DMI 3 - “Diversification of interconnection networks in view of strengthening security of energy supply”

Project funding includes public financing (ERDF and state budget allocations) and private financing (the applicant's own resources, bank loans, etc.).

Project funding in this operation type *is non-refundable* and is to settle on a state aid scheme approved by G.D. no. 718/2008, to the level established by the grant agreement, eligible expenses incurred in the project.

Eligible applicants for this operation are large enterprise, small and medium enterprises<sup>67</sup> from the industrial sector, which implements projects whose aim is to increase energy efficiency and savings, as defined in Government Ordinance 22/2008.

To determine its contribution and to determine the maximum amount of grant that you may require, the applicant will considered in preparing the project budget, the eligibility conditions for costs and aid intensity mentioned below.

Thus, the intensity measure of support (funding rate) paid shall not exceed:

- 70%, except for projects located in Bucharest-Ilfov region where the maximum amount of funding is 60% for small and micro enterprises;
- 60%, except for projects located in Bucharest-Ilfov region where the maximum amount of funding is 50% for medium enterprises;
- 50%, except for projects located in Bucharest-Ilfov region where the maximum amount of funding is 40% for large enterprises;

The difference to the total project value is covered by the beneficiary. It must provide a financial contribution of at least 30% of eligible costs, either from its own resources or from sources attracted, in a form not subject to any public support<sup>68</sup>. The financing rate is applicable on eligible costs as presented in SF- general estimation.

<sup>67</sup> According to the provisions of Law no 346/2004 on stimulating the creation and development of small and medium enterprises with subsequent amendments, namely EC Regulation. No 800/2008 of the Commission..

<sup>68</sup> For example, unsecured loans from state, contribution of shareholders, other than state bodies or other private shareholders, loans on commercial terms, etc.

The aid is granted in RON by way of reimbursement of expenses incurred (in terms of pre-financing costs, see section below).

The maximum amount of funding awarded under request for proposals for projects is 40 million lei, except the measure of high efficiency cogeneration, where the maximum limit is 80 million lei. The maximum project value (including VAT) may not exceed 50,000,000 Euro<sup>69</sup>, its equivalent in RON (at the currency of months deposit Info euro CRF).

From the analysis of funding, we can conclude that the eligible activities<sup>70</sup> under the program may be subject to investment that can be performed through public, private or mixed co-financing. Benefits resulting from the implementation of the project are leading to new jobs and also to increasing amounts of local budgets as a result of the exploiting the investment. The most important advantage is though the existence of ecological environment inside the community, benefitting from such a renewable and clean energy source.

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<sup>69</sup>The need to respect the engagement in the limit value of the project is constant during the project.

<sup>70</sup>Facilities / equipment for specific industrial enterprises, in order to achieve specific energy savings based on energy balance (e.g. air compressors, pumps, facilities / equipment / ventilation systems, heating / cooling systems, boilers, burners, heat exchangers, frequency converters, integrated energy management and other); high-efficiency cogeneration units of industrial enterprises (CHP plants upgrading or building new ones);