

# REFLECTIONS ON THE PAST AND THE PERSPECTIVES OF THE ROMANIAN PUBLIC ADMINISTRATION

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## Abstract.

*The Romanian legislation find several laws governing the conduct of civil servants in order to increase the quality of administrative and citizen satisfaction, respect the right to good administration laid down in art. 41 of the Charter of Fundamental Rights.*

*Just to encourage the right to good administration, increase citizen satisfaction was created on 6 September 2001 European Code of Good Administrative Behaviour which European citizens and address.*

*After the appearance of this Code and the context in which future we want for Romania a European administration, and in our felt the need to adopt a similar code, for which to Law no. 7/ 2004 on civil servants code of conduct governing rules of professional conduct for civil servants, its contents being found in a form identical or similar principles of the European Code of Good Administrative Behaviour.*

**Keywords:** *good administration, Code, civil servants, citizens' satisfaction.*

**Jel Classification:** K0 K3 K30

Defined in a broad sense, the public service represents an assembly of persons and things created in order to satisfy public needs by a public community, subject to its authority and control (Popescu Petrovszki, 2011).

Therefore, satisfying the daily needs of a community, of the individual living in an organized grouping, is the only justification for the existence of the public administration, its essential purpose.

Therefore, invested with a civil service is a natural person who, by law, has the capacity to act in the realization of the competence of a state body. Therefore, it is called a "civil servant" and has a complex of powers, powers and competences established by law, within a public service, which can be elected or appointed, with the purpose of satisfying the general interests of the company.

In Romania, civil servants are obliged, according to their status, to fulfill their professional duties, loyalty, fairness and conscientiously and to refrain from any fact that could harm the public authority or institution in which they operate. activity<sup>2</sup>. They are responsible, according to the law, for the fulfillment of the tasks that they have from the public function that they hold, as well as of the tasks that are delegated to them; the civil servant is obliged to act only in the public interest. In the Romanian legislation we find several laws that regulate the conduct of civil servants in order to increase the quality of the administrative act and the degree of citizen satisfaction, to respect the right to good administration provided in art. 41 of the Charter of Fundamental Rights of the European Union. Thus, according to article 41 of the Charter of Fundamental Rights of the European Union: "Everyone has the right to benefit, in respect of his problems, of an impartial, fair and reasonable treatment within the institutions, bodies, offices and agencies of the Union.

Everyone has the right to compensation by the Union of the damage caused by its institutions or agencies in the exercise of their functions, in accordance with the general principles common to the laws of the Member States.

Any person may address the institutions of the Union in writing in one of the languages of the Treaties and must receive an answer in the same language. "

The first regulation in this regard was the Statute instituted by A.I. Cuza in 1864. By this it was adopted the principle that a person was appointed to constitute an executive body, but also to

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<sup>2</sup> Law no. 188/1999 regarding the Statute of civil servants, published in the M.O. no. 600 of December 8, 1999, art. 41

act on his behalf. Thus, at that time, the head of state was the one who appointed the members of these executive bodies. The constitution of 1866 enshrined the principle according to which the king appointed and dismissed the ministers of the Government and had the right to appoint persons with public functions. The specialized doctrine subsequently regulated the legislative aspects by which the public function in the state administration was carried out by the Treaty of administrative law of Professor Paul Negulescu in 1904 (Chirtes, 2011).

In 1923, the Law on the Statute of the civil servant was adopted which regulated the way in which this professional category could carry out specific activities. Among other things, the obligation of the civil servant to take the oath of loyalty to the king was also instituted.

The year 1944 marked the emergence of a new regulation that related to the constitutional principles specific to the normative acts of that period. Thus appears Law no. 746/1946 regarding the Statute of civil servants, law regulating the conditions of employment, the rights and duties of civil servants, etc. This normative act brings to the present time aspects related to the specialization of civil servants, as an absolutely mandatory condition for holding a civil service (Unglean, 2007).

After 1989 the first specialized regulations were H.G. no.667 / 1991 regarding the prestige of civil servants and Law 69/1991 on local public administration.

Other normative acts with an impact on the public administration in our country, such as:

- Law no. 188/1999, regarding the Statute of civil servants, republished in the Official Gazette, Part I no. 365 of 29/05/2007, updated in 2009. The provisions of this law include the liability of the civil servant, but this new normative act did not solve the problem of elaborating a deontological code applicable to the civil servant.

- Law no. 215/2001 regarding the local public administration published in the Official Gazette no. 204 of April 23, 2001, as amended and supplemented.

Precisely for the purpose of encouraging the right to good administration, increasing the satisfaction of the citizen was created on September 6, 2001 the European Code of Good Administrative Behavior that is addressed to European citizens and officials, with the purpose, on the one hand, to inform citizens about the what to expect from the public administration, what rights and obligations they have in relation to it, and on the other hand to inform the European institutions and bodies, their administrations and officials about the principles they must respect in their activity. .

After the appearance of this Code and in the context in which we wish for Romania for the future a European administration, and in our country the need to adopt a similar code was felt, for which Law no. 7/2004 regarding the Code of conduct of civil servants, which regulates the rules of professional conduct of civil servants, in its content being found, in an identical or similar form, the principles of the European Code of Good Administrative Conduct.

The objectives of the Code of Conduct are aimed at ensuring the increase of the quality of the public service, good administration in achieving the public interest, as well as contributing to the elimination of bureaucracy and corruption in the public administration, by:

a) regulating the rules of professional conduct necessary for the realization of social and professional relations corresponding to the creation and maintenance at high level of the prestige of the institution of the public function and of the civil servants;

b) informing the public about the professional conduct to which it is entitled to expect from public officials in the exercise of public functions;

c) creating a climate of mutual trust and respect between citizens and civil servants, on the one hand, and between citizens and public administration authorities, on the other.

The principles that govern the professional conduct of civil servants are as follows:

a) the supremacy of the Constitution and the law, a principle according to which civil servants have the duty to respect the Constitution and the laws of the country. According to

this principle, civil servants have the obligation, in their acts and deeds, to respect the Constitution, the laws of the country and to act for the implementation of the legal provisions, in accordance with their responsibilities and with respect for professional ethics.

They must comply with the legal provisions regarding the restriction of the exercise of rights, due to the nature of the public functions held. We can say that this principle is not specific to the civil service and to the civil servant, its applicability being found mainly in the legal field and, in general, in all spheres of social life. This principle coordinates and guides the civil servant in the performance of his duties and represents a transposition of the principle of legality regulated by the European Code of Good Administrative Conduct, which stipulates that the Civil servant will act in accordance with the law and will apply the rules and procedures established by the Community legislation. In particular, the official shall ensure that decisions affecting the rights or interests of persons have a legal basis and their content is in accordance with the law<sup>1</sup>. This principle also implies that the laws are applied in the interests of the citizens and in order to ensure the general interest for which they were drafted. For example, if the administrative procedures or methodological norms of different normative acts are in conflict, the civil servant must make the rule regarding the rights of the citizen applicable.

b) the priority of the public interest, a principle according to which the civil servants have the duty to consider the public interest above the personal interest, in the exercise of the public function. In other words, civil servants must fulfill the civil service by giving priority to the interest of the citizen, excluding any other interests.

c) ensuring equal treatment of citizens before public authorities and institutions, a principle according to which civil servants have the duty to apply the same legal regime in the same or similar situations. Civil servants must adopt an impartial and justified attitude in order to solve clear and efficient problems of citizens. Officials have the obligation to respect the principle of equality of citizens before the law and public authorities, by:

a) promoting similar or identical solutions related to the same category of facts;

b) elimination of any form of discrimination based on aspects regarding nationality, religious and political beliefs, material status, health, age, sex or other aspects.

This principle is similar to the principle of non-discrimination governed by the European Code of Good Administrative Conduct, which provides in Article 5 the obligation of non-discrimination and states that "in processing public requests and in making decisions, the official will ensure that the principle of equal treatment is respected. People who are in the same situation will be treated in a similar way. In the case of a differentiation of the treatment, the official will ensure that this fact is justified by the relevant objective characteristics of the particular case.

The official shall in particular avoid any unjustified discrimination between members of the public, based on nationality, sex, race, color, ethnic or social origin, genetic traits, language, religion or belief, political or other opinions, belonging to a national minority, property, birth, disability, age or sexual orientation", and in the case of a differentiated treatment, the official must justify it by sound arguments, detached from the relevant objective characteristics of the treated case.

c) professionalism, a principle according to which civil servants have the obligation to fulfill the duties of the service with responsibility, competence, efficiency, fairness and conscientiousness. This principle is also found in the European Code of Good Administrative Behavior according to which the professionalism of civil servants can be defined as the set of values that must compose their conduct in the exercise of the public function: loyalty, fairness, objectivity, neutrality, transparency, punctuality, conscientiousness, efficiency, impartiality, to which country-specific values can be added.

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<sup>1</sup> European Code of Good Administrative Behavior art. 4, Office for Official Publications of the European Communities, 2015.

d) impartiality and independence, a principle according to which civil servants are obliged to have an objective, neutral attitude towards any political, economic, religious or other interest in the exercise of the public function. Impartiality represents the ethical value that civil servants must use in their actions, judgments and opinions and in respect of equality.

Also, in accordance with the provisions of Article 8 paragraph 1 of the European Code of good administrative conduct, the official of the European Union "is impartial and independent. He refrains from any arbitrary action that would injure members of the public, as well as from any preferential treatment, regardless of reason." Further, paragraph 2 of the same article stipulates that "The conduct of the official will never be guided by personal, family or national interests or political pressure. The official will not participate in the adoption of any decision in which he or she, or any close member of his family has a financial interest".

g) moral integrity, a principle according to which civil servants are forbidden to request or accept, directly or indirectly, for themselves or others, any advantage or benefit in the consideration of the public function they hold, or to abuse in any way this function. In accordance with this principle, civil servants should not request or accept gifts, services, favors, invitations or any other advantage, which are intended for them personally, family, parents, friends or persons with whom they have had business or other relationships, which can influence their impartiality in the exercise of the public functions held or may constitute a reward in relation to these functions.

h) freedom of thought and expression, a principle according to which civil servants can express and base their opinions with respect for the order of law and good manners. We also find this principle in the revised Constitution, within the framework of art. 30, which prohibits any kind of censorship. However, in art. 13 of the Code of Conduct states that in relations with representatives of other states, civil servants are forbidden to express personal opinions on national issues or international disputes. Civil servants representing the public authority or institution within international organizations, educational institutions, conferences, seminars and other international activities are required to promote a favorable image of the country and the public authority or institution that it represents.

In foreign travel, civil servants are obliged to conduct themselves in accordance with the protocol rules and are prohibited from violating the laws and customs of the host country.

i) honesty and fairness, a principle according to which in the exercise of the civil service and in the performance of the duties of the civil servants, the civil servants must be of good faith.

In the relations with the personnel within the public authority or institution in which they operate, as well as with the natural or legal persons, the civil servants are obliged to have a behavior based on respect, good faith, fairness and kindness.

Civil servants have the obligation not to affect the honor, reputation and dignity of persons within the public authority or institution in which they operate, as well as the persons with whom they come into contact in the exercise of the public function, by:

- a) use of offensive expressions;
- b) disclosure of some aspects of privacy;
- c) making slanderous complaints or complaints.

i) openness and transparency, a principle according to which the activities carried out by civil servants in the exercise of their function are public and may be subject to citizen monitoring.

There are three essential requirements for reforming the relationship between the administration and the citizen and for institutionalizing transparency: access to information; consulting; civic participation. These requirements can be found both in the rules of international organizations (European Union, Council of Europe, OSCE, OECD) and in the practice of democratic countries (Mitrică, 2011).

In recent years, in Romania, a series of regulations have been adopted aimed at increasing transparency in public administration. Access to information, electronic auctions,

declaring assets, incompatibilities and conflicts of interest, the code of civil servants and decision-making transparency in public administration - are the key regulations that reconfigure the normative space of institutional reform. Transparency of public authorities is a dynamic process, as these laws are increasingly applied, public administration authorities are becoming more transparent as a result of the experience gained (Mitrică, 2011).

If in the case of the Code of Conduct of Civil Servants in Romania the role of coordinating, monitoring and controlling the application of the rules of conduct rests with the National Agency of Civil Servants, as far as the European Code of Good Administrative Conduct is concerned, it is up to the European Ombudsman<sup>1</sup>.

The European Ombudsman investigates possible cases of inappropriate administrative behavior in the actions of the institutions and bodies of the Union in accordance with Article 195 of the Treaty of the European Community and the Statute of the European Ombudsman. Although this Code of Conduct lays down clear obligations for civil servants, it cannot solve the problems of preparation and, especially, of their attitude. The adoption of this normative act represents an important step in the reform of the public administration in Romania, but it does not interfere with the mentalities. In order to change the mindsets and attitudes, it should start with the selection of civil servants; this must exclude the principle of nepotism, but it must receive the level of knowledge and experience.

The general principles set out in the preamble to any code of ethics have the role of constituting the rule where the rules of coding prescribed by the legislator are not specifically regulated<sup>2</sup>.

Directions and perspectives in public administration. For the Government of Romania, increasing the efficiency of the public administration is a priority objective, which is subordinated to a number of key reforms, such as the restructuring and modernization of central and local public administration, increasing the efficiency of government spending, increasing the quality and access to public services<sup>3</sup>. The 2020-2023 governance program envisages a set of directions of action which aims, in particular, to increase the efficiency and transparency in the activity of public administration institutions, to ensure administrative decentralization, to improve the management of human resources and to increase the efficiency of the local public administration<sup>4</sup>.

Therefore, given the importance of ensuring an efficient and transparent public administration, as a way of fully respecting the citizens' right to good administration, it is necessary to approach a strategic priority from the perspective of seven major directions of action that contained measures with an impact on the development of administrative capacity. between 2020-2023:

a) implementation of the strategic reform to improve the efficiency of the public administration, based on the functional analysis of the World Bank. Through the steps taken, the six institutions subject to World Bank evaluation - the General Secretariat of the Government, the Ministry of Public Finance, the Ministry of Transport and Infrastructure, the Ministry of Agriculture and Rural Development, the Ministry of Education, Research, Youth and Sport, the Competition Council - aim to support to implement a strategic reform, which will substantially improve the public administration, in terms of its effectiveness<sup>5</sup>.

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<sup>1</sup> Decision of the European Parliament on the issue of general provisions and conditions governing the exercise of the function by the European Ombudsman, Monitoring of Laws L 113/15 of 4.05.1994.

<sup>2</sup> Cristian Pîrvulescu, Politics and political institutions, Trei Publishing House, Bucharest, 2002, p. 37

<sup>3</sup> [http://ec.europa.eu/europe2020/pdf/nrp/nrp\\_romania.ro](http://ec.europa.eu/europe2020/pdf/nrp/nrp_romania.ro). The Government of Romania. National Reform Program 2011-2013, Bucharest, 2018, page 20.

<sup>4</sup> [http://ec.europa.eu/europe2020/pdf/nrp/nrp\\_romania.ro](http://ec.europa.eu/europe2020/pdf/nrp/nrp_romania.ro). The Government of Romania. National Reform Program 2011-2013, Bucharest, 2018, page 20

<sup>5</sup> [http://ec.europa.eu/europe2020/pdf/nrp/nrp\\_romania.ro](http://ec.europa.eu/europe2020/pdf/nrp/nrp_romania.ro). The Government of Romania. The National Reform Program 2011-2013, Bucharest, 2018, page 22 et seq

b) the continuation of the measures aimed at better regulation at the administration level central public. The general objectives of this strategic document are: improving the impact of regulations, reducing administrative burdens for the business environment, facilitating interaction between the economic sector and central public administration, improving the regulatory process at the level of agencies and regulatory and control authorities, simplifying national legislation and applying effective Community law<sup>1</sup>.

c) professionalization of civil servants. In order to achieve this objective, in the period 2020-2023, the National Agency of Civil Servants will give particular priority to those reform measures that have a major impact on the legislative, strategic and institutional framework specific to public functions and civil servants, giving them a framework. unitary and coherent.

d) standardization of administrative procedures. This project intends to develop the Administrative Code of Romania, a very useful and necessary tool for ensuring the uniformity of administrative structures and substructures.

e) increasing the degree of absorption of the structural and cohesion funds;

f) use of ICT for the modernization of public administration. In order to ensure, by modern means, and in a unitary way, of all categories of data relating to the person (birth, events related to name changes, domiciles, issued identity documents, external migration, death, etc.), MIA and MCSI coordinate the implementation of the System integrated national for the introduction and updating of information related to the records of persons (SNIEP). The objective of the new computer system for the S.N.I.E.P. is to provide accurate, complete and timely information to all internal and external users<sup>2</sup>.

g) territorial development. The strategy of territorial development of Romania (SDTR) to be elaborated in June 2020 will present the vision of development of Romania and will ensure the coherence of the national policies by setting strategic objectives of the territory (axes, poles, corridors, concentrations, areas polarize, etc). The strategy is to base national investment programs and Romania's position on European territorial development programs<sup>3</sup>.

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<sup>1</sup> [http://ec.europa.eu/europe2020/pdf/nrp/nrp\\_romania.ro](http://ec.europa.eu/europe2020/pdf/nrp/nrp_romania.ro). The Government of Romania. National Reform Program 2011-2013, Bucharest, 2018, page 29

<sup>2</sup> [http://ec.europa.eu/europe2010/pdf/nrp/nrp\\_romania.ro](http://ec.europa.eu/europe2010/pdf/nrp/nrp_romania.ro). The Government of Romania. National Reform Program 2011-2013, Bucharest, 2018, page 37

<sup>3</sup> [http://ec.europa.eu/europe2010/pdf/nrp/nrp\\_romania.ro](http://ec.europa.eu/europe2010/pdf/nrp/nrp_romania.ro). The Government of Romania. National Reform Program 2011-2013, Bucharest, 2018, page 38