

## **COVID-19 – ANOTHER REASON FOR PUBLIC ADMINISTRATION REFORM?**

**A.M.E. ODOBLEJA**

**Anca Maria Elisabeta ODOBLEJA**

College of Political, Administrative and Communication Sciences, Babes-Bolyai University, Cluj-Napoca

E-mail: [ancaodobleja@gmail.com](mailto:ancaodobleja@gmail.com)

### **ABSTRACT**

*The present paper tries to shed light on the effect that a pandemic and a state of emergency can have on the public administration. There is no doubt of the quick adaptation of public administration representatives to the new situation caused by Covid-19 but during this period of time there were a series of criticism regarding the violation of civil rights. In relation to this, the present article emphasize on the adaptation and amendment of the legislation and as well on inclusion of a new category of reasons for which is important to reopen the discussion on the need for reform of public administration.*

**KEY WORDS:** *public administration, Covid-19, public administration reform*

### **I. GENERAL CONSIDERATIONS**

The public administration is meant to serve the public interest, to be a public service available to the whole society, to all citizens.

In this regard, the activity of the Romanian administration has become a subject of criticism and dissatisfaction both for the citizens and for the international partners. In the last ten years there have been many changes and improvements of the Romanian public administration. However, reforms have been established and implemented for specific situations, without a general strategy and conception of a reform. (Profiroiu, 2012, p. 13 )

According to some theorists, the notion of administration has two meanings. In a first sense, the term designates a certain activity, and in the second sense, it is designated the subject who performs this activity.

Al. Negoită in “Elements of administrative law” frequently uses the two meanings and thus explains the connection between the notion of public service and that of public administration as a service, but also as an organization that performs that service.

Public administration is a public activity, put in the benefit and general interest of society, which is achieved both by the activity of state bodies and by the activity of local public administration entities, autonomous utilities, companies, other institutions.

The public administration, as a system of organization, is made up of several elements, well structured, with different attributions, which work together.

Since 1990 and until today, the public administration system in Romania is in a continuous process of reform. However, the resources needed to create the necessary legislative and institutional framework for the central and local public administration and, in particular, for the efficient implementation of the reform measures could not be mobilized. There are several causes that make it impossible to implement a real reform in the administration, such as: severe financial constraints, lack of political determination, low experience with alternative administrative structures, lack of training of civil servants to meet the requirements of the arising from rapid environmental change, lack of clear regulations on staff and administrative structures.

Although it has been a separate chapter in all government programs so far, administrative reform has not been a priority; on the contrary, the centralist methods were perpetuated and the expected changes were much too slow and fragmentary.

## II. UNREGULATED CRISIS SITUATIONS. ADAPTATION AND MODIFICATIONS.

The trend of globalization, accompanied by the dynamic development of social systems, puts the national states in a whole new position, in which institutions and administrative systems must be adapted. Any intervention in the field of public administration reform involves changes of the major components, including central government, local government and public services. On the other hand, the development of democracy requires the establishment of a new relationship between citizens and the administration, the growth and strengthening of the role of local authorities and the reconsideration of the partnership with civil society.

There are many reasons for the structural and functional modernization of the Romanian public administration. The need for reform was imposed by four main categories of reasons, among which we mention:

- **Economic reasons:** low economic growth and diminishing budgetary resources allocated to public administration, the need of the private sector to have a modern, flexible administration and open to public-private partnership;
- **Technological reasons:** introduction of information and communication technology in public administration;
- **Sociological reasons:** citizens, as beneficiaries of public services;
- **Institutional reasons:** highly hierarchical structure gives way to new organizational types based on decentralized structures. (Government Strategy on Accelerating Public Administration Reform, 2001)

To these is added the fifth category, based on the concrete situation caused by the COVID-19 pandemic, namely **extreme reasons**.

This category may include natural cataclysms, wars, terrorist attacks that have been provided in legal norms identified and motivated according to European requirements (Law 381/2002, OG 47/1994, Order 1863/2016 respectively Criminal Code, Labor Code, Law 129 / 2019, Law 35/2004, Law 58/2019.)

Regarding pandemics, the legislation specific to the administrative system (contained in Article 93 of the Romanian Constitution), the right and especially the obligation of the President to declare a state of siege or a state of emergency throughout the country or in some territorial administrative units and the obligation to request Parliament to approve the measure adopted within 5 days of its adoption, and if Parliament is not in session, it shall be convened by law no later than 48 hours after the establishment of the state of siege or emergency and operates throughout its duration.

Starting from this provision corroborated with the provisions of OU 21/2004 based on the motivation of the moment, namely "the current geostrategic context and the multiplication, on the one hand, and the increase of gravity, on the other hand, of non-military risks to national security, against the background of accelerating globalization trends, radical climate change, of the development of scientific experiments with unpredictable effects, the diversification of legal economic activities - and not only - that use, produce and market dangerous substances", the **National Committee for Special Emergency Situations** was established respectively the **National Emergency Management System** (art. 72 of Law 55/2020, OUG 21/2004 approved and supplemented by Law 15/2005) which was empowered to manage, resolve and reduce the often unknown effects of defined emergencies.

The definitions, attributions, measures, the management of concrete situations were subsequently regulated by amending the nominated act according to OU 1/2014, Law 15/2005, OUG 68/2020, Law 55/2020.

There is a rapid adaptation of public administration representatives at the highest level, to the situations that generated a series of criticisms regarding the lack of

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constitutionality control, lack of classical procedures but especially criticisms regarding the violation of civil rights in relation to art.53 of the Romanian Constitution.

We consider that, regardless of the criticisms, these normative acts are authentic and have legal validity as long as they are in force if they have not been attacked and **until their declaration as unconstitutional.**

It should be noted that by the Decision of the Constitutional Court no. 157 of May 13, 2020, published in the Official Gazette no. 397 of May 15, 2020, the exception of unconstitutionality regarding art. 4 of the Government Emergency Ordinance no. 21/2004 on the National Emergency Management System, noting that the provisions of this article are constitutional insofar as the actions and measures ordered during the alert state do not aim to restrict the exercise of fundamental rights or freedoms.

According to art. 147 para. (1) of the Romanian Constitution, republished in the Official Gazette no. 767 of 31 October 2003, the provisions of the laws and ordinances in force, as well as those of the regulations, found to be unconstitutional, shall cease to have legal effect 45 days after the publication of the decision of the Constitutional Court if, during this period, the Parliament or the Government as appropriate, do not agree the unconstitutional provisions with the provisions of the Constitution. During this period, provisions found to be unconstitutional shall be suspended by law. Therefore, starting with May 15, 2020, the provisions of art. 4 of the Government Emergency Ordinance no. 21/2004 on the National Emergency Management System, insofar as the actions and measures ordered during the alert state, aim at restricting the exercise of certain rights or fundamental freedoms, shall be suspended by law, and shall cease to have effect starting with June 29, 2020, if the legislator does not intervene to amend the contested provisions.

### III. CONCLUSION

In order to succeed in the reform process in the Romanian public administration, it is necessary to:

- Formulate concrete and quantifiable objectives
- Increase the strategic capacity of the public administration to opt for different projects and to define its own priorities
- Articulate changes in public administration in the medium and long term
- Have better representation of citizens' interests in decision-making processes
- Ensure management through objectives
- Increase the consulting and monitoring function in the administration.
- Adapt and amend the legislation, by including crisis situations.

The need for reform is determined by both internal factors (management, social and economic issues) and external factors (internationalization and rapid development of information technology). (Government Strategy on Accelerating Public Administration Reform, 2001)

Maintaining the constitutionality control through the intervention of the Constitutional Court at the notification of the interested persons as well as the judicial control through the possibility of attacking the administrative acts stated in the administrative disputes guarantees the possibility of reforming the public administration and also under the aspect of extreme reasons (for example Covid-19).

Public administration reform is a dynamic process and, like any other process of structural reform, it can never be completed and accomplished.

### BIBLIOGRAPHY

Negoia, Alexandru, „Elemente de drept administrativ” – Editura Lumina Lex, București, 1992.

Profiroiu, Marius, ACCELERAREA REFORMEI ADMINISTRAȚIEI PUBLICE, Revista Transilvană de Științe Administrative, VIII, 2002, pp. 13-23, accesat online la adresa: <https://rtsa.ro/rtsa/index.php/rtsa/article/viewFile/318/313>

Government Strategy on Accelerating Public Administration Reform, 2001-  
<http://legislatie.just.ro/Public/FormaPrintabila/00000G13AIZ3UZDLTSG1OBY4LMLNL5UR>, 2001

The Romanian Constitution, republished in the Official Gazette of Romania no. 767 of October 31, 2003, Bucharest: All Beck Publishing House, 2004.

Decision of the Constitutional Court no. 157 of 13 May 2020 regarding the exception of unconstitutionality of the provisions of art. 2 lit. f) and of art. 4 of the Government Emergency Ordinance no. 21/2004 on the National Emergency Management System

Law no. 381/2002 on granting compensation in case of natural disasters in agriculture, published in the Official Gazette. no. 442/24 iun. 2002

Ordinance no. 47 of August 12, 1994 on disaster protection, published in the Official Gazette no. 242 of August 29, 1994

Emergency Ordinance no. 1 of January 29, 2014 on some measures in the field of emergency management, as well as for amending and supplementing the Government Emergency Ordinance no. 21/2004 on the National Emergency Management System, published in the Official Gazette no. 88 of February 4, 2014.

Law 15/2005 for the approval of the Government Emergency Ordinance no. 21/2004 on the National Emergency Management System, published in the Official Gazette no. 190 of March 7, 2005

Law no. 55 of May 15, 2020 on some measures to prevent and combat the effects of the COVID-19 pandemic, published in the Official Gazette no. 396 of May 15, 2020