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INTERNATIONAL CONFERENCE of SCIENTIFIC PAPER
AFASES 2013
Brasov, 23-25 May 2013

TRANSPARENCY OF THE ADMINISTRATIVE ACT AND THE CITIZEN RIGHTS

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***Abstract:** Actuality of theme is the treatment of the administrative transparency as a central need for collective and administrative honesty partnership between citizens and administration, the mandatory inclusion of citizens in government activities as equal partners in governance. Bringing to the forefront the importance of citizen rights outstanding. Debating the particular right to information as a fundamental human right in general in the context of a democratic society characterized by transparency in decision-making and access to free information is considered essential desiderata for assembling them under a heading enlightening: transparency of the administrative and rights citizen.*

This paper aims to highlight and analyze the procedures of transparency in public administration in Romania and not least to address ways to improve relations public administration - citizen.

***Keywords:** transparency, administrative act, citizen rights*

1. INTRODUCTION

In the period after 1989 in public life in Romania, critical changes were reported regarding the freedoms and rights fundamental, democratization of political life and the functioning of public authorities and institutions. In this context, had increased the role, the importance and the possibilities to influence our lives by the elected officials of our civil society and by the representatives of the mass-media. Given these issues it was necessary the citizens access to information in general and specifically to the public information to be fully realization

Romania's desire to align the standards of the state of law, as well as the state institutions reform of presuppose the existence of legal regulations on public information access and circulation. This triggers all the elements of transparency, fairness and accountability of public authorities with citizens.

From 1 January 2007, Romania became a member of the European Union after that date will be talking about a European public administration, which must comply with European legal principles and standards of public involvement and consultation. The concept of transparency of of the administrative act is designed to support ever closer relationship between citizens on the one

hand, and between citizens and public institutions - central and / or local authorities, on the other hand. In this way the public interest decisions are taken in a quite open and close people. Transparency of the administrative act gives to the interested persons the opportunity to take part actively in the decision making process ensuring the legitimacy of public institutions, increasing their accountability and effectiveness. First of all, transparency is administrative support for democratic principles contributing to fundamental human rights.

The transparency represents more than a simple communication strategy: *it aims to make administration less opaque, to dispel the fog that surrounds it, to tear the veil that covers to break the wall of silence that protects, it involves removing the secrecy rule, which was the ultimate guarantee bureaucratic construction*¹

Attenuation of the secret was, at first, the result of an administrative practice: accepting to state their intentions to explain its meaning approaches, clarify springs of its operations, the administration seeks to improve the quality of its relations with the public, and thus the efficacy of its actions; it retains the initiative and control of retention / disclosure of information involving them.

The lack of transparency gives birth to two serious effects. First he puts into inferiority those already disadvantaged, poor and uneducated ones with great difficulty obtaining documents addressed to them but do not know how to use them. On the other hand leads to an increase of the administrative costs, encourages corruption, they are the main obstacles for attracting foreign investment and a barrier to economic growth.

Order to speak of the direct involvement of citizens in having the first contact with the administration, we must speak first of the early stages of citizen participation, namely information, or consulting the citizens. These stages are implemented through legislation, namely the Law on free access to public

information and transparency in decision-making process.

In the United States and in the European Union, free access to public information and transparency in decision making, are representing the basic concepts in the administration.

The transparency includes not only the so-called government in sight, but the government explained, and free access to public information is a right enjoyed by all citizens, without taking into account the reasons that motivate them to request certain information.²

The transparency of the administrative act should be seen as a political instrument to achieve efficient administration of economic growth and protect the most vulnerable citizens, from the social point of view.

Although significant efforts have been made by government, yet we find a lack of trust from the citizen in some of the fundamental institutions of the Romanian state. Priority is given to the education of citizens to be able to monitor the activities of public authorities and the formal and informal structures to be involved in building a genuine democratic regime. The difference between a regime that promotes transparency in decision making and a tightly political system it is given by the Government dominante position. This should be countered by adequate information to the public. Only in this circumstance can be overcome one of the main particularly serious consequences of the former totalitarian regime - indifference, resignation and civic passivity. It requires a proactive approach by the government to ensure a minimum level of information on the decision-making process and its results, which illustrate the normality status of the Romanian society. It is visible that efforts are made both by the authorities and citizens, but this can not be done immediately, it takes time for people to learn to know that their rights are guaranteed by the Constitution and international documents. Until 1989, Romania was seen as a country with a closed political

¹ Jacques Chevallier, *Science administrative*, Ed. Themis droit P.U.F., Paris 2007, 4th Edition, p. 444

² Valerian Stan (eds.), participatory and transparent governance, the Institute for Public Policy, 2004, p 146,



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system, after that date the Romanian citizens had to face a new mode of governance, democratic, which implies the existence of guaranteed rights and freedoms.

If an authority or public institution operating within the standards set by Law no. 52/2003 regarding the transparency in public administration sector, which includes the citizens in the decision-making process while maintaining the efficiency of the public consultation. Compared to the legislation, this can be achieved in two ways: each authority or institution shall take appropriate measures to inform the public about the new regulations come into force and secondly, we need to support citizens in exercising their rights - in this case - the right of free access to public information.³

The pillars that support any European institution related to transparency of the decision are:

- support of citizen participation through a public consultation process;
- compliance of the procedures and minimum rules for systematic consultation process;
- building a consultative framework coherent but flexible enough to take account of the specific requirements of stakeholders and to establish appropriate consultation strategies for each situation;
- promote the exchange of good practice at Community level⁴;

³ REGULATION (EC) No 1049/2001 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL, Official Journal of 31.5.2001 the European Communities L 145/43, available at:

http://www.europarl.europa.eu/register/pdf/r1049_en.pdf, accessed in 24.03.2013

⁴ European Commission – CODE OF GOOD ADMINISTRATIVE BEHAVIOUR, Relations with the Public, accessible at:

Central and local institutions should focus its activities so that public access to information concerning them, both as individuals and the broader community, and participation in decision making to be provided without discrimination and unconditionally. Only then the principles of good governance can be applied: rule of law, non-discrimination and equal treatment, proportionality, consistency, objectivity and impartiality. Minimum compliance of those mentioned above, will guarantee a high quality of public services administrative and better inform and involve the community.⁵

The idea of "openness" means that the administration is willing to accept a point of view that came from the exterior, and the transparency outlines the range of openness for an election or a check.

From the theoretical point of view these features assure to any citizen involved into an administrative procedure, the possibility to be able to follow the progress of that procedure, and acceptance of the administration of an assessment coming from approved institutions or civil society.

In the European Union Treaty the transparency term is pointing out that "This Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as the highest possible respect for the principles of openness and closeness to the citizens."

Regulation no. 1049/2001 of the European Parliament and the Council of 30 May 2001 regarding public access to European

http://ec.europa.eu/civil_society/code/index_en.htm, accessed in 24.03.2013

⁵ ...

Parliament, Council and Commission⁶ ensures transparency in decision making within the European institutions.

3. CONCLUSIONS

Construction of a healthy regulatory framework and appropriate legal institutions - fundamental issue in a democracy - are not sufficient unless there is a correct implementation of the law. ... Transparency in governance and law-making process and the rationality process are prerequisites for a quicker assimilation of the law by the social body.⁷

It is important to don't remain only at the stage of goal the fact that the simplification of the legislation will satisfy the principle of clarity of the law and the objective with constitutional value of its knowledge. Indeed, equality before the law set out by the Constitution (Article 16 (1), as a fundamental human right, may not be protected effectively if citizens do not have sufficient knowledge of what rules are applicable and no adequate means to ensure ownership and compliance with these rules.

For Romania, the transformation of public administration acquires new dimensions. Thus, it must respond to new changes in the world economy, but equally to EU structural requirements.

Public administration in Romania must adopt and implement administrative values that define European space transparency, predictability, accountability, adaptability and efficiency. These values should be reflected in the institutions and administrative processes at all levels and their application must be verified by an independent control⁸

⁶ Ioan Alexandru, *European Administrative Law*, op. cit., p. 244

⁷ For details please see the Emil Balan „*The principles and the normative of good administration*” at <http://www.admpubl.snsa.ro/fisiere/japonia/Principiile%20si%20normativitatea%20bunei%20administrari%20-%20Emil%20Balan.pdf>

⁸ George Stingu, *Public administration reform in the context of European reform*, Vasile Goldis University Press Publishing House, Arad, 2006, p 154

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