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PUBLIC SERVICES - EFFECTIVE MEANS OF PUBLIC AUTHORITIES FOR SUSTAINABLE DEVELOPMENT

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Abstract

Sustainable development has become a more and more common concept in the current background of social, economic, legal realities that concern not only the evolution of Romania in the coming years, but the evolution of the whole humanity. Romania, as a member state of the United Nations (UN) and the European Union (EU), has signed up to the 17 Sustainable Development Goals (SDGs) of the 2030 Agenda, adopted by the UN General Assembly Resolution A/RES/70/1 at the UN Summit on Sustainable Development in September 2015. The EU Council Conclusions, adopted on June 20, 2017, "A sustainable future for Europe: the EU response to the 2030 Agenda for Sustainable Development" is the policy document committed by the EU Member States on the implementation of the 2030 Agenda for Sustainable Development. In this background, each country involved has sought to regulate as best as possible the levers to achieve these goals. This study attempts to answer the question whether public services in Romania and not only, in an improved formula, can represent real mechanisms towards a sustainable development of the society.

Key words: *sustainable development, public services, efficiency, legal values, economic values.*

INTRODUCTION

A public service based on values, efficiency and respect for fundamental human rights

As a preliminary remark, we note the definition given to public service in administrative law, by art. 2 para. (1) letter m) of Law no. 554/2004 of the contentious administrative, according to which public service is the activity organized or, as the case may be, authorized by a public authority, in order to

satisfy a legitimate public interest or, in other words, the verification of the circumstance whether, the satisfaction of a general interest is aimed by performing the service provided and whether a public authority is directly or indirectly revealed[1].

[1] The following were noted in specialized practicum: *"According to art. 41 of the law: (1) Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the Union institutions, bodies, offices and agencies. For those reasons, the Tribunal finds that the dismissal of the original application appears to be unforeseeable, inequitable and unsubstantiated in the light of the evidence adduced in the case. Under these circumstances, once again, the annulment of the decision and the award of the benefit to the applicant appear well-founded. In the background of the dismissal of the first application, the applicant reiterated the administrative petition, being registered under no. 133824/14.06.2023, and based on it, Resolution no. 5904/12.12.2023 was issued, by which the rights regulated by art. 3 ind. 1 para. 3 and art. 1 para. 1 letter c) of GO no. 105/1999 were recognized as of 01.01.2024. According to GO no. 105/1999: Art. 5. The persons referred to in Articles 1, 3 and 31 shall benefit from the provisions of this Ordinance with effect from the first day of the month following the month in which the application was submitted (...). According to Law no. 210/2022, in force as of 16.07.2022: Art. III. – By way of derogation from the provisions of art. 5 of Government Ordinance no. 105/1999 on the granting of certain rights to persons persecuted by the regimes established in ...from September 6, 1940 to March 6, 1945 on ethnic grounds, republished, as subsequently amended and supplemented, the rights established according to Article 31 of Government Ordinance no. 105/1999, republished, as subsequently amended and supplemented, shall be granted and paid as follows: b) as of 1 January 2023, the rights established for the children of persons who have been in one of the situations referred to in art. 1 para. (1) letter c) and g), as well as for children referred to in art. 31 para. (1) of Government Ordinance no. 105/1999, republished, as further amended and supplemented. By GEO no. 168/2022, in force as of 09.12.2022: Art. XXI. - In article III of Law no. 210/2022 for the amendment of art. 1 para. (2) of Decree-Law no. 118/1990 on the on the granting of certain rights to persons persecuted for political reasons by the dictatorship in place since March 6, 1945, as well as to those deported abroad or made prisoners and to establish certain measures required for the implementation of Government Ordinance no. 105/1999 on the granting of certain rights to persons persecuted for ethnic reasons by the regimes set up in ... as of September 6, 1940 to March 6, 1945, published in Official Journal of Romania, Part I, no. 698 of 13 July 2022, letter b) shall be amended and shall read as follows: "b) as of January 1, 2024, the rights established for the children of the persons who found themselves in one of the situations referred to in art. 1 para. (1) letter c) and g) of Government Ordinance no. 105/1999, republished, as further amended and supplemented, as well as for children referred to in art. 31 para. (1) of the same ordinance". Subsequently, by means of GEO no. 115/2023, in force as of 15.12.2023: Art. XXIII. – In article III of Law no. 210/2022 for the amendment of art. 1 para. (2) of Law-Decree no. 118/1990 on the granting of certain rights to persons persecuted for political reasons by the dictatorship in place since March 6, 1945, as well as to those deported abroad or made prisoners and to establish certain measures required for the implementation of Government Ordinance no. 105/1999 on the granting of certain rights to persons persecuted for ethnic reasons by the regimes set up in ... as of September 6, 1940 to March 6, 1945, published in Official Journal of Romania, Part I, no. 698 of 13 July 2022, letter b) shall be amended and shall read as follows: "b) as of January 1, 2025, the rights established for the children of the persons who found themselves in one of the situations referred to in art. 1 para. (1) letter c) and g) of Government Ordinance no. 105/1999, republished, as further amended and supplemented, as well as for children referred to in art. 31 para. (1) of the same ordinance". The Tribunal notes that the*

Furthermore, the term of public service designates either a form of activity carried out in the public interest or a subdivision of an institution of the internal administration divided into departments, services, etc..

Services in the public interest include those entities which, by the activity they perform, are called upon to satisfy certain general interests of the members of society.

The provision of a public service cannot be random or discriminatory. Structural values are therefore recognized as the foundation of public service[2].

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petition of the applicant was formulated on 23.06.2022, at the time when the land covered by the law was not extended to 01.01.2023, 01.01.2024 or 01.01.2025, but was extended on 16.07.2022, 09.12.2022 and 15.12.2023. In application of the principle tempus regit actum (the law is applicable at the time of issuance of the act, regardless of subsequent amendments: art. 3 and 6 of the Civil Code, art. 1 para. 2 of the Administrative Code), the Tribunal holds that the law applicable is that of the time when the petition was filed and not that of the time when the judgment was adopted. This is all the more so as the defendant was bound to respond to the applicant's petition within 30 days, the situation being generated by the authority by late settlement of the application. At the same time, the Tribunal takes into account not only judicial practice which has recognized rights from an earlier date (Judgment no. .../14.04.2022 pronounced by Bucharest Tribunal – Division II of the Contentious Administrative and Fiscal), but also administrative practice where petitions were settled more quickly, before the legislative change. The right to a fair trial and the principle of good administration require consistent practice. In such circumstances, in view of the fact that the applicant's allegations are confirmed in the light of the findings and taking the view that the applicant has a single right and that it is not possible to overlap them, the Tribunal will admit the application in part, will annul Judgment no. 5904/19.01.2023 and will order the defendant to recognize the applicant's right recognized by art. 3 ind. 1 para. 3 of OG no. 105/1999, as the child of ..., in the situation set out in Art. 1 para. 1 lit. c) of OG no. 105.1999, for the period 27.03.1942-06.03.1945, from 01.07.2022 until the moment of overlapping with the rights granted by judgment no. 5904/12.12.2023" – Bucharest Tribunal, Division II of the Contentious administrative and fiscal, civil sentence no. 4891/10.07.2024, https://www.rejust.ro/juris/4e5545886, in the form of 22.08.2024.

[2] The following was held in a certain case: "*The Tribunal shall dismiss the motion to the ineligibility of the action. The contested notification takes the form of an unjustified refusal within the meaning of Article 2 para. 2 of Law no. 554/2004, a similar administrative act which, pursuant to art. 1 para. 1, 8 para. 1 and 18 para. 1 of Law no. 554/2004 may be challenged before the court of contentious administrative and fiscal. Furthermore, for the unsubstantiated refusal to recognize a certain right, preliminary procedure shall not be required, according to art. 7 para. 5 of ... no. 554/2004. Finally, on the basis of the grounds indicated in this paragraph, the result of the admission of such an application is not the annulment of the notification, but directly the recognition of the right of the court, for which reason the application will be partially admitted. As to the merits, by notification no. 93145/PAS/02.02.2024, the application for the issuance of a simple passport with residence in ..., submitted on 29.01.2024, was rejected, as the provisions of Art. 9 para. 1 lit. c) of GR no. 94/2006 are not fulfilled. It was held that the surname and name ..., entered on the marriage certificate and citizenship certificate, did not correspond with the name Ustenko ... entered on the document issued by the authorities of #######. According to art. 28 para. 5 of GO no. 94/2006, if there are differences between the names entered in the documents referred to in para. 4 and those required to be entered in the passport, the application may be approved only after the entries have been made in the civil status record, in accordance with Law no. 119/1996. #### reasons will no longer be taken into account, having regard to the elements*

arising from the rational thinking that administrative acts must state the reasons on which they are based. Any other element falling under the idea of a new argument appears as a form of non-motivation of the act and will not be taken into account. The reasoning of an administrative act has two essential aspects, namely the indication of the legal texts applicable to the given situation and, secondly, the indication of the factual circumstances on the basis of which the applicability of those legal texts was held. As regards the obligation of the administrative authorities to state reasons for their decisions, the Tribunal notes that according to art. 31 para. 2 of the Constitution of Romania, "public authorities, according to their competence, shall be bound to provide correct information to the citizens in public affairs and matters of personal interest." Furthermore, according to art. 1 para. 3 of the Constitution of Romania, "Romania is a democratic and social state, governed by the rule of law, in which human dignity, the citizens' rights and freedoms, the free development of human personality, justice and political pluralism represent supreme values, in the spirit of the democratic traditions of the Romanian people and the ideals of the Revolution of December 1989, and shall be guaranteed." Given that the public authorities are required to ensure that citizens are properly informed of matters of personal interest to them, and given that the decisions of such authorities are subject to judicial review by way of contentious administrative, the idea that the absence of an explicit statement of the reasons for the contested administrative act is permissible cannot be maintained. Statement of reasons is a general obligation applicable to any administrative act. It is a condition of the external legality of the act, which is subject to a concrete assessment according to its nature and the context of its adoption. Its purpose is to set out clearly and unequivocally the reasoning of the institution issuing the act. In the absence of an explicit statement of reasons for the administrative act, the possibility of challenging that act in court is illusory, since the judge cannot speculate on the reasons that led the administrative authority to take a particular measure. The absence of such reasoning favors the issuance of abusive administrative acts, since the absence of reasoning renders judicial review of administrative acts ineffective. Art. 41 of the Charter of Fundamental Rights of the European Union enshrines "the right to good administration". According to paragraphs 1 and 2 of this article, (1) "every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union. (2) This right includes: (a) the right of every person to be heard, before any individual measure which would affect him or her adversely is taken; (b) the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy; (c) the obligation of the administration to give reasons for its decisions." #### in the light of these obligations, the failure to give reasons for the administrative act constitutes a breach of the principle of the rule of law, of the right to good administration and of the constitutional obligation of the administrative authorities to ensure that citizens are correctly informed about matters of personal interest to them. The public administration's right of discretion is not, however, an absolute right, because otherwise it would become an abuse of rights. The limits of the right of discretion enjoyed by the public administration are set by the law itself, and exceeding these limits renders the act invalid. The authority issuing the act has the ability to choose, among several possible solutions, the one that best corresponds to the public interest to be protected, thus revealing the quality of the administrative act to satisfy both the strict rigors of the law and a social need determined in a particular time and place. Therefore, the contentious administrative court has to verify whether the act complies with the law and whether the conduct of the issuing authority strikes the right balance between the subjective right or legitimate private interest allegedly infringed by the applicant and the public interest which the public authorities are called upon to protect. Only in so far as the evidence in the case leads to the conclusion that that fair balance has been disrupted by an abusive, excessive exercise of the public authorities' discretion can there be an abuse of discretion within the meaning of Article 2 of Law no.

They are generally accepted principles that influence our perception of what is right and appropriate.

The values defined in official documents are the benchmarks that allow citizens to know the mission and vision of public organizations and also govern the day-to-day activities of the public service.

In Romania, the right of access to public services must be ensured in accordance with the principles of transparency, equal treatment, continuity, adaptability, accessibility, accountability and non-discrimination.

I. GENERAL VALUES THAT PUBLIC SERVICES SHOULD PROMOTE ON THE PATH TO SUSTAINABLE DEVELOPMENT.

1.1. Global trends

All OECD countries have defined a set of core values on which public service is based. In a 2015 sociological survey, citizens in OECD countries indicated their core values and the main sources of these values to highlight their priorities and concerns.

One of the basic common features is that OECD countries draw their values from the same major sources, namely: society, democracy and profession.

All these values imply the need for a reform of the organization, functioning and even thinking of the public service system in democratic countries, which has been a constant concern of all modern countries over the last 20 years.

For example, civil service reform has been a top priority among the actions taken to reduce costs and improve public sector performance.

Of the ninety-nine low- and middle-income countries included in a survey by Elaine Kamarck, twenty-four had announced civil service reforms by the end of 1999 *(Kamarck, 2007, p. 98).*

The initiatives included the establishment of clear categories of personnel, their alignment with pay scales and career systems, the development of job descriptions and the introduction of measures to connect performance with salary rewards and career mobility. Furthermore, some countries have sought to decentralize the decision-making process on the personnel - including standards for hiring, performance, promotion and dismissal – from the central commissions

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554/2004. The administrative law relationship is, however, also governed by the principle of proportionality between the measure ordered in each individual case and the public interest protected, requiring that administrative acts do not exceed the limits of what is appropriate and necessary to achieve the purpose pursued, so that the inconvenience caused to the individual is not disproportionate to the aims pursued. In other words, any administrative measure taken must be appropriate, necessary and proportionate to the aim pursued, having regard to the nature, seriousness and frequency of the irregularities detected and to their scale and implications. – Bucharest Tribunal, Division II of the contentious administrative and fiscal, civil sentence no. 4779/05.07.2024 https://www.rejust.ro/juris/59ee74698, in the form of 22.08.2024.

of civil servants or human resources units to organizational operations within public sector.

Major personnel downsizing efforts have been carried out in Bolivia, Cameroon, Chile, Ghana, Sri Lanka, Uganda, Venezuela and many other countries. Eliminating fictitious employees has been a priority in Brazil, Costa Rica, Ghana, South Africa, South Korea, Tanzania and Uganda, among other countries. Ghana and Laos introduced early retirement programs and other restructuring measures in the 1980s, while Brazil introduced measures to make it easier to hire and dismiss civil servants *(Donahue, 2003, p. 96)*.

Following these reforms, a great number of countries succeeded in increasing public sector salaries and in reducing pay discrepancies.

Other public sector reforms have helped governments manage development more effectively. For example, in Botswana, improvements have been implemented in the public sector by computerizing data management systems.

More than two thirds of OECD member countries have established a legal framework setting out the rules of conduct that public officials must observe.

The legal documents are varied and can include constitutions (Turkey), general civil service laws (Denmark, France, Hungary) or public service (Japan), codes of administrative procedure (Greece, Portugal), labor law (Czech Republic), codes of ethics (United States), disciplinary regulations (Portugal) and codes on conflicts of interest and post-term of office for public service (Canada).

Codes of conduct and codes of ethics (France, Italy) or codes governing the public service (UK) are also a common source for rules of conduct in about a third of the member countries. In Canada, the code governing conflicts of interest and the post-employment period for civil servants has been adopted in the form of a regulation, while the code for conflicts of interest and the post-employment period for public office holders is a code of conduct.

Other sources include customer service charters (Australia), circulars (Norway) or circular letters (Ireland), publications (the US handbook), case law (France) and training courses for civil servants (Finland).

In the United States, the Office of Ethics in Public Administration periodically sends approvals to ethics officials to provide guidance on the application of ethics rules and regulations. These guidelines are usually distributed to each official by the ethics officers within the organizations.

Removing the political rhetoric that often dominates the field of public service reform, it becomes obvious that although modernization is frequently mentioned, sustainable and user-centered change practices are really sought after. In this background, the concept of organizational renewal becomes particularly relevant: it is in the study of renewal, as a result of changes taking place over time, that we can see the potential for new models of public service delivery *(Milner, Joyce, 2005, p. 87).*

Probably the best supporters of renewal as a key organizational aspiration are Tushman and O'Reilly, who, while not explicitly addressing a public sector audience, identify key themes that have considerable resonance for the public sector. The acknowledgment of the fact that many of the change management activities, regardless of the type of the organization they are implemented in, do not have significant benefits in the medium term is essential for the concept of renewal and its inseparable connection with leadership *(O'Reilly III, Tushman, 2013, pp. 324-338).*

Renewal, on the other hand, presents change and change practices as part of a phased continuum that depends on effective long-term leadership and contributes to the development of organizational capacity, which is essential to equip organizations with the right culture and behaviors to deal with a wide range of possible futures. Tushman and O'Reilly examine the lessons that can be learned from the past and the implications this analysis may have for those interested in exploring the concept of renewal.

The ever-increasing development of national administrative systems has led to an increase in the number of civil servants in each country.

The trend towards more part-time jobs and more women employed is closely linked to changes in public sector.

In all countries, employment in social care services accounts for an increasing share of total public employment.

In many countries, such as the United States, Germany, the United Kingdom, France and Australia, employment in education, health and social services makes up half of all public sector employment, and in Scandinavian countries, New Zealand and Canada, the share is even higher.

The continued growth in employment in social care after World War II is the result of two different trends. In the 1960s and 1970s, there was a strong absolute increase in the number of public employees in social care services, outstripping growth elsewhere in the public sector. Subsequently, in the 1980s and 1990s, the number of public employees in these services stagnated, but relative growth continued due to downsizing in other areas. Privatization and corporatization of public enterprises and public services (telecommunications, ferries, buses, postal services and others) have reduced the number of public employees in these traditional services *(Bowman, 2007, p. 27).*

Therefore, employment in education, health and social services continued to grow in relative terms.

The increase in the share of public employees in these areas is accompanied by other important developments in the public sector in many of the countries surveyed. In those countries that maintain a distinction between civil servants and public employees working on the basis of a collective contract under private law and general labor law, the relative share of civil servants tends to decrease.

This fall is due in part to a general policy shift towards hiring public staff working under labor law and private law arrangements in some countries.

In search of greater flexibility in personnel management, government leaders at all levels have in recent years sought to expand the use of "at-will" hiring in the public sector. These efforts have faced varying degrees of political and legal resistance.

For instance, in the US state of Georgia, the governor's plan to transform all new state employees in "at-will" employees met with little opposition, but in Florida, state employees and their union fought a fierce battle against the elimination of protections requiring "just cause" for dismissal, protections that were enjoyed by 16,300 state employees. In courts, Florida state employees primarily sought protection in constitutional rights. They challenged the state's withdrawal of job security on constitutional grounds in three cases: *Croslin v. Bush* (2002), *Florida Public Employees Council 79, A.F.S.C.M.E. v. Bush* (2002) and *Muldrow v. Bush* (2002). Unsurprisingly, none of the plaintiffs have prevailed in these constitutional lawsuits. Courts across the nation have reviewed similar legislation and almost always found it to be legal *(Bowman, 2007, p. 27).*

Many of the state's expenditures are directed towards supporting the costs of social assistance, which is an objective necessity in a democratic state organized on the principles of social justice and humanitarianism.

There is an opinion according to which, "*social assistance and social protection aims not only to create a prosperous society, but also a highly inclusive society for all its citizens, including those who, for subjective or objective reasons, are in marginal positions. It is precisely the successes and achievements in the field of social protection and social policy that are a factor indicating the level of prosperity of the state. Social protection must be the cornerstone of state policies, the main mechanism through which society intervenes to prevent, limit or remove the adverse effects of events considered as "social risks". Therefore, public authorities shall not neglect persons who have fulfilled their obligations to the state or are unable to fulfill them for reasons beyond their control*" *(Munteanu, Rusu, Vacarciuc, 2015, p. 127).*

However, one of the requirements of a modern administration is the obligation of the state to modernize the way of public service delivery by implementing mechanisms for digitalization of public administration.

1.2. National trends

In Romania, this trend of modernization of the public service system was reflected, for example, in GEO no. 41/2016[3], which established in art. 1 para. (2) the obligation for all public institutions, specialized bodies of the central and local

[3] On establishing some simplification measures at the level of central public administration and amending and supplementing some normative acts, published in Official Journal no. 490 of June 30, 2016.

public administration, as well as private legal entities which, according to the law, have obtained public utility status or are authorized to provide a public service, under public authority regime, to publish, ex officio, information and models of forms or applications related to all public services provided, in electronic format, both on their own website and on the single electronic contact point.

Art. 2 of the same ordinance provided that public institutions, specialized bodies of the central and local public administration, as well as private legal entities which, according to the law, have obtained the status of public utility or are authorized to provide a public service, under public authority regime, shall be bound to accept the electronic copy of the identity card, delivered by e-mail, ensuring the conditions provided for by the legal regulations on the protection of individuals with regard to the processing of personal data[4]. The same legal entities

[4] The case law decided the following: "*As regards the objections seeking the partial admission of the plea of limitation of the substantive right of action for the amount of RON 258,655.12, the Court notes the following: In this case, by means of the sue petition filed on 05.08.2022, the appellant – plaintiff, the territorial and administrative division (TAD) of City ... sought an order that respondent – defendant ... S.A. pay the amount of RON 266,836.68 lei, consisting of the amount of RON 241,637.46 representing the values of the works carried out and the amount of RON 25,199.22 design and permits paid by TAD of City ... and the amount of RON 9,614.76 share of co-financing of 43,72% of the value of the additional works carried out, which was due to the defendant from the initial value of the contract, damage caused by the non-payment of the value of the share of contract no. 384/E/12.10.2018 concluded between City ... as applicant, .. S.R.L. as contractor and ... S.A. as operator. According to the provisions of art. 2523 of the Civil Code and those of art. 2524 para. 1 of the Civil Code, "The limitation period shall begin to run from the date on which the holder of the right of action knew or, according to the circumstances, ought to have known of the creation of the right of action.", „... unless otherwise provided by law, in the case of contractual obligations to give or perform, prescription begins to run from the date on which the obligation becomes due and the debtor was required to perform it.", rules governing the beginning of the limitation period. In this present case, as the first instance correctly held, the right of action of the appellant - plaintiff - TAD City of .. for the amounts claimed, arose on .., the moment of the conclusion of the protocol for the delivery-acceptance of works no. 10080 - art. 3.1.2 of contract no. 384/E/12.04.2018. The Appellant argues that the limitation period was interrupted by notification of delay no. 7555/24.02.2022 since it expressly and punctually provides for the provisions of Article 151 of Law No. 123/2012 on Electricity and Natural Gas, according to which "The distribution system operator or the transmission system operator to which assets have been handed over in accordance with the provisions of para. 3 shall be bound to return the countervalue of the amount invested by the applicant, in accordance with ANRE (Romanian Energy Regulatory Authority) regulations". Thus, it should be noted that the notice of delay expressly refers only to the amount of 8,796.32 lei, representing the share of the difference resulting from the execution of contract no. 384/E/12.10.2018 on the extension of the natural gas distribution network in locality .... 151 of Law no. 123/2012 are general provisions without specifying any specific amount of the claims brought before the court. According to the provisions of art. 2540 of the Civil Code "The period of limitation shall be interrupted by putting the person for whose benefit the period of limitation is running into default only if the default is followed by the service of legal proceedings within six months as of the date of the notice of default." Therefore, the Court notes that, by notification no. 7555/24.02.2022, the respondent-defendant was put in default only for the amount of 8,796.32 lei claimed by the appellant-plaintiff as a share*

of the difference resulting from the execution of contract no. 384/E/12.10.2018, and under these circumstances, notification no. 7555/24.02.2022 had the ability to interrupt the extinctive period of limitation only for this amount, by the sue petition filed by Bacău Court on 05.08.2022, within the 6-month period provided for by art. 2540, final thesis of the Civil Code. Furthermore, since the claims at issue derive from the performance of an administrative contract, it should be noted that the provisions of art. 11 of Law no. 554/2004 of the contentious administrative, which regulates two categories of time-limits for bringing a case before the contentious administrative court, the legal nature of which is expressly provided for in para. 5, as follows: a limitation period of six months, the expiry of which extinguishes the right of action, and a peremption of one year, applicable only for substantiated grounds and which cannot be exceeded either by the occurrence of any cause of interruption or suspension of the running of the six-month limitation period. Therefore, the sue petition for the amount of RON 258,655.12 was formulated on 05.08.2022, exceeding both the limitation period of 3 years laid down in art. 2517 of the Civil Code and the special time-limits laid down in art. 11 of Law no. 554/2004 of the contentious administrative. On the merits, the Court notes that plaintiff TAD City ..., as applicant, forced intervener.... Oil S.R.L, as contractor and defendant Delgaz ... S.A, as operator concluded Contract no. 384/E/12.10.2018 for the extension of the natural gas distribution network, under the provisions of art. 5 letter d of the Regulation on connection to the natural gas distribution system approved by Order no. 32/2017 of the President of ANRE and as a result of the exercise by applicant TAD City ... of the right recognized by the provisions of art. 51 para. 1 letter c of the same normative act to designate an economic operator authorized by ANRE to carry out the works, which is expressly stated in the document entitled "Response regarding the technical-economic study prepared by .. S.A. on 12.10.2018", submitted by TAD City with no. 31442/15.10.2018. At the same time, a separate contract no. 33706/01.11.2018 was also concluded for the performance of the works between the TAD City .., as purchaser and.. OIL S.R.L, as operator designated according to art. 5 letter f) and art. 5 1 para. 1 letter c) of Order no. 32/2017. Therefore, according to art.1270 of the Civil Code "The validly concluded agreement shall have the force of law for the contracting parties." Furthermore, according to art. 1350 of the Civil Code "Every person shall be bound to perform the obligations he/she has contracted. Where, without justification, he/she fails to perform such obligation, he/she shall be liable for any damage caused to the other party and shall be bound to repair such damage in accordance with the law." The premise of contractual liability, i.e. the failure to perform the contractual obligation and thus the breach of the principle of the binding force of the legally concluded contract or of the adage pacta sunt servanda, in other words, a breach of the parties' agreement, which, once concluded in compliance with all the formal and substantive conditions, "shall have the force of law for the contracting parties". The second paragraph of this article lays down the conditions required for contractual liability, namely: a) the unjustified failure to fulfill a contractual obligation; b) the party who does not have a justification for the failure to fulfill of the obligation undertaken by the contract shall be held liable for the damage caused to the other party by non-performance. c) the party who failed to perform the obligation shall be held liable to repair the damage caused to the other party under the law. In the case, according to the provisions of art. 3.1.2 of agreement no. 384/E/12.10.2018 for the extension of the natural gas distribution network, respondent – defendant ... SA as operator undertaken the obligation to pay to the contractor, forced intervener ... S.R.L. the amount of RON 170,675.57 (VAT included) representing the amount with which it will contribute to the investment after acceptance of the completed works. It should be noted that, the agreement of the parties to the contract was to establish the participation fee of the distribution operator in a fixed amount of RON 170,675.57 and it was paid by the respondent - defendant to the operator designated by the appellant - plaintiff respectively intervener .... S.R.L. At the same time, from the perspective of carrying out additional works, it should be noted that, when calculating the specific indicators of

shall be bound to publish an e-mail address for receiving the electronic copy of the ID card on the electronic single point of contact and on their own website.

Every public institution, specialized body of the central or local public administration, as well as private legal entity which, according to the law, have obtained the status of public utility or is authorized to provide a public service, under public authority regime, shall be bound to remove the requirement to submit notarized copies of documents when providing public services, replacing them with the certification of conformity with the original by the competent official, as provided for by art. 2 para. 3 of the cited normative act.

Although it is an anathema of modern times, the digitalization of public institutions is nevertheless a pressing need of modern states, its importance being all the more evident in Romania.

The automation, defined as a technique, method or system of operating and controlling business processes by mechanical or electronic means that replace human labor, is becoming increasingly widespread. Thanks to improvements in the techniques through which it is implemented (i.e. artificial intelligence, machine learning, robotics), it has acquired characteristics of efficiency and

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the cost-benefit analysis of 10.10.2018 no. HQ561/10.10.2018 and the estimate prepared, the estimated cost of the works was RON 426,688.93, and the final cost of the works actually performed, according to the report of acceptance of works no. 1080/28.03.2019, was RON 412,313.93, respectively lower than the value taken into account when establishing the fixed rate at the time of conclusion of the contract. Moreover, the Court also holds that, by paying the participation fee set out in the contract, the parties strictly complied with the provisions of Contract no. 384/E/12.10.2018 and implicitly with the provisions of ANRE Order no. 104/2015 and Law no. 123/2012 on electricity and natural gas, which were taken into account when drafting the terms of the contract in view of the specific nature of the works covered by the contract. In connection with the content of Contract no. 384/E/12.10.2018, the provisions of Article 1350 of the Civil Code governing contractual liability are not applicable since, contrary to the claim of the appellant - plaintiff, the respondent - defendant cannot be held to be under a contractual obligation to pay the co-financing share of 43.72% of the total value of the works carried out. Therefore, in the absence of the contractual obligation the non-performance of which is alleged, contractual liability cannot be incurred in this case since the premise of contractual liability, namely the non-performance of the obligation, is lacking. According to the will of the parties referred to in art. 4.2.1 of the contract, it has been established that the appellant-plaintiff will be entitled to recover part of the amount invested, directly from the new applicants to be connected to the objectives/pipelines and that the manner of recovery of the investment from the new connected users is not subject to the contract. Therefore, the Court notes that, the amount claimed by the appellant-plaintiff as a financing share of 43.72% of the value of the additional works carried out under the Agreement is not substantiated and was rightly rejected by the judgment under appeal. For the above reasons, pursuant to the provisions of article 496 para. 1 of the Code of Civil Procedure, the appeal will be dismissed as unfounded. In what concerns court fees requested by means of statement of defense by respondent S.C. ... S.R.L., the Court notes that the respondent has not proved the existence and extent of such costs, for which reason, pursuant to the provisions of article 452 of the Code of Civil Procedure, it will dismiss this claim as unsubstantiated" – The Court of Appeal of Târgu Mureș, Division of the Contentious administrative and fiscal, civil sentence no. 62/07.03.2024 https://www.rejust.ro/juris/4e85276de, in the form of 25.08.2024.

versatility, making it applicable in sectors ranging from industry to services and in activities, from operational to strategic ones.

Nowadays, the risk of replacing "people with machines" no longer concerns those routine and repetitive activities typical of assembly line operators, but more sophisticated and complex activities, which Western doctrine has defined as unstructured or semi-structured. Once with the advances in artificial intelligence, the recent history of automation has become fully intertwined with the management of government administrative activities, of business processes and has provided support at many stages of commercial activities *(Yang, Qiu, Chen, 2002, p. 405).*

In this dimension of modernizing the way public services are delivered, the digitalization of state systems is an urgent necessity for Romania.

The decision-making process usually involves one or more criteria on the basis of which the political or administrative decision-maker has to make judgments.

The information processed on the basis of these criteria can help to reduce the uncertainties faced by state institutions so that they can apply certain decision rules to improve outcomes (for instance, assessment of information value).

Digital information in public services can also be used as a guide to action, drawing on the insight and experience of an expert (who may be the decision-maker or another person). This can be stored formally for later use in a knowledge base or kept informally as personal expertise and knowledge. This knowledge and expertise can be fed back into decision making to help reduce uncertainty, apply a historical perspective and use corporate knowledge *(Yang, Qiu, Chen, 2002, p. 405).*

State institutions can also obtain relevant information about the efficiency of the public service or about the shortcomings in its functioning, as well as about the market environment, in the form of strategic information from outside the organization. This information can again be fed back into the decision-making process to reach more informed conclusions.

The decision-making process in order to improve the way public services are delivered requires the use of artificial intelligence systems, in order to provide the state authorities with competences in the field with an overview of the state of public services in Romania and to give the decision-maker the logical and scientific arguments to evaluate alternatives based on criteria and rules, using information, expertise, intuition and knowledge.

The automation of the decision making process within Romanian public administration practically simulates the actions of public service delivery, imitating the way of thinking, approaches and problem solving, often improving performance by eliminating human subjectivity and preconceptions.

As more and more decisions are studied and understood, along with advances in technology, the process becomes more and more efficient *(Yang, Qiu, Chen, 2002, p. 405).*

However, we note that each Romanian public administration authority should establish a set of standards to regulate the professional conduct of civil servants involved, directly or indirectly, in the process of public service delivery, usually formalized as a code of ethics or a guide of good practices[5].

[5] The following were noted in specialized practicum: "*By means of petition no. 155/20.09.2023 registered under no. 17871/21.09.2023 by defendant County Police Inspectorate of Bacău, the plaintiff requested the defendant to declassify the organization and operation regulation of Police Inspectorate ... Bacău according to art. 20 and art. 33 of Law no. 182/2002 and to be notified, under Law no. 544/2001, among others, on the organization and operation regulation of Police Inspectorate... Bacău. By means of notification no. 26477/2.10.2023, defendant General Inspectorate of the Romanian Police notified the plaintiff, as a response to its petition no. 155, that the organization and operation regulation was classified in accordance with the provisions of Governance Ordinance no. 585/2002 and that the requests of the plaintiff were delivered to the competent police units. According to response no. 57875/30.10.2023-f. 42 to the statement of defense, defendant County Police Inspectorate of Bacău responded to plaintiff in the sense that the draft of the organization and operation regulation was sent to the Cabinet Directorate within the General Inspectorate of the Romanian Police and that this project was approved on 29.12.2011, the decision of the Inspector General of the General Inspectorate of the Romanian Police approving those rules, which is a confidential information, being also submitted on file on page 43. Art. 24 of Government Ordinance no. 585/2022 provides that confidential information shall be declassified by the heads of the issuing units by removing it from the lists provided for in Article 8, which shall be reviewed whenever necessary. Article 29 of Order no. 105 of 12 July 2013 on structural planning and organizational management in the units of the Ministry of Domestic Affairs: the draft regulations of the units subordinated to the structures/institutions subordinated to the Ministry shall be forwarded, as appropriate, to the structures of the next higher rank the competences of which are affected by their provisions, similar to the procedures set out in art. 28 para. (1)-(4), and shall be endorsed by the heads of the structures/persons in charge of organizational and legal matters at the level of the units the heads/commanders of which issue the approval orders/dispositions. Article 30 of the same normative act: The drafts of regulations, endorsed under the terms of art. 28 and 29 shall be approved: a) by order of the ministry – in case of the units of the central apparatus and of the structures/institutions under the subordination/coordination of the Ministry; b) by order of the Secretary of State or, as the case may be, of the Secretary General - in case of units the activity of which is coordinated by them, other than those referred to in letter a); c) by provision of/order of the head/commander of the structures/institutions subordinated/coordinated by the Ministry - in case of units subordinated to them; d) by order of the head of unit of the central apparatus - in case of units directly subordinate to or directly coordinated by them. As mentioned above, defendant General Inspectorate of the Romanian Police approved the organization and operation regulation of Police Inspectorate ... Bacău, the act being registered with the defendant under no. S/8035/25.08.2011, being attached to order no. 90/29.12.2011 of the General Inspectorate of the Romanian Police. In the light of the legal provisions set out above, the court finds that the Police Inspectorate .. Bacău is only the issuer of the draft, and by the operation of draft approval by which it is given legal force, the defendant General Inspectorate of the Romanian Police acquires the quality of issuer of the final act. The draft is only an appendix to the approval provision, being an integral part thereof, and*

therefore, the defendant has the competence to analyze whether the organization and operation regulation of the Police Inspectorate ...Bacău can be declassified in the light of the provisions of Government Resolution no.585/2002. Therefore, according to the legal provisions above, the lack of (passive) capacity to stand trial of defendant Inspectorate ... of Police ... is unsubstantiated, in view of the fact that the defendant has the power to classify and declassify the information contained in the regulation and, at the same time, has classified the regulation as a confidential information. By analyzing the plea of lack of subject-matter, the court found that it was unsubstantiated, given that the regulation in question was not communicated to the plaintiff, as he had requested, so that the subject-matter of the case exists, but it should not be confused with the merits of the claim, which will be analyzed. In what concerns the merits of the case, the court held first of all that, as it follows from response no. 26477/2.10.2023 of defendant General Inspectorate of the Romanian Police, in view of the reference to the plaintiff's request and the mention of the way in which the organization and operation regulation of County Police Inspectorate of Bacău was classified, this represents a refusal to declassify the regulation and not the failure to respond to the plaintiff's request for declassification. According to the provisions of art. 20 of Law no. 182/2002, any Romanian natural or legal person may file objection with the authorities that have classified the information in question, against the classification of the information, the duration for which it has been classified, as well as against the manner in which one or another level of secrecy has been assigned. The appeal shall be settled in accordance with the law of the contentious administrative. Therefore, by noting that the refusal of defendant General Inspectorate of the Romanian Police to have declassified the regulation in question falls under the legal definition of the unjustified refusal provided by art. 2 para. 1, letter 1 of Law no. 554/2004, this should be assessed in consideration of the provisions of Law no. 554/2004. According to art. 15 letter e of Law no. 182/2002, confidential information is defined as the information the disclosure of which is likely to cause damage to a legal person, whether governed by public or private law. Art. 8 of Government Resolution no. 585/2002 provides that the list of confidential information shall include information on the activity of the unit and which, without being, within the meaning of the law, state secrets, shall be known only to persons to whom it is necessary for the performance of their duties; its disclosure may prejudice the interests of the unit. ####, the court found that none of the defendants had argued that the organization and operation regulation would contain such information, nor how the defendant county inspectorate's interest would be prejudiced by disclosing the contents of the organization and operation regulation. On the contrary, defendant County Police Inspectorate Bacău delivered to General Inspectorate of the Romanian Police – Security Structure, the documentation with the proposal to declassify the regulation in question, by notification no. 90596/8.11.2023-f. 46. Furthermore, art. 33 of the same ...no. 182/2002, provides the prohibition on classifying as official confidential information which, by its nature or content, is intended to inform citizens about matters of public or personal interest, to facilitate or cover up circumvention of the law or obstruction of justice. There is no doubt that the provisions of a regulation of organization and operation contain the duties and rules of conduct to be adopted by the staff of the institution to which the regulation refers, so that those provisions create rights or obligations for the staff, knowledge of which is essential for the protection of the public interest, which is the basis of the organization of any public service. Furthermore, art. 580 para. 2 of the Administrative Code provides that the principle of transparency, specific to public services represents compliance by public administration authorities with the obligation to provide information on how component activities and objectives are established, how public services are regulated, organized, operated, financed, delivered and evaluated, as well as on user protection measures and mechanisms for resolving complaints and disputes. Furthermore, according to Law no. 544/2001, art. 5 para. 1 letter a, the obligation to communicate ex officio shall be incumbent on any authority or public institution, since this is

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CONCLUSION

We are all heading towards a new reality dominated by the digital world where even the most profound legal concepts will be affected. We cannot deny this trend and we are already implementing certain aspects that we find, with direct reference to the present study, in making public services more efficient by improving certain aspects of their day-to-day functioning. For sure that this new digital stage represents a decisive step towards sustainable development concepts. For example, important chapters such as "health and well-being", "quality education", "peace, justice and effective institutions" will be greatly influenced by the digital age in which mankind has entered. In this background, public services, designed to serve the general interest of citizens, will adapt to new trends. Starting from the idea often expressed in the doctrine according to which "there is a correlation from whole to part between the executive and the public administration; the administration being a segment of the executive, without overlapping with it" (Stefan, 2019), we will note that in the future, both the executive as a whole and the administration as part of it will have to accept and implement the new trends generated worldwide, both in legislative and practical terms, at the level of civil servants or administrative staff. And this will certainly be a decisive step towards sustainable development, both generally and in each individual segment.

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information of public interest, normative acts regulating its organization and operation. Therefore, the provisions of art. 24 of Government Resolution no. 585/2002 are also applicable, according to which confidential information shall be declassified by the heads of the units that issued it, by removing it from the lists provided for in Article 8, which shall be reviewed whenever necessary. In what concerns the petition substantiated on Law no. 544/2001, the court found that the requested act is available to the defendants, this resulting from their activity, so that the request falls within the powers of the defendant public institution. The request for communication of the regulation is subsequent to the request for declassification, the plaintiff requesting communication of the organization and operation regulation of the Police Inspectorate .... Bacău declassified and not in its existing form, so that the decision on this petit is determined by the decision on the first head of claim. For the above reasons and in application of the provisions of art. 18 of Law no. 554/2001, the petition was admitted, defendant General Inspectorate of the Romanian Police was obliged to declassify the organization and operation regulation of the Police Inspectorate .... Bacău, and both defendants to communicate to the plaintiff, after declassification, the organization and operation regulation of the Inspectorate ... of Police Bacău. At the same time, taking into account the proven and reasonable nature of the costs claimed by the plaintiff represented by the lawyer's fees in the amount of RON 2500, as well as the procedural fault of the defendant General Inspectorate of the Romanian Police in relation to the solution ordered in the case, the court ordered the defendant to pay the plaintiff the amount of 2500 lei representing lawyer's fees" – Bucharest Court of Appeal, Division of the contentious administrative and fiscal, civil sentence no. 199/09.02.2024, https://www.rejust.ro/juris/6249382g5, in the form of 28.08.2024.

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