Curentul Juridic – Juridical Current

2014, Vol. 59, No. 4, pp. 119-127

COMPUTERIZATION OF PUBLIC ADMINISTRATION TO E-GOVERNMENT: BETWEEN GOAL AND REALITY

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ABSTRACT*:Information society represents the proper environment for the efficiency and de-bureaucratization of public administration. This paper aims to analyze some of the opportunities offered by computer technology and the methods to implement such at administrative level. The main qualities of e-Government are electronic processing of information, database organization and the possibility of networking. Another important aspect is represented by easy access of citizens to relevant public information and services. The downside of electronic administration is the centralization of decision-making, hence removing particular situations encountered in practice and public official disavowal.*

KEYWORDS*: electronic administration, e-Government, e-Justice, electronic payment, information society, electronic method, electronic documents.*
JEL-CODES*: K22, K23.*

1. MODERNIZATION OF PUBLIC ADMINISTRATION

The natural consequence of the development of information technology and electronic commerce has been the increasing interest of the State, on one hand, for taxing incomes from this area, and, on the other hand, reducing the costs of certain functions of public institutions. Electronic administration or e-administration involves improving internal operational efficiency of the public institution, computerization of the relationship with citizens and corporate entities, as well as allowing direct access of the end users, by electronic means to the services offered electronically by the public institution.

In the last two decades, the European Union has consistently acted for the implementation in the Member States of legislation on administrative informatization. Thus, if the plan *eEurope 2002: Impact and Priorities* (Commission of the European Communities, 2001) has been regarded as a timid start of tracing guidelines for the development of electronic public administration in the Member States, while the decisive and significant impulse of administrative informatization has been represented by the framework brought by *Europe 2005: An Information Society for all* (Commission of the European Communities, 2002). As part of Lisbon strategy, which aimed to transform the European economy into the most dynamic knowledge-based global economy, the Action

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Plan has only partially achieved its purpose. Thus, all of its three key objectives (the cheapest, fastest and most secured Internet, encouraging human and skills investment and incenting the use of the Internet) have only been achieved to a limited extent, in fact, the entire goal of the Lisbon strategy is far to have been completely fulfilled. Moreover, European doctrine (Gamero Casado & Gutierrez, 2010) emphasized the "*excessive optimism*" of the Action Plan.

Failure of *eEurope 2005* did not mean European administration renouncing to plans impossible to achieve, but has been followed by *Plan i2010 "An European Information Society for growth and employment*" (Commission of the European Communities, 2005) itself completed with reduced achievement of its goals.

Opening of informatized offices of e-government has led to bringing the State closer to the citizens, reducing the waiting time for issuing documents, for tax-paying and last, but not least, to increasing the transparency of the administrative act (Contaldo & Dainotti, 2005). The direct consequence of transparent operating policies of public administration is a sharp decline in the cost of services and public works, primarily as a result of direct, low-cost publicity through electronic means, and secondly, due to the accuracy required by electronic management of local or central government data. On the other hand, an important effect of implementing electronic data management systems is an increased limitation of corruption, as a result of the interconnection of databases of administration and the possibility of cross-checking.

Electronic administration is constantly available to citizens, the only interruptions being caused only by maintenance issues. Given they are well maintained, local government websites can provide most of the documents of the administrative circuit. Administrative remote procedures in France limit in a positive sense, the contact between citizens and „behind the counter" officials, continuously developing under the umbrella AdeP - Association for development of e-procedures[1], an association based on public - private partnership. The underlying principles of these administrative procedures are consistency of the device, non-redundancy of user approaches and responsibility of each partner (Roques-Bonnet, 2010).

Romanian regulations in this field, specifically Law nr. 161/2003, establishes per art. 8 the guiding principles of electronic public services and of data providing as being transparent and non-discriminatory, equal access to information and services, efficient use of public funds, confidentiality and personal data protection and finally, ensuring the availability of public information and services. Public authorities have the legal obligation to ensure the compliance with these principles while providing specific services. The definition of the electronic administration found in article 11 lit. b of the same law, specifies that the use of information technology-based applications by local authorities is destined to improve the access and the delivery of information and services provided by the local public administrative authorities, the exchange of information between the components of the local authorities, the effectiveness, efficiency and quality of the local public services, as well as aiming to eliminate the burdensome bureaucratic procedures

[1] See www.adep-france.fr, consulted at 12.10.2013. The Association has among its founding members the City halls Association in France, National Federation of Rural City halls, Urban Telecommunication Observatory, as well as private partners involved in the development of e-Administration.

and simplify working methodologies. We may say that the legal definition is based rather on explaining the purpose, rather than identifying electronic administration as a service of the information society, ancillary to e-commerce, for example.

Another important component of electronic public administration, the procurement or e-Public Procurement, has been given a Community legal basis following the adoption of Directive nr. 2004/17/CE[2], as amended and supplemented[3], and of Directive no. 2004/18/EC[4], as amended and supplemented[5]. Thus, great strides in implementing the principles of good governance have been made, electronic procurement being one of the most important means of achieving such (Cătană, 2011). Implementation of e-Administration and dematerialization of administrative documents also led to a better organization of the tax administration. Beginning with the interconnection of databases belonging to various public entities subordinated to different ministries to those belonging to the local administration, filing and electronic verification of various forms of declaring incomes obtained by individuals or companies and ending with the electronic tax payments, e-tax administration is required to develop and extend its services.

2. E-GOVERNMENT CONCEPT

Romanian legislation differentiates e-Administration from e-Government by reporting essentially to the element of territoriality regarding the scope of the public authorities. Hence, both concepts as defined as per article 11 lett. a and lett. b of Law nr.161/2003, seem to be identical, except for the fact that the subject of e-Government is the central government, while in the case of e-administration, the subject is the local public administration. Defining these concepts strictly on the ground of the public authority being central or local, is, in our opinion, irrelevant for offering a proper definition.

Italian government, through the department of public function, within the "action plan for e-governance" of 22 June 2000 (Gatti, 2002), defines e-Government as a modernization of "*the administration of the country*" using computer technology. From another perspective (Michel, 2005), e-Government is the next level of e-Administration, but precedes e-governance and the utopian "*learning city"*, a four-stage scale destined to measuring the possibility of citizens' involvement in city life as a direct effect of the informatization of administration.

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[2] Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors, published in E.U.O.J, series L, nr.134/1 of 30.04.2004

[3] Directive 2004/17/CE has been completed by Directive 2006/97/CE, Directive 2009/81/CE and Directive 2013/16/UE, and has been modified by Directive 2005/51/CE, Regulation (CE) 213/28.11.2007, Regulation (CE) 596/18.06.2009, Decision 2008/963/CE, Regulation (CE) 2083/19.12.2005, Regulation (CE) 1177/30.11.2009, Regulation (CE) 1422/04.12.2007 and Regulation (CE) 1251/30.11.2011

[4] Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts**,** published in J.O.U.E., series L, 134/1 of 30.04.2004

[5] Directive 2004/18/CE has been completed by Directive 2006/97/CE and Directive 2013/16/UE, and has been modified by Directive 2009/81/CE, Directive 2005/51/CE, Regulation (CE) 213/28.11.2007, Regulation (CE) 596/18.06.2009, Directive 2005/75/CE, Regulation (CE) 1177/30.11.2009, Decision 2008/963/CE, Regulation (CE) 2083/19.12.2005, Regulation (CE) 1422/04.12.2007 and Regulation (CE) 1251/30.11.2011

Finally, the American doctrine (Brown, 2005) recognizes the broader scope of e-governance, divisible in four sub domains: first – state jurisdiction and state role in economy and society, second – e-democracy and e-governance, third – e-public administration and fourth – international relations of the state with other international participants.

The World Bank defines e-Government as being the governmental agencies' use of information technology in relation to citizens, enterprises and other governmental departments in order to improve services and increasing the efficiency of government management[6]. One thing to be mentioned is that the term "government", translated into Romanian by "Government", "governmental", has a much broader international sense than nationally (Garner, 2004)[7]. Thus, the World Bank actually refers to any type of administrative management when defining e-Government, therefore, including local administrations. Likewise, O.E.C.D. defines e-Government as being "*the use of information technology and communications, particularly the Internet, as a tool in achieving better governance*" (O.E.C.D., 2003).

E-Government, as seen above, should be understood as a necessity of modern times, which directly puts the citizen in contact with the state authorities, bypassing the well-known institution of the "counter". The direct consequence of the evolution of information technology, which created the mandatory infrastructure of public management, profiting the modern leadership which took advantage of the computer science and the development of the administration, public administration developing altogether with the improvement of citizen-State relationship – state, is the creation of this concept of e-Government based on three pillars (Chiriac, Szabo, Czekmann, & Szabo, 2011).

On the other hand, the East-European legal literature expressed a point of view that broadly defines e-Government, as synonymous with e-Administration, and, in a narrow sense, as referring to specific technical resources for state control, while the concept of e-Administration refers to the management of citizens' issues through public services (Chiriac, Szabo, Czekmann, & Szabo, 2011). Spanish doctrine (Gamero Casado, Objeto, ámbito de aplicación y principos generales de la Ley de Administración electrónica; su posición en la sistema de fuentes, 2010) considers that these two concepts overlap, the term „electronic administration" being preferred in Europe.

De lege ferenda, it is necessary to redefine the term e-Government in the Romanian law, in accordance with the meaning given by other advanced countries. E-governance should not be limited to administrative computerization, but to bring improvements in various aspects of the governance, altering the nature of relationships between the Government and citizens (Dada, 2006).

[6]http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTINFORMATIONANDCOMMUNICATIONANDTECHNOLOGIES/EXTEGOVERNMENT/0,,contentMDK:20507153~menuPK:702592~pagePK:148956~piPK:216618~theSitePK:702586,00.html, consulted on 13.11.2013

[7] http://www.thefreedictionary.com/government defines „government" as „governing act or process, especially public policies control and administration in a politic entity", site consulted on 26.11.2013

3. THE NATIONAL ELECTRONIC SYSTEM

The establishment of the National Electronic System as public utility system has been necessary in order to make possible the achievement of the objectives set by the lawmaker pursuant to art. 7 of the Law nr.161/2003, including reducing public spending, increase the transparency in the use of public funds, eliminating direct contact between the taxpayer and the clerks, reliable access to information and public services, a better collaboration between public authorities and promoting the use of the Internet and peak technologies, but also "redefining the relationship" between taxpayers and public administration. We are not referring to the unfortunate phrase used by the lawmaker "*under this title (...) we establish the National Electronic System as informatic system of public utility (...)"* [Art. 9 para. (1) of Law nr.161/2003], knowing that the law and not the title, is the ground for establishing such.

The definitions of the terms e-Government and e-Administration reveals their roots by identifying operators within the National Electronic System, article 9. (2) of the same law establishing the General Inspectorate for Communications and Information Technology (IGCTI) subordinated to the Ministry of Communications and Technology[8] as operator for "the e-governance", Ministry of Public Administration[9] for "the e-Administration", and a separate authority to be determined by the Supreme Defense Council for the Defense and National Security system.

It is to be noted how inconsistent the lawmaker is, compared to the general competence of the operators, respectively an inspectorate, a ministry and an undefined authority. Also noteworthy is the lack of efficiency in the management of e-Government and e-Administration, which are similar, being two different entities subordinated to the Romanian Government, according to the previously analyzed definition, except for the level of authority. The law itself, by Article 11 lit. e, establishes the National Electronic System as a wholesome ensemble, composed of these two systems, accessible via the Internet at www.e-guvernare.ro. On the other hand, in the same sense, one may notice the inconsistency of the lawmaker in drafting HG nr.1085/2003[10], which, although subsequent to the law and destined for the application thereof, seems to forget that the local authorities have been segregated from the central ones, this causing uniform treatment of the two systems, as expected from the very beginning of the regulation in this field.

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[8] According to H.G. nr. 548/2013 on the organization and functioning of the Ministry for Information Society, published in Official Journal Part I, nr. 492 of 05.08.2013, the current name of this ministry being the Ministry for Information Society the operator of www.e-guvernare.ro being the National Management Center for Information Society

[9] According to H.G. nr.1/2013 on the organization and functioning of the Ministry of Regional Development and Public Administration, published in Official Journal Part I, nr.14 of 08.01.2013, modified by H.G. nr. 512/2013 for modification of H.G. nr.1/2013, published in the Official Journal, Part I, nr.472 of 30.07.2013, the current name of this ministry is Ministry of Regional Development and Public Administration

[10] H.G. nr.1085/2003 for application of certain provisions of Law nr. 161/2003, published in the Official Journal, Part I, nr. 675/24.09.2003, modified and completed by H.G. nr. 538/2004, published in the Official Journal, Part I, nr. 368 of 27.04.2004, by O.U.G. nr. 73/2007, published in the Official Journal, Part I, nr. 444 of 29.06.2007, by H.G. nr. 862/2009, published in the Official Journal, Part I, nr. 550 din 07.08.2009 and by H.G. nr. 104/2010, published in the Official Journal, Part I, nr. 140 of 03.03.2010

Alongside the consecrated operators, the National Electronic System allows, under Article 10, other participants as well, individuals or legal entities. Banks, notaries public or experts are preferred to start with, but the list may be extended by effect of law. Given the limitative enumeration of the operators, the access is required to be regulated for the optimized use of the system, considering the need for these individuals to have access to specific databases.

A number of seventeen electronically provided public services is specified [12 par. (1) lett. a) – q) of Law nr.161/2003], among which we mention the services for declaration, notification and electronic tax payments of individuals and businesses to central and local budgets, services for obtaining operating licenses, permits and certificates, services for electronic procurement including electronic payments, are to be mentioned. The list of services may be extended through decision of the Government of Romania.

The principles of the specific electronic procedure are set forth in Chapter II of Title II of Law no. 161/2003. These rules are supplemented by the rules H.G. Nr. 1085/2003 and, regarding safety and national defense rules, the law is completed by the rules and operating procedures of integrated computer System, part of the National Electronic System, H.G. nr.952/2003[11].

Electronically sent documents must be submitted and signed electronically, whereas any such document sent or received should be recorded and, if receipt is not confirmed, it needs to be confirmed pursuant to the condition established by the operators of the National Electronic System [article 18 par. (1)-(3) of the Law]. Electronic document formats, their generation, transmission and storage are required to comply with the conditions set by the operators and approved by the Government of Romania [article 18 par. (4) of the Law].

The principle of non-discriminative access to public information and services is unequivocally established in article 23 of the Law nr.161/2003, subject to compliance with Law No. 544/2001[12] and to registration in the National Electronic System. However, another possibility is excluded, as long as the electronic analyzer, if correctly programmed, is able to identify only economic and legal elements.

4. E-justice

The computerization and modernization of the justice system has a highly significant impact. A proper administration of justice is essential to a democratic state, where the judiciary authority has its well-defined role. The Judiciary Informatization Strategy for the period 2005 - 2009[13], which was actually the basis of the most comprehensive streamlining project, was just a necessary step in order to bring the administration of

[11] H.G. nr.952/2003 on the approval or rules and procedures for operationalization of the integrated informatics system, part of the National Electronic System, published in the Official Journal, Part I nr.631 of 03.09.2003

[12] Law nr. 544/2001 on free access to public information, in the Official Journal, Part I nr.663/23.10.2001, modified and completed by Law nr.371/2006, published in the Official Journal, Part I nr. 837 of 11.10.2006, Law nr. 380/2006, published in the Official Journal, Part I nr. 846 of 13.10.2006, Law nr. 188/2007, published in the Official Journal, Part I nr. 425 of 26.06.2007 and Law nr. 76/2012, published in the Official Journal, Part I nr. 365 of 30.05.2012

[13] Approved by H.G. nr.543/2005 on approving the Judiciary Informatization Strategy for 2005-2009 and the organization and functioning of the Commission for monitorization and implementation of the Strategy published in the Official Journal, Part I nr.547 of 28.06.2005

justice closer to the stated purpose of ensuring a more transparent and honest judicial process.

Presently, no strategy has been adopted for the next period, although Ministry of Justice website contains a draft of a Government Decision, open to public debate, for approving the Judiciary informatization Strategy for the period 2013-2017, its substantiation and the project of the strategy for 2013-2017[14]. Among other aspects, mostly positive, we must note the projects aimed to improve the quality and efficiency of public services provided by the National Office of Trade Register by developing *online* services to businesses (G2B), to citizens (G2C) and to administration (G2G), including by offering non-stop "*self-service*" services, through *infokiosks*[15].

Other important objectives required to be implemented, but otherwise provided in the governmental plan[16], are those related to the possibility of electronic correspondence between the parties and the courts, beginning with the claim up to electronic communication of the final court decision, development of the courts portal in order to be able to provide the litigants more information about pending cases, and not last, the creation of electronic archives of the courts.

Information technology may be used in the judicial system not only for the communication of the pleadings, for sharing databases and for efficient management of judicial institutions, but also through actual application in judicial proceedings. Electronic payment of stamp duties and other legal charges or the possibility of hearing a witness "by audio/video means, with voice and image distortion"[17], procedures which are rather easy, can and should be supplemented with other uses of the technologies of information society, such as electronic monitoring for persons in certain legal proceedings (Marin & Predescu, 2011) or *on-line* settlement of court proceedings which do not necessarily involve oral hearings (Cimpoeru, 2012) (Tudorache, 2013).

European Union has set up e-Justice portal, which, among other things, brings legislation, case law, legal advice and an online database available to the judicial authorities of the Member States, to the reach of European citizens, in order to simplify the cooperation between them in the interest of justice[18]. Nationally, we may refer to Spanish experience which began in 2002 by creating "Punto neuro judicial (PNJ)", which has continuously evolved from a court document exchange service with the participation of Judicial Networks of Autonomous Communities, the Ministry of Justice and the General Council of Judicial Power, as well as certain third-parties, to the point where it has become a comprehensive database with multiple features, destined for professionals in the legal field (Gonzalez Garcia, 2012).

An integrated electronic system, designed for the needs of justice, both for the professionals, as well as for litigants, part of the National Electronic System, is an

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[14] http://www.just.ro/MinisterulJusti%C8%9Biei/Actenormative/Proiectedeactenormativeaflate%C3%AEndezbatere/ tabid/93/ Default.aspx

[15] Annex 4 – ONRC, of Judiciary Informatization Strategy 2013-2017, open for public debate

[16] Founding note of the HG project for approving the Judiciary Informatization Strategy 2013-2017, p.2 and following.; Judiciary Informatization Strategy 2013-2017, open for public debate, p. 5 and following

[17] Art.126 par.(1) lett.d) of Law nr. 135/2010 (on Penal Procedure Code), published in the Official Journal, Part I nr.486 of 15.07.2010, in effect beginning with February 1st, 2014, accoding to art. 103 of Law nr.255/2013 for application of Law nr.135/2010 on Penal Procedure Code and for modification of other laws containing penal procedure rules published in the Official Journal, Part I nr.515 of 14.08.2013

[18] https://e-justice.europa.eu/home.do?plang=ro&action=home

imperative condition for the alignment to the European standards. The lack of a coherent plan after 2009 and the delays in the implementation of the Strategy for 2013-2017 are two factors which have led to increasing the distance towards other EU member states. Coherent legislation and the modernizing of judiciary administrators are the sole ingredients necessary to implement a modern system of justice.

5. EFFECTS AND BENEFITS OF ADMINISTRATIVE INFORMATIZATION

The use of informatic systems in public administration has led to a number of benefits, accompanied by inherent hardships of institutionalized bureaucracy. Electronic archiving, databases and electronic receipt/issuance of certain documents are just some of the positive results of computerization in the area.

Among the negative effects of the computerization of administration, one to be particularly mentioned is centralizing the administrative decision-making process. By the advent of computer systems in government offices, the use of software removed exceptional situations. Ideally, removing exceptions is to be appreciated, should the living conditions of the average citizen be also standardized. However, the complexity of administrative problems cannot be always programmable and the solutions cannot be always chosen and run by computer programs. The freedom of decision of administrative officials, necessary in such cases, is often lacking, either due to the organizational regulations of public institutions or due to the refusal of the clerk based on the false argument of the impossibility to amend the software.

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