

TRENDS IN THE DIGITALIZATION OF THE ADMINISTRATION IN THE PANDEMIC CONTEXT

Adrian BOANTĂ*

ABSTRACT: *The pandemic context has led, in the field of public services, to a series of legislative transformations that have allowed a faster transformation of the administration towards the digitalization of the public administration. Further more, the state has realized that such a transformation also requires financial resources, which is why additional resources have been allocated to the field of digital transformation of the administration, meaning that, including in the National Recovery and Resilience Plan, significant sums have been allocated to particular mean of transforming the state.*

Regarding the public administration, these transformations aimed at a better way of relating to the citizen by communicating documents in electronic format (mainly) but also ways of making the public administration's activity more transparent.

KEY WORDS: *digitalization; public administration; public services; modernization; law;*
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1. ABOUT DIGITALIZATION – IN ROMANIA

Digitalization is an intensely discussed and disputed process in the current context generated by the COVID 19 health crisis in various fields of activity: education, health, administration, etc.

Attempts to define such a new term take on several coordinates. Thus, in a first perspective “*Digitalization is the use of digital technologies to change a business model and provide new revenue and value-producing opportunities; it is the process of moving to a digital business*”¹. Also, the Explanatory Dictionary of the Romanian Language defines the term to digitalize = to transform analog signals into digital signals, to numerically encode an information². The definitions provided are not such as to reflect the entire process that the State wants to assume in its attempt to make public services more efficient, the way in which the citizen-administration relationship is viewed, especially in the context of the restrictions imposed by the Covid pandemic. In this respect, the Ministry of Research, Innovation and Digitalization is the central specialized

* Lecturer, Ph.D., University of Medicine, Pharmacy, Sciences and Technology „George Emil Palade” of Târgu Mureș, ROMANIA.

¹ IT Gartner Glossary <https://www.gartner.com/en/information-technology/glossary/digitalization>

² <https://dexonline.ro/definitie/digitalizare> consulted on 17.08.2021.

authority that has, according to the law, the following competences in the field of digitalization: - develops and implements at national level the specific policy, strategy and regulations for the development and harmonization of activities within the general policy framework of the Government and fulfills the role of state authority in its fields of activity: research, development, innovation, electronic communications, digitalisation, postal services and cybersecurity³.

In a different perspective, it is necessary to distinguish between digitization, digitalization and transformation. In this framework, digitization is regarded as „*the transition (conversion) from the analog representation (recordings on magnetic tape, paper documents or any other medium) to the digital one, of things, in order to digitalize and automate processes or workflows. By digitizing, we create a digital version (bits and bytes) of analog, physical things, such as: paper documents; images on the microfilm; classic photographs; sounds and animations; medical records, location and time data; identity cards; books, brochures, magazines, paintings, sculptures, architectural works, etc.*” (Tănase & Paraschiv, 2018). On the other hand, digitalization, as a process following digitization, is viewed by reference to the field in which it interferes, and therefore there are distinct definitions regarding the concept of digitalization when referring to the business environment, when in reference to the notion of digital place of work and finally by reference to the public sector. In this last coordinate, digitalisation is defined as „*the continuous adoption of digital technologies in all societal and human activities: digital healthcare, predictive or preventive medicine; digital governance and marketing; digital advertising*” (Tănase & Paraschiv, 2018).

The pandemic context represented the moment that accelerated the legislative process in the field of digitalization so that the relationship between the administration and the citizen can be at a „click” away, namely the authorities can provide essential services online.

2. LEGAL PROVISIONS ON THE PROMOTION OF DIGITALIZATION IN ADMINISTRATION

The special regime determined by the health crisis has imperatively led to reactions on part of all states, which, beyond the protection of citizens, have had to outline the legal framework necessary for carrying out all activities. Each state has tried, by making use of its internal sovereignty, to legislatively manage a global problem. Access to information has allowed, in such a global context, a comparative analysis of how states have acted, including in the field of legislating such an exceptional crisis. The legal regime of the state of emergency, and then later of the state of alert, constituted an „exceptional law” because „*Since the crisis is global, the law that arises to combat it must in its turn be a global law and, thus, it could further be stated that no sector can be left outside the incidence of this exceptional law*” (Duțu, 2021).

This exceptional law includes, among other regulations, Emergency Ordinance no. 70/2020 on the regulation of certain measures, starting with May 15, 2020, in the context

³ Regulation on the organization and functioning of the Ministry of Research, Innovation and Digitalization, 2021. This Regulation is annexed to the Order of the Minister no. 94/03.06.2021 and available at <https://www.research.gov.ro/uploads/minister/rof-mcid-2021.pdf>

of the epidemiological situation caused by the spread of SARS-CoV-2 coronavirus, for the extension of some deadlines, for the amendment and completion of Law no. 227/2015 on the Fiscal Code, Law no. 1/2011 on National Education, as well as other normative acts⁴. Practically, through this normative act, Romania has tried to intervene in all areas, either by using the procedure of extending some deadlines⁵, or using the procedure of extending the validity of some administrative acts, or by encouraging on-line activities⁶, the use of e-mail, on-line education, etc.

According to legal provisions⁷ and doctrinal interpretations (Mănu, 2020), the lack of a secondary legal framework for the application of the provisions of the primary regulations, that would establish precisely and in detail what types of documents have their validity extended, as well as the particular means through which this operation can be fulfilled, had led to a series of different interpretations in the administrative practice, as well as to the possibility of violating certain rights and legitimate interests as they are viewed under Law no. 554/2004⁸ with subsequent amendments.

Beyond these problems of legislative nature, of interpretation of the legal norm, a series of documents/acts were considered by the legislator and became subject to this method of extending the validity of their legal effects:

- identity documents⁹ whose validity is maintained throughout the entire state of alert, as well as for a period of 90 days beginning at the end of this state, according to the general rules of Law no. 55/2020.

- replacement proofs of driving licences - with the right of movement, only those issued pursuant to Article 111 para. (1) point .b), para. (4) or (5) of the Government Emergency Ordinance no. 195/2002 on traffic on public roads, are maintained valid throughout the state of alert, as well as for a period of 10 days beginning at the end of this state. For the same period, the validity of the extension of the right of movement, ordered by the prosecutor or by the court according to art. 111 para. (6) of the Government Emergency Ordinance no. 195/2002 is also maintained.

These express specifications cannot, by themselves, complete the picture of the administrative acts whose validity is extended during the state of emergency¹⁰/alert¹¹, because the notion of documents issued by public institutions and authorities, as well as

⁴ E.G.O. no. 70/2020 was published in the Official Journal of Romania no. 394 from 14 May 2020.

⁵ See in this regard, Art. 6 of E.G.O. no. 70/2020 that provides in para. 2: *The validity of collective labour agreements and collective agreements is maintained for a period of 90 days from the end of the state of emergency.*

⁶ See in this regard, Art. 3 of E.G.O. no. 70/2020 that provides para. 1, letter c): *Taking the graduation exam of the initiation, specialization and improvement programs carried out in the online system.*

⁷ See E.G.O. no. 70/2020, Law no. 55/2020.

⁸ Law no. 554/2004 regarding administrative disputes was published in the Official Journal of Romania no. 1154 from 2004.

⁹ The identity card, the electronic identity card, the provisional identity card and the previous identity card, in their validity term, have their legal regime established by the provisions of the Government Emergency Ordinance no. 97/2005 on the records, domicile, residence and identity documents of Romanian citizens, republished in the Official Gazette of Romania, Part I, no. 719 of 12 October 2011, with subsequent amendments.

¹⁰ The state of emergency was established by the Decree of the President of Romania no. 195/2020 and extended by Decree 240/2020.

¹¹ The state of alert was established by Government Decision no. 394/2020 on the declaration of the state of alert and the measures that apply during it to prevent and combat the effects of the COVID-19 pandemic.

by private entities authorized according to the law, as designed by the legislator, may lead to different, excessive interpretations, even abusive ones that can lead to the violation of subjective rights. Therefore, this particular solution for solving the relationship between administration and citizen, based on the extension by the power of law of the legal effects of some acts / documents can be regarded as an easy but insufficient way of relating in case of pandemic (Mănu, 2020).

Certainly, the digitalization of the administration can be a main way of concretizing the legal relationship between the administration and those administered in these complicated periods caused by pandemics, and the positive results of such an approach can be maintained in the future. In such a framework, digital collaboration formulas between the administration and citizens have been identified (Mănu, *Dreptul administrativ și acțiunea administrativă în "era digitală"*, 2020), formulas that take into account: (a.) the digitalization of communication between administration and citizens, (b.) the creation of a new way of administrative, collaborative action and (c.) the redefinition of citizens' participation in the elaboration of the administrative decision, through public consultation.

3. CONCLUSIONS

The evolution of the COVID 19 pandemic represented a good opportunity to accentuate the reforms in the field of digitalization of the public administration. Beyond the ideas, the financial resources necessary for such an endeavor also appeared. Thus, at present, the problem is represented by the legislative incoherence, and by the need to adapt the legislation to the digitalization process.

An issue, of the same importance as the legislative framework, is the implementation of IT systems that allow the connection of different electronic platforms, platforms that facilitate the exchange of documents between different public institutions and public administration authorities.

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