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Socio-Statistical Research on the Internalization of European Administrative Space Principles in the Romanian Public Administration

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Abstract: The authors propose an analysis of the public administration reform in Romania by assessing whether the Romanian civil servants perform their duties according to the regulations of the European Administrative Space. The paper offers a socio-statistic perspective on the internalization of the European Administrative Space principles, namely, the rule of law, openness towards citizens, and public administration responsibility in a Romanian context, after the European Union accession. Designed within the framework of modern theories of organizational sociology that see internalization as a process of organizational learning and change, and using a relevant sample of Romanian civil servants, the paper offers important and useful results for the future Romanian policies and strategies in an integrated European arena.

Keywords: European Administrative Space; rule of law; internalization of norms

1. Introduction

Scholars of social sciences have tried to demonstrate that international rules influence state behaviour by pointing to correlations between the existence of rules and apparent rule-guided state

actions [1]. In fact, part of the relevant doctrine identified two processes or pathways by which an international institution's rules or norms can become institutionalized at the domestic level. First, it was by infusing the beliefs and values of actors within the state. Second, it has been argued that a regime's tenets may become enmeshed in a country's domestic political processes through the standard operating procedures of bureaucratic agencies. As previously suggested however [1] two complementary pathways are little discussed by the literature. On one hand, government officials and societal actors can invoke an international rule to further their own particularistic interests in domestic policy debates; in other words, a domestic actor can use the existence of an international rule to justify his/her own actions or to call into question the legitimacy of another. On the other hand, a rule of an international institution can become institutionalized into the domestic political process by becoming one or being embodied within national laws.

However, these pathways will not lead international rules and norms to affect one state's policies in every instance [1]. In fact, there is likely to be some variation in the domestic impact of international rules across countries and across different issue areas within single countries. This variation reflects two factors: the domestic salience of the international rule or norm and the domestic structure that prevails during a given policy debate.

The concept of domestic salience is relevant to the scope of this paper, more precisely to the issue of internalizing of norms. According to [1], an international norm's domestic salience largely derives from the legitimacy it receives in the domestic political context; usually, an international rule lacks domestic salience if the state has denied the rule's legitimacy. Such denials might take the form of the state's repeated lack of compliance with obligations deriving from the norm, or its refusal to ratify agreements associated with the international rule.

One may argue that one major streamline in the literature is to define internalization as a condition of incorporation of norms and/or roles into one's own personality, with a corresponding obligation to act accordingly or suffer guilt [2]. In our case, as applied to states in relation to an international norm, internalization refers to the situation in which international norms receive the state's acknowledgement of the latter's legitimacy. In other words, should an international norm be internalized in the Romanian public administration then the public administration would see that norm as part of itself, automatically expressed in behaviour [3].

The conceptualization and transformation of the "European Administrative Space" (EAS) into an instrument for evaluating the public administration reforms in Central and Eastern European countries was developed by SIGMA with the support of PHARE projects, in response to the European Council's recommendations formulated at Copenhagen, Madrid and Luxembourg between 1993 and 1999. According to [4], the European Administrative Space was gradually taking shape: "in order to implement Community decisions, the public servants of Member States meet frequently. They get to know each other and trade views and experiences. Patterns of communication develop which have an impact on decision-making, so that common solutions are often found. Officials and experts from European States are becoming used to examining issues jointly, including those having to do with public administration. A European administrative space is emerging with its own traditions, which build on but surpass the distinctive administrative traditions of the Union. Administrative reliability, which is necessary for the rule of law, effective implementation of policy and economic development, is one of the key characteristics of this space".

It is obvious that until recently, this Administrative Space was limited by the national borders of sovereign states and it was the product of national legislations. The evolutions that followed (gravely marked by the creation and enlargement of the European Union) led to the dissolution of the traditional boundaries of sovereignty [5]. As such, the European Administrative Space is a metaphor with practical implications for both Member and candidate States that embodies, inter alia, administrative law principles as accession criteria [6]. The existence of a European Administrative Space implies that national public administrations are ruled based on common European principles, norms and regulations, uniformly implemented within a relevant territory. In a summarized view, these principles reflected upon the reliability and predictability of the public administration, its openness and transparency towards citizens and other organizations, efficiency and effectiveness and accountability. For the scope of this paper, only the principles of the rule of law, openness towards citizens and self-responsibility, as part of accountability are to be considered.

2. The Operationalisation of the European Administrative Space

2.1. Rule of Law

It has been argued that the rule of law is a multi-sided mechanism for reliability and predictability [6]. As a principle of the European Administrative Space, it may be rephrased as “administration through law”, meaning *legal certainty* or *juridical security* of the public administration actions and public decisions. Other connotations of this principle may be observed when we refer to the opposition of the rule of law in regard to the arbitrary power, cronyism or other similar administrative deviations.

The exercise of arbitrary power is limited under the principles of administrative law as public administration is forced into acting in good trust, following the public interest, using fair procedures for equal and non-discriminatory treatment and respecting the legal principle of proportionality. The operationalisation of the rule of law is a rather difficult attempt [7]. Taking into consideration the SIGMA papers on the European Administrative Space, the constitutional doctrine (specifically the one relevant to the characteristics of the general, legal norm) as well as the works of other scholars on public administration reforms in Central and Eastern European acceding countries, this paper considers that rule of law is quantifiable by means of (1) law stability and (2) political consensus on the content and implementation procedures of the law.

In what concerns the question of *law stability*, Central and Eastern European Countries have genuinely known a rather unstable legal framework [8] that actually generated several negative remarks of the European Commission on the progress towards accession to the European Union (in the Regular Report of 1998–2004; and in the Monitoring Reports of 2005–2006). Therefore, a clear vision of the stability of the law is necessary when discussing the actual put in practice of the rule of law principle.

Political consensus on the final form of the law as well as on the methods for implementing the law is again, a very important factor in the making and maintenance of the rule of law. For the Central and Eastern European Countries, the process of accession to the European Union was overall perceived as a positive one (all countries scored high percentages of Euro-optimists in Euro-barometers): hence,

many of the political factors in the reforming times were in agreement on following the exact patterns set forward by the European institutions. That did not necessarily create a true culture for the rule of law, but it at least strengthened its institutional building [7].

2.2. Openness towards Citizens

The principle of openness and transparency draws from the reality that public administration is the *resonator of the society*, ensuring the interface with the citizen, the user of its services [5]. The development of different social phenomena, such as the corruption or mal-administration, must be controlled by the society. This urges the administration to become available and to offer sufficient information to the exterior. As such, the openness and transparency refer to these exact attitudes and constitute the necessary instruments for achieving the rule of law and the equality before the law and its representatives. One protects both public and individual interests by ensuring the openness and transparency.

The reference goes here to the practices imposed by the administrative principles, like in the case of administrative actions being accompanied by statements of reasons, *etc.* To this, one may add the necessity for the public administration to grant a non-discriminated access to public recordings and to recognize the possibility of citizens to address complaints in case of mal-administration. It should be noted that openness gained new characteristics once the public administration was considered to be a public service. In this context, openness became acquisitive to the citizens or other authorities' initiatives regarding the improvement of public services and their getting closer to the citizen. In this context, open administration emerged as a new concept [5].

For the scope of this paper, the operationalisation of the criterion of "openness towards citizens" took into account the issues of discrimination and equality before the law. Deriving from a democratic rule of law, an open public administration was considered to be the one that allowed citizens to participate to the decision-making process, without being discriminated on grounds of sex, race, ethnicity, fortune, *etc.* [9]. Also, considering that in the process of acquiring domestic salience of the principles of administrative openness and transparency, Western practices and principles of administration were delivered as good examples, Central and Eastern European countries actually legitimized their changes by creating an ideal picture of the European Union of the 15s. In fact the authors analyzed the potential clash the individual civil servant saw between his/her own administration and that of the European Union's older Member States.

2.3. Self-Responsibility of the Public Administration

As formulated by [6], accountability is one of the instruments showing that principles like the rule of law, openness, transparency, impartiality, and equality before the law are respected; it is essential to ensuring values such as efficiency, effectiveness, reliability, and predictability of public administration. As it is described in the doctrine, accountability means that any administrative authority or institution as well as civil servants or public employees should be answerable for its actions to other administrative, legislative or judicial authorities. Furthermore, accountability also requires that no authority should be exempt from scrutiny or review by others, which means that, simultaneously or priory, mechanisms for implementation are created. These mechanisms contain a

complex of formal procedures that give a concrete form to the accountability act, as well as supervision procedures that aim to ensure the administrative principle of “administration through law”, as it is essential to protect both the public interest and the rights of individuals as well [5].

In operationalising the principle of accountability, this paper introduced the concept of self-responsibility of the public administration. In this argument, self-responsibility implies the capacity of public administration to acknowledge its own behaviours when confronted with its citizens. Closely connected to the principle of openness and transparency, self-responsibility is defined by means of formal organization, legal procedures and current practices it exhibits in the interaction with the citizens. The concepts presented above receive a particular attention because of the assumptions this paper makes: public employees tend to assume that the responsibility for mal-practices belongs to the head(s) of their organizations or even to the citizens themselves. The eventual absence of internal evaluation and control of practices would most likely conclude the lack of internal salience of any accountability-related norm. Corruption is another subject of interest in this paper: as argued by [10], public administration in transition countries faced the doubts of corruption and therefore tended to be considered by their citizens and sometimes, their employees, as less trust-worthy than they actually were. In this respect, legal procedures aiming at ensuring the existence of accountability mechanisms seem rather not-internalized, than salient.

3. Empirical Evidences on the Internalization of the European Administrative Space in Romania

The socio-statistic research presented in this paper was based on a representative sample of Romanian civil servants and public employees from central and local public administration and employees in the tertiary sector [7].

3.1. Description of the Sample

The research was conducted based on a face to face questionnaire that was applied in March 2008 to 634 subjects, of which 592 offered valid inputs. According to the working place of the subjects, 22.2% of them were civil servants employed in the central public administration, 5.4% worked as civil servants in the territorial administration and 26.9 % in local public administration. Due to the present trends in delivering the public services in Romania, the sample used also comprised of representatives of the tertiary sector. As such, 15.1% of the subjects belong to private organizations that perform public services, 3.7% represent autonomous organizations and 26.7% work within the quaternary sector (26.7%).

3.2. Structure of the Questionnaire

The questionnaire was structured on three major themes, correlated to the basic principles of the European Administrative Space: rule of law, openness towards citizens and self-responsibility of the public administration. The variables defined and used in the questionnaire are to be found on three levels of aggregation, in connection to the objectives of investigation as formulated for the three major themes. In order to evaluate the quantitative characteristics associated to each primary variable, we used the report scales with values in the following set {1, 2, 3, 4, 5} or {0, 1}. The values of the scales

were equidistant. The primary variables were directly defined based on the questions of the questionnaire. The primary variables were grouped in relation to the connections set between them by the relevant doctrine. The aggregation module was established in relation to the common statistical methods. Usually, the authors calculated the level of values and (or) the descriptive indicators that characterize the mean, the variance, the asymmetry and skewness for the majority of primary and aggregated variables

3.3. Rule of Law

The *Rulelaw* (q1) variable was designed as a level 3 aggregated variable and was obtained from the aggregation of level 2 variables [6]. The latter referred to: the legislative sustainability (SusLeg–q11), elimination of deficiencies in the national administrative system (ElDef–q12), causes of deficiencies in applying the administrative ruling (CausDef–q13), the necessary conditions for the welfare of administrative activities (NecCond–q14), as well as the necessary conditions for stabilizing the legislative framework (NecStab–q15).

The legislative sustainability (SusLeg) offers an empirical image of the level of sustainability of the legal and normative framework of the public administration. Aggregating four primary variables formed this variable: perception on stability (q11a), clarity (q11b), complexity (q11c) and comprehensiveness (q11d). The statistical analysis proved a low level of knowledge of the European Administrative Space principles and a high interest in considering the complexity as the most important feature of the system.

Eliminating the deficiencies in the national administrative system (ElDef) attempts to identify the ways to eliminate the deficiencies in the national administrative system, suggesting as premises for analysis: the internal political consensus (q12a), the control of the legality of administrative acts (q12b), the speed of the procedures aimed at adopting the law (q12c) and the control of the law application (q12d).

The most notable observation here is that the majority of answers advocated in favour of a rigorous control of the legality of administrative acts and almost equally they indicated the rest of the methods. Also, one may observe that the answers generally tended to opt for a complex of alternatives aimed at the good functioning of the national administrative system.

The analysis of several relevant characteristics of the four variables indicated a majority option towards the need of control of decision-making process (56.2%). The rest of variables were equally representative (38.4%–41%). The Skewness Coefficient close to 0 in a rather equal value (0.237–0.247) indicates a symmetrical distribution of the answers.

Enforcing the administrative rules –To define this variable the authors took into consideration the current situation of the Romanian public administration, one that suggested that there were a lack of laws, and consequently instruments and procedures for implementing the laws, and a high degree of methodological inconsistency within the existent laws. In such case, the four variables refer to the concomitant existence of several contradictory legal procedures (q13a), and methodological and procedural provisions (q13b), and the absence of a proper legislative framework for driving an efficient administrative action (q13c) and of a methodology for the proper application of the law (q13d).

The analysis of the statistical characteristics of the four variables point to a high percentage (48.35%) of contradictory legal provisions, while for the rest of variables, the percentage is approximately equal (38.26%–39.13%). The simultaneous appearance of several types of causes that affect the application of administrative rules may be pointed by analyzing the sum dependent variable. If one eliminates the lack of options for one of the four variables, one may find that 48.5% of the answers opt for the simultaneity of several causes of the ill enforcement of administrative rule.

Improving the legal framework specific to the administrative rules—Deepening the internalization of the European Administrative Space principles in the Romanian public administration needs continuous and diverse legal provisions so as to more properly describe the new realities of the reformed administration. The actual assessment offers a more opportune perspective on four directions derived from both the strategic reform orientation as well as from the good European practices and the principles of the European Administrative Space. In this context, four variables present the stabilization of the normative framework in force (q14a), regulation of new administrative realities (q14b), increasing the complexity of the legal provisions (q14c), as well as a better correlation of the legislative provisions (q14d). There was the possibility of multiple answers, and an analysis of the results gave us the certitude of the need to approach the process described by the four variables in a more complex manner. The analysis of the statistical characteristics of the four variables shows a high ratio (60.5%) of the options regarding the better correlation of the legal provisions, followed by the stabilization of the legal framework (46.1%).

Stability of legal framework of the public administration—The study of different reports on the state of art and the problematic of the Romanian public administration pointed towards some of the most important problems regarding the stability of the legal framework of the public administration. The multitude of legal texts, as well as their frequent amendments, determined a serious and disruptive phenomenon that endangered, as it would be shown, the internalization of the European Administrative Space principles. In that context, we considered necessary to introduce several control variables that should evaluate the views inside the system in regard to the stability of a certain legal framework. Using such control variables was considered complementary to the already defined variables of the European Administrative Space principles. The characteristics of the control variable denoted, on one hand, the general opinion (46.8%) according to which the legal framework was stable after a minimum of 5 years practice. Also, 38.6% of the answers linked the stability to a minimum 10 years practice, while only 14.6% supported the idea of stability as linked to a minimum 1 year of practice. Naturally, considering the type of variables, the one in question is independent in connection to all other aggregated variables, its Pearson correlation coefficients being between -0.042 and 0.032 .

3.4. Openness towards Citizens

The evaluation of the openness towards citizens of the public administration is based on four aggregated variables of level 2, which in accordance to the principles of the European Administrative Space and their content take the following into consideration: Firstly, the internal assessment—from a national and European perspective—of the level of multiplication and implementation of the situations in which administration works for the citizens does not discriminate them and treats them equally. Secondly, the degrees of multiplication and implementation of the non-discriminatory attitudes

(towards religion, ethnicity, gender, sex, disabilities, *etc.*), as well as different other important characteristics of the public administration regarding the institutional transparency, the procedural simplification and equity, the efficiency, the dynamism and coherence of the actions, the decisional objectivity and the political independence.

For the scope of this analysis, we have taken into consideration the features presented by the national and European public administrations when connected to the citizens [7]. Also, the questionnaire analyzed the perception on the non-discrimination (based on religion, ethnicity, gender, sex and disabilities) of citizens in relation to the public administration. The characteristics of an open administration were also taken into consideration. As such, we included there the institutional transparency, the simplification, equity and decisional and procedural objectivity, as well as the political independency. These characteristics that are not to be treated exhaustively, have been evaluated by introducing several complementary, binary variables whose aggregation should offer us a proper image on the current state of art in the Romanian public administration.

We observed that the considerably low means of several variables refer to the administrative simplification (0.0835), the organizational dynamics (0.0975) and the coherence of the actions (0.0922). This might lead to more serious analyses on the evolution of the bureaucratic processes in the Romanian public administration. The qualitative conclusions expressed by the media as well as by scholars and practitioners regarding the low efficiency of the Romanian public administration, the lack of institutional transparency and decisional objectivity are confirmed by our data. As such, the aspects we analyzed remain, in perspective, the most important characteristics to influence the general level of internalization of the principles and values of the European Administrative Space.

The highest mean (0.2522) we obtained for the political independency may be explained due to the structure of the sample we used, which included a significant high ratio of high civil servants that were usually the target group for political interventions. An analysis of the Pearson correlation notes positive correlations, of low intensity (0.078–0.412) between all the variables in question, except that of political independency, negatively correlated to the rest of variables.

The four aggregated variables offered both an evaluation regarding the level of internalization of the principles and values of the European Administrative Space regarding the openness of the Romanian public administration towards citizens (q21, q23, q24), as well as an image on the way the answer givers see the European administration as a service in the benefit of the citizen (q22). The idea of seeing the national and European public administration as a public service working for the citizens strengthens the latter's characteristics regarding the non-discrimination and equality in connection to the public service.

Amongst the empirical opinions expressed, the two variables—one referring to the Romanian administration (q21) and the other regarding the European administration—are statistically correlated (0.447).

3.5. *Self-Responsibility of the Public Administration*

This level 3 aggregated variable attempts to analyze the internal transformations, specific to administrative organizations that may lead to the increase of internal responsibility and to create the

conditions for evolution of the public administration in accordance to the processes of the European Administrative Space. The independent variables are multiple [7], and they lead to:

- Evaluation of the responsibility for the administrative “failure” to the European level (q31) or the national one (q32);
- Description of the instruments and frequencies of using the latter to the practice of the public administration (q33);
- Description of the main characteristics of the civil servants of the national public administrations (q34);
- Emphasizing the simpler “ways” to solve the problems raised by citizens (q35);
- Self-assessment of the opinions of the public authorities regarding the implication of the citizens in the decision-making process (q36).

General, national view of the administrative “failure” in a European country—The administrative “failure” refers to the concept of mal-administration, the absence or inconsistency of the democratic procedures of the administrative system, the lack of a strategic vision at central or local level and, of course, the inefficiency of administrative processes. In this context, the variables empirically evaluate the responsibility specific to the main actors of the decisional and operational bodies of the administration. The assessment offers a comparative landmark for the Romanian public administration, in comparison to the perception of the European realities. As expected, the highest responsibility is placed under the central Government (58.6%), the local authorities (47.5%) and the civil servants (28.2%). It is rather interesting the opinion on the responsibility of the citizens (11.7%), far higher than the responsibility placed to the President/leader of the state.

Evaluation of the administrative “failure” in Romania—In the context of understanding the “failure”, the actors taken into consideration were only the national ones. The most important changes in the views expressed refer to the increase in the complexity of responsibilities with almost 11%, as well as of the President’s responsibility (with 4%), that of the Prime Minister (with 5%), of the Parliament (with 5.5%), as well as of the other actors, except the citizens. Just in the European case, the responsibility belongs, in average, to only two up to three actors, but due to a standard deviation, it points to a relevant responsibility of more than four actors.

Instruments and procedures for the organization of daily public administration activities—The internalization in daily activity of the public administration of several instruments, procedures and best practices of the European administrations of the European Administrative Space represents one of the most important objectives of the diversification and further investigation of the principles of the European Administrative Space.

Analyzing the current activity of several administrations, the present assessment took into account six instruments and procedures relevant to the organization and scientific planning (q33a, q33b), internal audit (q33c), assessment of the employees and their activity (q33d, q33e) and the monitoring of the activities (q33f). We observed that the most often used instruments are: assessment of the employees (55.3%), internal audit (41%) and action plans (39%). Their high frequency is determined by the necessity to respect several legal provisions specific to public administration in Romania.

Characteristics of the Romanian civil servants—We have included in this study several variables on civil service, based on our conclusion that almost all the studies regarding the public sector reform and

public management reform give a special attention to the development of the civil service as a politically independent, meritocratic, professional and ethical service. In this context, we have stopped to six independent variables that in our view are the most relevant for the extension of the European Administrative Space: objectivity (q34a), political independence (q34b), morality (q34c), tolerance (q34d), professionalism (q34e) and integrity (q34f). All their opposite characteristics were also evaluated and presented. Using a bivalent evaluation, we consider the study of the six variables to be relevant (the other variables remained complementary).

The research showed three important groups of the main characteristics of the civil servants: professionalism and tolerance (40–50%), morality and political independence (32–37%) and integrity and objectivity (25–28%). Generally, the options were significant increase for professionalism and political independence; this comes as a contradiction with the current academic and public opinion views. This situation may be justified by the fact that our target group was formed out of civil servants (management and operational). Placing together the answers, we find a considerable relevancy to two up to three characteristics (41%), but also, of all other characteristics (3.8%).

Evaluation of preferential attitudes in civil services—Public administrations in the states that have recently become part of the European Union are suspected, just fully, to have developed favorable attitudes towards certain citizens. This attitude, not in line with the principles of the European Administrative Space, is determined by several causes, amongst which for this present study we have selected only the following:

1. Granting of gifts or mutual services in exchange of public services (q35a);
2. Existence of mutual acquaintances or direct connections (friendship relations, family relationships) (q35b);
3. Membership in the same party of interest groups (q35c).

Perception on the impact of citizens on decision-making process—The implication of citizens in the decision-making process is clearly established in the Romanian legal provisions. The studies and analyses reveal an attitude, not quite favorable, of the public administrators. As such, the variable is quite relevant, and it evaluates the negative perception the citizens have in connection to the public authorities. The independent variables separately evaluate:

1. “The discontent” with regard to the administrative actions due to the citizens’ involvement in the decision-making process (q36a);
2. “The delay” in taking a decision due to the involvement of citizens in the decision-making process (q36b);
3. “The lack of practical utility” of the involvement of citizens in the decision-making process (q36c).

4. Conclusions

These conclusions aim to make a quantitative assessment of the internalization of the principles and values of the European Administrative Space in the Romanian public administration. These principles referred to the rule of law, openness towards citizens and self-responsibility of the public administration. For the rule of law variables, the research showed a medium internalization ($m = 2.47$),

with a majority of answers favoring the instability, confusion, simplicity and incompleteness of the Romanian legal framework. The Romanian public administration seems to be open towards its citizens (at least in terms of the existent legal framework), but fails in producing solid proofs for not being subject to corruption. If things seemed to go in the wrong direction for a sound public administration development, then the responsibility was considered to be both in the hands of the central and local governments. Citizens are somehow passive viewers of the public administration: not sharing any relevant responsibility for the failure of the administration, they become visible only when being directly affected, interested in the decision-making process. Then, civil servants perceive them as obstacles in the well functioning of the system, and they perceive the system as unfriendly and corrupt.

The research showed that there is a serious need for deepening the analysis on the apparent clash between substantive and formal in public administration reforming. To this end, this paper offers a starting point and advocates in favor of expanding the public administration research towards quantitative and qualitative analyses, rather than to pure descriptive arguments.

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