

Public administration between the legal issue and ethics

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***Abstract:** The activity carried out within the public administration has been the background for researchers and practitioners in the matter. The key-factors, which are taken in their objective, refer to different issues of the public administration. In the current paper, I would like to highlight certain aspects regarding the connection between the legal provisions, which regulate the area of public administration, and the ethical ones, due to the fact that, as I will state below, an intrinsic relation between the two categories of rules already exists. At the same time, the principles and notions of the public servants' ethical culture will be taken into consideration in the current paper.*

***Keywords:** public administration; public servants; legal provisions; ethical culture.*

General consideration

In order to debate the specific features of the activity within the public administration as well as to detail the most important elements and principles of this activity, I would like to emphasize a description related to the legal framework in administrative matter and also to the public servants' rights and duties.

The most ample aspects provided in the area of public administration are regulated by the Law on the public servants statute. It regulates the legal provisions on the other categories of public servants too and, for this reason it is the special law in the matter, which responds to the social life needs in this domain.

1. Correlation between the legal provisions and ethics

The legal provisions are being entirely concordance with the theory of duties and the morality structure as well as with the relation of ethics in respect of the duty value. From a theoretical point of view, the term of "must" has a large area of applicability, delimiting from the classical society, the diverse of both social and economic activity or even cultural ones.

In this context, inter-human social relations stated within the public administration, appear as unbreakable connected to the ethical rules, without those it is not possible. At the same time, the legal provisions that regulate the activity within the public administration cannot be conceived without the existing diversity of norms. The ensemble of norms is drawn up from several systems, but the current study is focuses on both legal and ethical rules.

Even if some differences between the two categories of rules exist, essential ones, actually they present certain common features and correlations.

Doctrine focuses attention on highlighting differences between them, legal norms and ethics, which is viewed as a task of the metatheory of norms systems [C. Popa, 1969, p. 70].

The existence of various forms of activity is regulated in the public administration requires, at the same time, the delimitation of their decisive features, also fundamental ones. Of a highest interest, it is the relation between legal norms and ethics, as I stated above.

The law and morality are two important issues of developing activity in the public administration. They are in an interdependent connection, as it will be emphasized below. From a historical point of view, the law was separated from the ethics a long time ago. The interest of the current study on these connections

is determined of the fact that the legal provisions cannot be recognized exclusively through underlining their positive size, but also through substantiation of their moral status.

Although the morality has as object of regulation the internal facts and the public servants' intention, the law has as object of regulation the public servants' external material acts, in light of the innermost intention.

As much time as the moral rules order to public servants to be right, they also commend a morally behavior, a true intention. As soon as this interaction is manifested externally through a behavioral act in relation with citizens, the juridical phenomenon appears as a consequence [M. Djuvara, p. 576].

The society offers the field on which the connectivity between the law and ethical issue is fully expressed. On this field, favorable for a continuous development of the spiritual-ideological physiognomy, the report between the law and morality acquires new significances.

The fundamental feature between the law and ethics in the area of public administration is given by its *universality*. The entire activity the public servants are carries out must be synchronized with the legal provisions and morale conceptions. Moreover, several morale rules were established legally and most of the legal provisions are contained also into the ethical rules.

2. Delimitation between the legal norms and the ethics rules

The morale base of the legal regulations as well as their morale legitimacy are expanded as a consequence of the efforts to organize social relations as much as possible based on the principles of *equity and ethics*.

In this context, it is necessary to provide some conclusive considerations, in the attempt to separate the two categories of norms – legal ones and ethical ones.

a. As a social rule, the legal provision means the expression of the legislator's desire to regulate the public servants' activity;

b. Analyzing legal norm structure, it is important for placing it in opposition with the ethical ones.

c. Differences between the legal provisions and ethics can be established on how they are created. In spite of the morale rules, the entrance into force of the legal provisions is connected to a particular procedure.

Unlike the morale rules, which remain always externally from the legal ones, the law develops particular relations with even it is not a source for the law [D. Magherescu, 2005, p. 122-123]. These cases are grown each other in a symbiotic frame, which gain specific feature.

Between the ethics and the legal provisions a difference already exists: in order to respect the rules of ethics, individuals cannot use the coercion in case of need, while in respecting legal provisions the law enforcements usually use coercion.

For this reason, it is appreciated if the public servants would respect the rules of ethics and do not violate them because they are forced to do so, then their behavior would not have a morale value, because the public servants would not have done right determined exclusively by own desire.

However, if the public servants respects and do not violate the legal provisions as regulated in the legislation into force because he is coerced by them, then such a behavior will not lose its own value, because the public servant complies with these norms, which is desirable. For this reason, the public servant's behavior can be in accordance with the legal provisions, but it cannot be in accordance with the morality. It is also appreciated not all things right are honest, proceeding from the Latin language adage "*non omne quod licet honestum est!*"

Considering all these ideas stated above, it is important to bear in mind not just the legal provisions must guide the public servant's activity within the public administration, but the ethical rules as well.

In other words, both the legal provisions and ethics ones are distinguished one from the other due to the fact that the last ones do not have enough means of coercion stated by law enforcement. Actually, they

are some light kinds of means. Although the legal provisions are different from the ethical ones, there is an interdependent relation between them, but not an opposition one. Hypothetically speaking, if an opposition relation would regulate this balance of rules, then an illegal issue would be right and conversely, a legal provision would be wrong.

As a consequence, the interdependent relation between the legal and ethical provisions focuses to the idea of legality of both notions and for this reason, it could be stated that is wrong to the legal provisions cannot be accepted by ethics.

This means that the interdependent relation supports each other. As it is usually stated, the morale actions contrary to fame, authority, bashfulness infringe morals and, for this reason, they cannot be used. The principle came from the Roman Empire and has been acknowledged by the high respected solicitor Papinian, who declared: „*quae facta laedunt pietatem, existimationem verecudiam nostram et ut generaliter dixerim, contra bonom mores fiunt, nec facere nos posse credentum est*” [S. G. Longinescu în D. Magherescu, 2005, p. 123].

The frontiers between these two notions are always flexible. This means they can easy change. In this respect, a morale rule can be regulated legally and can become a juridical rule and otherwise a legal norm can turn in a morale rule.

On the other hand, the legal provisions differ from the morale ones substantially. Nevertheless, due to the fact that the law is a part of the entire society, it can generate the idea the morality cannot be integrated into the legal provisions. The nexus ethics – law is strengthened and useful having both of them the same degree of truth. Thus, the absolutism and relativity as the neutrality and arbitrary must characterize these rules.

Despite these opinions, I consider a contradiction is not possible at the moment, due to the fact that both rules are also featured by acting norms, which are reciprocally completed each other. As a consequence, they have a unique basis.

3. Moral concept in the public administration

The juridical provisions are the legal framework of the ethical rules within the public administration. This is because of the fact that they regulate the activity in this area. Social actions committed by the public servants in their duties are sanctioned by the legal provisions into force. In this way, a major role is occurred by the legal provisions on combating corruption, being known the offences of corruption are usually met in carrying out the activity in the matter. It is a wrong “practice”, misunderstood by several public servants, who choose to commit antisocial actions of serious crimes.

Doctrine appreciates “*the Romanian state can become strong functional, harmonious as well as well-balanced only by reforming and modernizing its institutions in such a way of regaining citizens’ trust in them and their employers*” [N. Niță, 2012, p. 222].

For this reason, the idea of considering democracy as being the land in which the individual can act independent of the rule of social life together, adopted by the state authorities, even the state of law conducts to the freedom of action, is wrong. However, this freedom cannot be an unlimited one, but it must be always subordinated to the public servant’s legal consciousness. For this reason, it was appreciated “*usually who respects the law must be protected against those who do not respect it*” [N. Niță, 2012, p. 222-223].

I highlighted this remark in order to observe how important the cognition and respecting legal provision is in context of their juxtaposition on the ethical and morale rules. This is because, the public servant’s ethical culture supposes, as it was emphasized earlier, a combination of impartiality, intellectual honesty as well as missing conflicts of interest.

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Taking into account these opinions, I consider, under the recognition of the public servants' responsibilities and their role in achieving general interests of society, the code on the public servants' professional ethics is very important due to its framework of morale rules, such as guidance, detailed rules, standards of carrying out their activity.

Both the public servants' objectives and main principles comprised in the code on ethical conducts are of a general feature and are not assigned to be used in order to solve the public servant's ethical issues in a particular case.

This code draws up progressing standards of the public servants' activity and establishes fundamental principles, which must be recognized by the public servants.

At the same time, it is well-known the political element plays an essential role in defining and outlining idea of democracy, on the one hand, and of the state of law, on the other hand. Therefore, taking into consideration these points of views, it must be appreciated "*the political class must be responsible by the real missing state of law, the politicians must provide and consolidate several bettering in the area of political conduct, which must be appreciated as crucial aspects of an entirely functional democracy*" [Niță, N., 2013, p. 59].

The rules and provisions of a civilized behavior, which is part of a behavior science, are changed permanently becoming in fact at the stage of the society development. This is a normal issue being known the ethical and aesthetic rules mean a reflection of social existence.

It was wrong appreciated the rules of behavior are to be learned naturally. Until becoming reflex, the civility also must be ubiquitously, done easily, as a conditioned reflex. In this respect, the civilized behavior in the public administration is compulsory from this point of view. It appears as a result of the principle of employers' involvement in achieving objectives within the organization they work with [N. Niță, 2013, p. 141-144].

Rising from an ethical code having a universal value, the behavior rules do not imply the feature of artificial attitude. From this point of view, it is well-known the civilized attitude does not necessitate variations depending on the people's mood we are confronting with. Nevertheless, the only one criterion of adopting a code by the public servants as its own behavior "code, is organized through objective-dialectical conception in the light of the individual's life ideal, its attitude in front of the society requirements and superior interests.

Thus, behavioral rules are part of a practical discipline, which implies a serious and strict self-control.

At the international level, the public servants must also have a dignified attitude to respect the institute's image and prestige abroad [A. Bogdan, A. M. Bogdan, 2009, p. 15-21]. In this respect, a series of international standards have been adopted applicable in such institutions having as main goal the social order and public security [A. Bogdan, 2009, A. M. Bogdan, p. 15-43]. For this reason, it is considered it aims to a *European standardization* in this matter. [N. Niță, 2013, p. 157] Moreover, a strengthened conviction shows as the future is one of "*developing standardization of all public services*" [N. Niță, 2013, p. 157].

In accordance with the public servants' behavioral code, people having a public position of authority in an international public institution or organization, education establishment, conference or any other international environment activities are obliged to promote a favorable image for their country as well as an appropriate authority for their institution they are work with.

At the same time, they must have an adequate behavior internationally, while collaborate with representatives of other states to which they cannot express their own opinions on national situations.

In the official trips, the public servants are obliged, in accordance with the same code, to endorse an appropriate protocol rules and not to violate the laws or the host country's habits [A. Bogdan, 2009, p. 21-23].

Conclusions

Considering all these points of views expressed in the current paper, I consider the scope of public administration to organize its activity and carry out the laws, as the main objective of governments, has been reached. It is observed how much the executive power are linked to the legislative one, as a strengthened interinstitutional cooperation, in accordance with the principle of separation of state powers [A. Bogdan, 2009, p. 112].

It is noticeable the fact that, in whole sides of both social and professional life, the public servant is kept of a particular status, which implies following strict rules as well as it requires to have such a behavior which makes it dignified for the public institution it works with.

Not in the last time, committing a high number of serious crimes, such as corruption offences, especially by the higher dignitaries, such as ministers for example, makes from the public functions a vulnerable field, which produced the diminution of the citizens' trust in carrying out administrative activity.

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