Convergence of the National Public Administration Systems within the European Union in the Context of the European Model Emergence

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Abstract: The long running history for over half a century of the European Union was marked initially by the need to approach the member states' administrations, with a view to getting them more compatible, as a prerequisite of the EU's functioning, at the foreseen political-legal and economic parameters, and then the respective tendency started to intensify progressively relative to the more and more ambitious goals and objectives of the European Union establishment. Today we witness an increased dynamics of such a process which seems to integrate even the specificities derived from the sovereignty elements, considered not long ago as sacred, at the states level, a processuality whose finality consists in the continuous consolidation of the European administrative area, as an essential corollary to the effective inter-community mechanisms development, equally as an effect of the states' integration but also a condition for the European project success. In such a context, the present approach proposes to analyse and identify the degree of cohesion and of similarity between the EU states administrations, which revolve around the emergence of the common characteristics, considered as authentic values of the administrative area, susceptible to be accepted altogether as bases for the European administration model, whose outline tends to become more visible.

Keywords: public administration; European integration; values; common characteristics; model

1. Evolutive Considerations

The period subsequent to the European Economic Community establishment, at mid of the XXth century, a landmark for Europe, which triggered an ample political-economic integration movement for the European states, subject to the same fundamental values, has meant also the establishment of an *administrative model*, able to reflect the new realities from the national administrations of these state entities.

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Therefore, we talk about the drawing up of a model which has become more and more visible in the last 50 years, having as vocation the projection of a design which, on the basis of acquiring experience supplied at both theoretical level, by the classic administrative models, and at concrete level, materialised in different historical times and in various geographical areas, tries to express and answer precisely to the European society needs from the end of the XXth and the beginning of the XXIth centuries, substantiating the European architecture, whose main coordinates are represented by the continuous European integration process.

In essence, having as starting point the Western states model, and implicitly of their administrations, which are based on the rule of law principles and exigencies, specific to the constitutional democracies that expresses the sovereign power of the people, the powers separation and equilibrium, but also the insurance of their citizens fundamental rights and liberties, as a set of common values, *the European administrative model*, perceived by some as a myth or an ideal, tries to express the constant traits characteristic to the administrative acquis, in the context of identifying the accession factors (Alexandru, 2008, p. 868 and next)[1] that are the foundation of the European administration.

Confronted with major challenges, the global economic crisis, the legitimacy decrease, citizens' trust crisis, the public administration can consolidate its legitimacy on the basis of a good communication with the citizens and vice versa, materialised into an increased administration receptivity, respectively by its more open approach for the citizen's need to free access to information. (Nicolescu, 2010)

From the evolutive point of view, we ought to say that the European communities were created in order to conjugate first the efforts towards the creation of a common economic market, and subsequently having in place an European Union animated by more than this, insisting on the political and social relationships between the European states.

Edifying, in this wide context of potential similarities between these national administrative systems, are: the identification of the common general conditions, assimilated as general prerequisites of belonging to the great European Union states family, and the accession criteria application, in compliance with the

[1]Ioan Alexandru identifies the political and historical factors as adherence factors between the European public administrations, beyond the obvious differences which appeared in the process of structuring and functioning of the national administrative systems.

provisions set by the Copenhagen European Council[1] from June 1993, respectively *the political and economic criteria*, as well as the criteria regarding *the capacity of each candidate country to assume obligations as a member state*[2].

Developing the last mentioned accession criterion, two years later in 1995, *the Madrid European Council*[3]outlined not only the importance of the inclusion of the acquis communautaire in the national legislation but especially the assurance of its effective application by establishing a proper administrative capacity building.

A new accession criterion was thus outlined which, albeit subsequent to the *capacity of assuming of the EU member state obligations,* represented an extremely important condition in the evaluation of the accession negotiations, namely *the administrative capacity of the candidate countries.* Actually, in the complex European accession process, it is highlighted that only by correlating efficiently the economic criteria with the political ones, respectively, the administrative ones, in their interdependence, it was possible to reach the proper legislative and administrative capacity, imposed by the European integration phenomenon.

From this point of view, the public administration represents both the object of some substantial transformations in the framework of a large reform process from the prospect of approaching and rendering compatible the European exigencies in the matter, and also the engine for the European Union requirements transposition into practice, *under regulatory aspect* – by preparing the draft legislation which transpose the Community legislation, but also *under the acquis implementation aspect* - by organising the concrete application of the harmonised legislation.

It is the reason why the fulfilment of the *political accession criterion* presupposes, among other requirements incorporated within the ample principles of *democracy and rule of law,* the requirements regarding *the organisation and functioning of the*

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[1] *The Copenhagen European Council,* 21-22 June 1993, adopted the historical decision for enlargement of the European Union towards East, establishing *the accession criteria* to be fulfilled by the candidate countries, as *sine qua non integration conditions.*

[2]The European bodies view is that the three accession criteria imply well-defined obligations in the task of the candidate countries, such as: *the political criterion* – the stability of the institutions that guarantee democracy, law supremacy, human rights and protection of national minorities; the economic criterion – existence of a functional market economy, the capacity to face competition pressure in the EU and *the capacity to undertake the obligations as a member state –undertaking the acquis communautaire, including the adhesion to the political, economic and monetary union objectives.*

[3] *The Madrid European Council,* 15-16 December 1995, established the need to create a progressive and harmonious integration of these sates, especially by developing a market economy, by adopting their administrative structures, as well as by creating a stable economic and monetary environment.

state public authorities, including the executive power, in the context when some minimal standards are required to be fulfilled with a view to substantiating the public administration.

Essentially, presenting connections and direct implications on the administrative effectiveness issues, *the basic European requirement* regarding the organisation and functioning of the public administration seeks as a priority to connect it with the democratic principles, characteristic to of the rule of law, as well as to subject it to the citizens' interest. Therefore, the fulfilment of this first accession criterion, from the exclusive point of view of the public administration, might be summed up as the need of its transformation and replacement on new and modern bases, in compliance with the principle of legality and citizens' fundamental rights and freedoms.

As far as the fulfilment of the second accession criterion is concerned, namely *the economic criterion*, the public administration receives the indirect role, assimilated to the creation of the mechanism able to apply the governmental policies aimed at achieving a *functional market economy.*

Regarding the fulfilment of the third accession criterion, respectively the capacity to undertake the EU member state obligations, we can say that the public administration has got precise obligations and responsibilities, greater from the standpoint of its activities result, especially at the level of *the national regulations harmonisation with the Community's regulations.*

Essentially, the role of the public administration, with reference to this accession criterion, focuses mainly on the activity of preparation, elaboration and promotion of the entire legislation which presupposes the adoption of the acquis communautaire, and thus revealing an increased task in the legislative field. Second, the administration has to create, based also on the law, or, if necessary, to develop, the pre-existent administrative structures, imposed by the acquis and meant to implement effectively the national harmonised legislation, with identical effects, similar to those of the other national EU administrations and in accordance with the European objectives and policies.

At the same time, this extremely complex criterion regarding *the capacity to undertake the EU member state obligations* highlights the precise role and functions of the public administration through its fourth accession criterion –*the administrative capacity.* As a concept, *the administrative capacity* designates the totality of the European requirements, opposable to the organisation and

functioning of the public administration from the candidate country, namely the assurance of its efficient and effective functioning, able to respond to the Community's requirements, by undertaking and implementing of the acquis.

From a certain perspective, the global one, the requirements implied by the administrative capacity sums up and highlights at the same time the flexible and specialised institutional architecture, the fundamental organisation and functioning rules for the public administration, but mostly the functions it has to fulfill in an efficient way, and thus crystallising intrinsically the public administration characteristics, implied by all the other accession interdependent criteria.

If the political criterion induces a new institutional and functional configuration of the public administration, modern andcitizen oriented, and in compliance with the principles of rule of law, democracy, legality and respect of citizens' rights and freedoms, the *administrative capacity criterion* confers it new responsibilities, from the prospect of its efficiency, as related to the new assumed functions, deriving from the compliance with the European norms.

It thus incorporates rather qualitative than quantitative requirements which focus *on the acquis implementation*, prospect which implies professionalism, competence, a certain degree of functional autonomy acknowledged to some of the administrative structures, improvement of the public sector management, reconceiving of the human resources policies and management.

2. Correlation between the Integration Process and the Administration Reform in the EU Countries

Quite often though, such an approach of achieving such desirable parameters, as mentioned before, highlights an inextricable and very close connection between the European process and the administrative reform in each country.

The barometer of such a public administration reform, as amplitude and efficiency, must be represented by the answer offered by the public administration to the following question: the national administration of the candidate country will be able to apply in due time the entire European law aggregate?

However, it is necessary to outline that this relationship between the integration process and the administrative reform, although strong, it is not a direct but rather an indirect one, given the fact that there is no question to address in the European

integration area a general *acquis communautaire* regarding the public administration.

According to their Constitutions, each candidate country is free to establish its own administration in its particular manner.

Such an observation can be drawn up from *the application of the subsidiary principle*, as fundamental principle for the functioning of the European Union, which encourages rather finding solutions at national levels than involving the European institutions. According to this philosophy of the European architecture, each member state or candidate country can undertake *the freedom* to organise its own administration, with specific rules and institutions able to answer to the state needs, according to the administrative realities.

For this reason, various administrative structures, particular public administration functioning rules, different from one country to another, may be found in the European countries.

Even if an indirect one, the needed relationship between the accession process and the public administration reform is a real one, because each EU country should be able to implement the Community's policies and apply at home the *acquis communautaire.*

From such a perspective, it results the need for each country to behold a quite effective administration, a very important obligation for the European Union itself, as well as for each member state.

The motivation for such a requirement incumbent upon the national administrations is represented by the fact that the European Union lacks its own administration with branches in each member state, and it relies especially on each national administration in the process of implementation of the Community decisions. Likewise, each state should rely on the other states administrations regarding the application of the common rules, incorporated in the concept of *acquis communautaire*.

Therefore, the European administration represents mainly the communication channel between the national administrations, whose stability is reflected concretely through the efficiency of the European law application and thus contributing to assure the functionality of the European Union, implicitly to fulfil its objectives provided by the European treaties, nowadays by the *Treaty on*

European Union and, respectively, the *Treaty of the Functioning of the European Union*, integral parts from *the Lisbon Treaty*[1].

Hence we can asseverate that in the field of public administration, the candidate countries and subsequently the member states do not have incumbent *means obligations* but rather *results obligations* materialised in the establishment of higher exigencies regarding the administrative performance. They are as necessary as possible and also significant regarding the performing of the main function of administrative systems, namely within the applicative function *of implementing the legal norms.*

To limit the capacity of undertaking the obligations deriving from the quality of member state exclusively to the normative approach of taking up the *acquis communautaire* without taking into account the concrete plan to apply the harmonised legal norms would mean an incomplete process, devoid of the pursued legal effects. To adopt a legal regulation, beyond the formal-procedural level, which is also very important by itself, presupposes mainly to design fundamental changes in the objective reality of the legal reports, while the application of the legal norms would represent the purpose of any type of normative approach.

Therefore, it is necessary to grant the proper importance to the legislation implementation process, initially an abstract process and comprised in many regulations, by emphasizing the measures for preparation, organisation of the application and the concrete application of the law, as obvious incumbent obligations for the public administration.

To implement means to make things happen in the real world, to have in place the capacity to impose and monitor the changes resulting from the reform of the process, procedures, structures which materialise finally in quantifiable benefits. From all the phases of the change process, the implementation represents the most difficult stage, which needs besides the will, the existence of the proper means and resources, so that it would be possible to achieve certainly the foreseen objectives.

Moreover, by granting a higher attention to *the managerial function*, it is essential to accompany the phase of direct implementation of the European law or of the harmonised legislation with continuous monitoring and control activities, performed regularly and insisting on the adaptation capacity and preparation for the

[1]*Treaty of Lisbon (initially known as the Reform Treaty)was signed in Lisbon on* 13 December 2007 and came into effect from 1st of December 2009 (Official Journal C 83, 30 march 2010).

necessary changes needed to achieve the set objectives. In this context, the acquis implementation requires the involvement of all administrative branches, at both central and local levels, bringing about in principal the adjustment of the internal organisational structures through the orientation of these public administration authorities mainly towards the European Union integration programs and requirements.

Beyond these, the new European philosophy on the functioning parameters of the national administration systems relies on the concept of good administration[1], assimilated with an authentic subjective right, acknowledged to the European citizen mainly in the relationship with the EU institutions, but whose spirit might tailor properly in the administrative architecture, mechanisms and activity at each member state level. We take into account here especially the fundamental role exerted by the national ombudsman institution to defend this European fundamental right, as well as the constitutional and legal relationships established for this purpose with the public authorities and institutions, and with the national non-governmental bodies (Cocoşatu, 2012, p. 5). Actually, such a fundamental concept, which represents one of the common values of the EU states, is absorbed implicitly by *the European administration model*, expressing equally a coordinate for the states modernisation (Manda & Nicolescu, 2012, p. 235 and next) in the light of joining this value system.

3. The Fundamental Traits of the European Administration Model

The essential traits of the European model can be structured in two distinct groups which envisages the general projection of the model architecture, at institutional level, while the latter regards the organisational aspects but also the resources of such a system, which are meant to develop its mechanisms and which regards its concrete functioning.

That is why, the first group comprises among the intrinsic parameters of the model, first the *subordination of the administration to the political power*, as the

[1]*EU Charter of Fundamental Rights* enshrines in the virtue of the European citizenship, according to art. 41, the right to a good administration, a right of complex legal substance which imposes several *obligations* for public administration in relationship with the citizens. See also Manda, C.C., Nicolescu, C.E. „*The right to a good administration – from the need of constitutional consecration to its implications of public administration reform in Romania*", *Valahia University Law Study*, Supplement, 2013, p. 381 and next.

legitimate, elected power, expressing the sovereign will of the European countries, in the context of the rule of law and of the constitutional democracy, following the liberal model. Second, *the separation of the administration from the political power,* and thus emphasising, like in Weber's model, the idea of political neutrality, of clear distinction between administrative and politics, as distinct positions and roles and, at the same time, complementary in society although they are situated at different levels.

Closely linked to this, the second group comprises as elements or *derived traits* the following essential values which represent part of the common democratic values, specific to the rule of law, designating a series of general-common conditions for the EU states administrations:

- *the local autonomy* – assimilated to a genuine right of the local administration, acknowledged by the state in the Constitution or in the law, is a constant, an element belonging to *the acquis communautaire*, inscribed in the Treaty of Lisbon, valid for the entire European administrative area. It expresses not only a new philosophy which establishes and encourages the democracy at local level, but also supposes the extension of a certain form of public tasks management at the level of local communities, the most efficient and proper being addressed by the administrative decentralization. Moreover, it is imperative to consolidate the local autonomy, both from functional perspective and the amplitude of decentralising the public services, in the ideal context of double integration of the global command of the central administrative level and of the local control, which implies to get the administration closer to the citizens by *supplying operational and qualitative and less expensive services,* valuable to the citizens, but most of all rationalizing the supplementary tasks transferred from central to local level. On the other hand, it is imperative to assure properly the needed financial and material resources, but also to decentralize the decision-making, resources and responsibilities, up to the most efficient and operational levels;

- *multiplying and getting more autonomous decision-making structures* – represents a new benchmark for the early 3rd millennium public administration, meaning the gradual renunciation to the hierarchical organisation, specific to the centralisation, and the replacement of the old systems by a novel organisation, based on the fulfilment of goals and more efficient performance of missions, by rapid decisions of those administrative agents who are able to upgrade the activity

and who are situated in the proximity of the real problems but also of the information, and thus rendering a sense to the idea of subsidiarity;

- *flexibility in the organization and management of the public function* – entails the renunciation to the traditional public function rigidity, based on career and encouragement of getting certain functions on contractual bases, making sense and introducing the *scientific management* rules in the administration activity, through professional, direct approach, identifying and promoting the specialized managers in the public sector, in the context of a more free, non-restrictive philosophy on the administrative systems, which allows, beyond formalism or redundant bureaucratic procedures, to find the solutions which permit a prompt intervention and answer to people's problems;

- *stability, neutrality and professionalism of the civil servants* –creating a professional, stable and politically neutral body of civil servants, involves a transparent, objective and fair process for recruitment, selection and promotion of the human resources, based on competition and especially of the civil servants, by using a hybrid dynamic system for access and promotion which combines the career system with the performance one. Second, the responsibility spirit and behaviour should be consolidated and promoted among the civil servants, but an institutional climate favourable in this regard should be equally assured;

- *debureaucratisation of the administrative structures through rationalization, simplification and efficiency, but also through transparency and access* to administration, in virtue *of the right to good administration* acknowledged for the European citizens – elimination of the burdening red tape, of the administrative excesses, requires that the organizational structures be simplified, restructured, accrued and activated. Thus, the futile administrative tasks, such as the inefficient ones, should be eliminated; another solution consists in undertaking as a strategic commitment the *complete implementation* of citizens electronic access to the public service by the administration;

- *enhancing the control over the public administration system* –assurance of public administration authorities' activities conformity with the law requirements involves that, no matter what form of control is exerted over this system, the control must be instrumented through the achievement of correlations between the performed activities, the organisational structures of these institutions and authorities, as well as their responsibilities and competencies. It is necessary to address new meanings to the control function, other than the traditional ones,

especially referring to the administrative control, where it must be verified, beyond the classic objectives of law observance – *the legality, the keystone of the rule of law,* including the legal aspects of *efficiency, effectiveness*, and, in general, the aspects regarding *the performances* of the administrative system. On the other hand, correlative to *the tendency of the public administration getting more autonomous*, as the administration gets more technical while also adapts itself naturally to the dynamic realities which involves a certain freedom of action, the control should assure continuously the constant subordination towards the state's political institutions, which stipulate the objectives or targets of the public administration, preserving the clear delimitation between the political domain and the administrative sphere.

4. Conclusions

In the light of the above mentioned, in compliance with the doctrine, despite the constant efforts of the EU member states to adapt continuously to the modern conditions, their administration structures being of old heritage and under the circumstances of absent uniform standards, the ideal model is still long-run (Alexandru, p. 876 and next). Nevertheless, sharing the public administration principles and values has led to a certain convergence between the national administration systems, *actually a pillar of the European administrative area, which* can be translated into the reduction of variants and disparities between these systems (Alexandru, p. 876 and next)[1].

Moreover, due to the fact that the administration is inextricably linked to the law application, the legislation, the law sources in general, the chances of a trans-national unification of the public law being maximum in the case of some close states communities which prove, in general, the same economic, social, cultural and political structures, the way it happens nowadays in the EU, we believe into an evolution through the creation of a *jus commune* on the European continent, with increased chances to crystallise the European administration model based on the common values of the European area.

[1] There are highlighted in this regard as component elements of the European Economic Area, the prerequisites for cooperation in the administrative field, compatibility and harmonisation of the administrative legislations, elimination of administrative barriers, the right for a good administration, *etc.*

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