The Administration's Crisis Multiplied by the Crisis of the Administrated

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Abstract: The starting point of this work is the idea that the concept of "crisis" should be approached with no fear. It is necessary to understand it as the signal which attracts attention upon the fact that some changes are appropriate and that some rationally thought actions ought to be taken in order to soften the social phenomena occurring within a crisis period. We may say that in the core of the crisis lies impregnated the basic substance of progress and that the moment when a crisis is declared is as well the moment of a new start. It is necessary to anticipate the crisis, in order to prepare the adequate means able to soften up the shocks created by its incipit and to bring forward the progress through its action itself. One of the most necessary and useful instruments able to smooth down the crisis' effects is the early education provided to the citizens concerning the frame of the behavior to be adopted in case of crisis. The officials and the public servants are the social actors who constitute the interface between the citizen who is going to suffer the crisis and this latter's exerted pressure. The personnel from the public administration has to assume the hardest role in reducing the most possible the crisis' effects. Some possibilities are analysed that could reduce the effects of the economical, social and political crises, among which the most important is the quality of juridical norms. The Romanian legislation concerning the public charge is studied, in respect to its capacity to motivate the public servant to perform at his up most level, during crisis periods but not only then. The idea is emphasized that panic and uncontrolled social movements in case of a crisis might lead to the multiplying of the negative effects. The personnel from the public administration comes to a direct confrontation with the pressure of the negative effect of the crisis, as it is received by the public administration - understood as a structure, multiplied by the number of persons which compose the civil society. Thus we may speak of a double sensed multiplying: the administration's crisis multiplied by the crisis of the administrated. This perspective involves a size index of more than 16 millions and might generate uncontrollable social phenomena. The central public administration holds the role of elaborating projects of normative acts and plans of concrete measures in order to prevent all types of crises. When the crisis is impossible to prevent, some management plans are required from it. De lege ferenda suggestions are formulated.

Keywords: crisis; optimistic approach; anticipation; means of action; regulation; statute of the public servant

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1. Introduction

The year 2010 has rendered the word ”crisis” actual for the existence of all the Romanian citizens, upon the background of the previous start of the economical crisis in the USA and in Europe. Then the Romanian government has placed at risk its level of popularity, when taking the action of reducing by 25% the salaries of budgetary employees[1], exposing itself to a huge critical analysis made by the civil society. Some citizens have claimed in judicial courts[2] the ascertainment of the illegal nature of this taken action[3]. Through its courts at various levels, the judicial power has stated in this matter. But the Constitutional Court of Romania, starting with its Decision nr. 872 from June 25-th 2010 and the Decision nr.874 from June 25-th 2010[4] “has ascertained as not validly grounded the non-constitutionnality objection raised against the legal dispositions concerning the quantum diminishing of the salaries for the budgetary personnel”[5]. The citizens have extended the debate of this matter to the outside of the Romanian borders, by suing the matter towards the Human Rights' European Court[6]; yet, “The European Court of Human Rights has confirmed the successive interpretations stated by the Constitutional Court but as well the ones stated by the High Court of Cassation and Justice which had ruled

[1] The Law nr.118/ 2010 concerning some necessary measures in view of restoring the budgetary equilibrium is published in Monitorul Oficial, Part I, nr.441 of June 30-th, 2010.

[2] For example the paper "Sed Lex" has more than 80000 lawsuits in court concerning the reduction of the salaries by 25%, Bucureşti, (November 12-th, 2010), hyperlink “http://www.mediafax.ro/social/sed-lex-are-peste-80-000-de-actiuni-in-instanta-privind-reducerea-salariilor-cu-25-7712285”, visited at October 4-th, 2014.

[3]Here are two examples: 1. “Six public servants from the Voineasa Mayor”s Office have forwarded a lawsuit against the institution, being angry about the salaries” reduction by 25%, due to some Government”s decisions. Two judges from the Baltcheshti local Court have also contested in court the measure of reducing wages, decided within the frame of the group of austerity actions taken issued by the Government. The Court has stated that to the eight persons should be returned the amount of wage rights differences for the months of July, August and September.” - in the paper: "The reduction of salaries by 25%,declared illegal by the Valcea Department”s Court", published in România Liberă online, at November 11-th, 2010, hyperlink "http://www.romanialibera.ro/economie/finante-personale/reducerea-salariilor-cu-25---declarata-ilegala-de-tribunalul-valcea-205674", visited at October 4-th, 2014; 2.Valcea Department”s Court, Civil Section, sentence of 14.10. 2010, cancelled through a decision from 24.03.2011 by the Appeal Court of Piteşti.

[4] They have been published in Monitorul Oficial, Part I, 433 of 28-th June 2010.

[5]The information comes from: the following address: Hyperlink: “http://legeaz.net/spete-civil/litigiu-functionari-publici-diminuari-salariale-577-2012” and from: the address: Hyperlink: “http://webcache.googleusercontent.com/search?q=cache:pekuoK9D9IMJ:www.hotararicedo.ro/index.php/news/2012/01/reducerea-salariilor-cu-25-prin-legea-nr-118-2010-compatibila-cu-art-1-protocolul-nr-1-cedo-decizia-inadmisibilitate-cauzele-felicia-mihaies-i-adrian-gavril-sentes-c.-romaniei&client=firefox-a&hl=ro&gl=ro&strip=1”, visited at October 4-th, 2014.

[6] *Ibidem*.

through a recourse in the interest of the law. However this recourse was stated in what concerned a subsidiary matter thereby invalidating some isolated interpretations stated by the judicial courts competent to solve wage work conflicts"[1]. Both the internal courts and the Human Rights' European Court have, then, stated that[2]: " [...] it is the state's latitude to determine what sums will be paid to its employees from the state's budget. The state may enforce, suspend or cancel the payment of such increases, by operating the necessary modifications in legislation. However, if the payment of such increases should be established through an enforced legal disposition and the conditions required for this payment should be fulfilled, the authorities could not be able to deliberately postpone their payment, as long as the concerned legal dispositions are enforced". The European Court of Human Rights has also stated that "the policy concerning the salaries of budgetary personnel lies within the exclusive competence of the state; the amount of the rights of amount of wage rights nature being unavoidably connected to the level of the resources from the budget in charge of paying them; the state, through its legislative organ, does dispose from the Court's perspective, of a large extent in establishing the country's economical and social policies"[3].

Upon the background of such tormented social debates, the Wolters Kluwer Publishing House has issued in 2010 the work: "The Book of Crises. An Optimistic Perspective"[4], where some specialists from the economical and juridical domains have reunited their opinions concerning the revaluable sides of a crisis. At that time, I was meditating myself about the "Economical crisis and the public administration in Romania"[5]. Starting from these thoughts, today I am reiterating

[1] Decision nr.20 of 17-th October 2011 of the High Court of Cassation and Justice, Published in Monitorul Oficial, Part I, nr.822 of 21 November 2011.

[2] In paragraph 23 of the decision from November 8-th 2005, stated in the cause Kechko vs. Ukraine.

[3] In the decision from February 21-st 1986, issued in the cause James and others i vs. Great Britain, according to HYPERLINK: "http://www.hotararicedo.ro/index.php/news/2012/01/reducerea-salariilor-cu-25-prin-legea-nr-118-2010-compatibila-cu-art-1-protocolul-nr-1-cedo-decizia-inadmisibilitate-cauzele-felicia-mihaies-i-adrian-gavril-sentes-c.-romaniei", visited at 4-th of october 2014.

[4] The work coordinated by Mr. Emilian M. Dobrescu, is unique among the Romanian works about this matter and suggests in an absolutely remarkable way that the crisis could be stepped over only through an optimistic approach towards the occurring situations and through the development of action plans which should be simultaneously optimistic and realistic.

[5] In the "The Book of Crises. An Optimistic Perspective", published on Wolters Kluwer Publishing House, Bucharest, 2010, pages 218-240, under the title "Aspects regarding the regulation of the public administration in Romania under the pressure of the economic crisis", the author does emphasize upon the idea that it is necessary to take actions in order to overcome the crisis but without affecting the mental comfort of the public servants,because it is the human resource which brings life to the public administration.

the idea that the concept of "crisis" should not be approached with fear. It is necessary to understand it as the signal which draws the attention upon the necessity of some changes and on the idea that rationally thought actions ought to be taken in order to keep under control the social phenomena within a crisis period. We may say that in the crisis' essence lies impregnated the basic substance of progress and that the moment of a crisis' rising is also the one of a new beginning. It is necessary to predict the crisis so that means could be prepared in order to smooth down the impacts caused by the initiation of the crisis and to determine progress through it. One of the most needed and useful instruments able to soften the crisis' effects is the early education of citizens concerning a frame of behavior suitable to be adopted in the case of a crisis.

The interface between the citizen who will suffer under the crisis and the pressure exerted by it is constituted by some social actors: the public servants and the officials. The hardest role to hold in reducing the most possible of the crisis' effects is assumed by the personnel of the public administration. Consequently, our goal is to analyze some possibilities of reducing the effects of the crises: economical, social, political ones. Among them, the most important is the quality of the juridical norms. We also wish to analyze the Romanian legislation concerning the public service, in the matter of its capacity to motivate the public servant to act at his upmost level, during the crisis' time and notn only then. This analysis is necessary, because panic and uncontrolled social movements in case of a crisis might lead to the multiplying of the negative effects, and the personnel of the public administration would be confronted to the pressre exerted by the crisis' negative effect, as the public administration-in its structured form-does endure it, multiplied by the number of persons who compose the civil society; thus we may speak of a multiplying of the type: "administration' s crisis or administrated' s crisis?" This fact involves a size index of more than 16 millions and might generate uncontrollable social phenomena. The central public administration holds the role of elaborating projects of normative acts and plans of concrete actions to be taken in order to prevent all types of crises, and,should the crisis be impossible to prevent, in order to manage it.

2. Theoretical Aspects

The crisis ”*is a concept that is seen by most of people as an expression of abnormality, of pathology, a concept which imposes urgent actions to be taken. Only few people see in the starting of a crisis the positive sides not the initiation of some changes. But what is the crisis*?”

As the specialized literature has shown[1], the term ”crisis” is attested since the XVth century, used to designate the acute stage of a disease. Yet, according to the various moments in history, to the discipline which makes use of it and to the authors who employ it, it has acquired other senses too. For instance, in the above mentioned work the precision is made that, “during the XIXth century, the term imposes itself in history, with the sense of accident, of a rupture which may appear during a continuous process. For certain philosophers of history, like Burckhardt and Spengler, «a crisis does mark the end of a historical cycle or even the decline of a civilization». The economists who accept the cycles' theory, formulated by Juggler and Marx, do accept this concept too; for them, a crisis does constitute a transition phase, distinguished by a certain number of perturbations, occurring between two economical cycles. This signifies the fact that it, the crisis, may constitute the starting point of a new period of growth or recession”[2]. At dictionary level, in a first opinion, the concept is defined as being the manifestation of some difficulties (economical, political, social ones etc.) or periods of tension, of troubles, of ordeals (often decisive ones) which occur in the society[3]. In another formulation, the crisis is a dangerous and decisive phase in the social life, consisting in a violent manifestation of the contradictory trends in economy,

[1] In 2001, when Romania was looking optimistically towards the future development of the EU and Euro-Atlantic structures, while, economically speaking, the average Romanian families had not yet, at least most of them, spent their greatest amount of money in order to improve their living standards, Mr. Ioan Alexandru, in his quality of fine researcher of Romanian and European administrative phenomenon, did focus his attention upon some basic elements for a crisis of public administration, by issuing his “Administration´s crisis” at the All Beck Publishing House in Bucharest. The quote is to be found at pages 46-49.

[2] The author cites at pages 46-47 the authors G. Michaud et E. Marc, from their work "Vers une science des civilisations", Ed. Complex, Brussels, 1981, p. 166.

[3] Dicţionarul explicativ al limbii române, Editura Universul enciclopedic, Bucureşti, 1998, p.241: «CRÍZĂ, crize, f.n. 1.Manifestation of some difficulties (economical, political, social etc.); period of tension, of troubles, of ordeals (often decisive ones) which occur in society. Acute lack (of merchandises, of time, of labor force. 2.Critical and culminating moment in the evolution which precedes the cure or the aggravation of a disease; abrupt start of a disease or appearance of an unexpected seizure during a chronic disease. Attack of appendicitis. Tension, a moment of great spiritual depression; torment. From the French: crise.»

politics and society[1]. From these definitions it results that this concept does express the idea of a briefly lasting phase in the existence of a human collectivity, a phase marked by discontinuity in what concerns the way social relationships are carried on, the discontinuity being generated by the appearance of some economical, political or social phenomena which determine the action of the members of the collectivity towards the restructuring of social relationships so that the concerned phenomena should lose their impact strength upon the population. Let us imperatively precise that discontinuity does not mean to change the instituted order of law, unless in very rare cases. It also does not mean the stopping of the social action, because the social system could never be stopped, since life itself, as long as it exists, cannot be stopped. The moment when life does stop defines a totally new state named death. From these considerations it results that, when we make use of the word "crisis", we ought to equally take into consideration the positive and the negative potentialities of the word "crisis". The negative side consists in the fact that the moment when the discontinuity period which defines the crisis does start is itself the consequence of a long period of social equilibrium when the importance of the aspects that were leading towards social dysfunctions was ignored and also in the peculiarity that this particular moment does point out the fact that the mechanisms of automatic regulation which were acting inside the society have become obsolete, they are incapable of fulfilling their role, a fact which does impose the action of all the members of the given collectivity in order to remodel the social relationships in a way which could allow them to exit from the crisis period. The positive side of crises is that, once they are in place, they are suffered by the majority of the members of the society and they determine these latters to act, in a common effort, aiming to improve the social relationships. Therefore, the state of crisis is the result of the lack of vigilance or even of the lack of competence proven by the social actors which are endowed with the prerogative of estimating the evolution of the social relationships within a given domain, but it also owns the merit of concentrating the efforts of all the social actors for the purpose of finding the most appropriate means for escaping from the crisis and for remaining into a state of stable social equilibrium.

[1] HYPERLINK "http://dex.infoportal.ro", 2002, site visited at the date of 16.11.2009: «CRÍZ//~e f. 1) Dangerous and decisive phase of the social life, consisting in a violent manifestation of the economical, political, social contradictions. government crisis: period when a government has just resigned, while another one is not yet formed. 2) Critical moment in the evolution of a disease, after which follows the change for the best or the aggravation. 3) Abrupt aggravation of a chronic disease. 4) Acute lack of something which is necessary to the material or the spiritual life. 5) fig. Tension, spiritual questioning. / < fr. crise, lat. crisis. »

In order to be able to seize the correlation existing between the terms: "public administration" and "crisis", we estimate that four axioms should be necessarily taken as starting points:

« 1. Whatever society does constitute a system, that is to say an aggregate of structures;
2. Whatever society does constitute an aggregate of functions, exerted by the various structures;
3. Whatever society does establish its own norms, in virtue of which it functions;
4. Whatever society does dispose of its own forces, of which it makes use according to its own norms, in order to fulfill its own functions. [1]» To this initial item comes to join, as a contents, the necessity of accepting the theory according to which the social systems are endowed with all the assets that belong to the living organisms, that is to say they own the faculties of self-conservation, of acquiring information, of self-regulation and of self-transformation[2]. This allows us to understand the fact that the state of social equilibrium is, by itself, dynamical. Practically, the social equilibrium does depend upon the inter-dependence relationships existing among the society's defining forces, its norms, its structures and its functions. This is why the crisis occurs when :"a system which was trending towards equilibrium is beginning to trend towards the lack of equilibrium" , "a phenomenon which takes place when the global social system does receive, fully and brutally, what is named history's challenge, that is to say it is confronted with an important difficulty, the origin of which is either internal or external, of various natures (religious, cultural, economical, pertaining to geology or climate, etc.) while the society proves itself to be unable to respond to it or to adapt itself to this challenge.»[3].

As it is shown in specialized literature, the elements required for the exit from an economical crisis[4] are: responsibility; power; legitimacy; good governance; regulation; We estimate that these elements are necessary for exiting from whatever social crisis, while good governance is one among the indispensable

[1] For a complete image of the author"s opinion is necessary to read the page 48 of the work of Ioan Alexandru, "Administration´s crisis" (Alexandru, 2001).
[2] Ioan Alexandru cited in his work "Government´s crisis" at page 48 the paper "Le structuralisme", author J. Piaget, published at PUF, collection "Que Sais-Je? », Paris, 1968, pp. 6-16.
[3] For a complete image of the author"s opinion it is necessary to read the page 49 of the work of Ioan Alexandru, (2001). *Administration´s crisis*. Bucharest: All Beck.
[4] Proposed by Dr. Andrew Pettogrew, professor of strategy and organization, Said Business School, University Oxford, decorated with the Order of the British Empire.

elements for overcoming a crisis. Since the governance has as its principal component the activity through which the execution of law is organized and assured, the law being certainly executed, activity the name of which is "public administration", it results that the social equilibrium does depend upon the quality of the public administration, while the exit from the crisis does depend as well upon the public administration.

3. Scientific Research

The exit from crisis,that is to say the stopping of the negative consequences of the matter of fact which defines the crisis, understood in terms of moment and means of action, through the intermediary of which the respective moment is reached to,does depend upon the parameter of human resources. Even if, in order to obtain positive results, a taken action does require an aggregate of appropriate material and financial means to be joined to human resources, still, what matters dominantly is the state of psychical comfort experienced by the human resource. Coming back to the example of the Law nr. 118/2010 concerning some necessary measures in view of restablishing the budgetary equilibrium, it is easy to understand that the public servants, who have forwarded the eighty thousand lawsuits in court aiming to the ascertainment of the statesphere of illegality for the taken action of reducing the salaries by 25% , even if they did that through the intermedium of the National Alliance of Budgetarians' Syndicates "Sed Lex", could in no way experience a state of psychical comfort when exerting their duty charges during the period of salaries'reducing. In fact, the whole personnel corpus from the public sphere has always proven and it still does, a state of discomfort towards the austerity actions taken through the above mentioned normative act. But the same discomfort is also manifested towards the modality through which was accomplished the so-called return to the salaries'level that existed before the enforcement of the Law nr. 118/2010. Thus, returning to the elements required for emerging from an economical crisis, namely[1]: responsibility; power; legitimacy; good governance; regulation, let us estimate that good governance, responsibility and regulation do represent the triangle inside of which could be defined the appropriate solution for emerging from the crisis,in the sense that either the crisis should be emerged from or it should deepen. In the provided example,in the case of some measures that were necessary in view of restablishing the budgetary equilibrium and were

[1] See note 19.

adopted in 2010, good governance and regulation did not constitute instruments honestly used in order to motivate, generally, the personnel from the budgetary sphere and particularly the public servants in performing their daily actions in fulfilling duty charges. Thus, firstly, before the enforcement of the Law nr. 285/2010 concerning the remuneration in the year 2011 of the personnel paid from public funds[1] and the enforcement of the G.E.O. nr. 19/2012 concerning the approval of some measures in view of recovering the salarial reductions[2], personnel reductions have been also operated, the corpus of the public servants being significantly diminished. A large part of the human resource, which had spent a long time in acquiring practical experience, was, thereby, lost; under the circumstances of a diminished salarization, the load of duty charges upon the personnel remained in function did increase.

Secondly, concerning certain categories of employees, such as the teaching staff, the legal frame concerning the wage system was modified, so that the stipulations of the G.E.O. nr. 19/2012 have come to be applied to other salaries than the ones from June 2010. As an example, let us mention the enforcement of the Law nr. 63/2011[3]- concerning the appointment and wage system in the year 2011 of the teaching staff and auxiliary teaching staff, which, in its art. 1 was making the precision: "*Since the enforcement date of the present law until December 31st, 2011, the teaching staff and the auxiliary teaching staff do benefit from the salary rights as they are established according to the Annexes to the present Law. (2) The gross proceeds' amount of the appointment wages for the teaching staff and the auxiliary teaching staff is the one stipulated by the Annexes nr.1, 2, 3a and 3b, respectively*", while the art. 6 was stipulating: "*Any other contrary dispositions concerning the establishment of salaries and of the other rights of salarial nature in the year 2011, for the personnel stipulated by art. 1 par. (1) are abrogated*." The

[1] Published in the M.O. nr. 878 of December 28-th, 2010. In the art.1 par. (1) and (2) of the law it is stipulated that: "(1) To begin with January 1st, 2011, the gross amount of the basic pays/ soldier"s pays for the basic appointment/ wages for the basic appointment/ appointment indemnities, as they were allowed to the personnel paid from public funds for the month of October 2010 are there be increased by 15%. (2) To begin with January 1st, 2011, the amount of increases, indemnities, compensations and the ones of all the other elements of the wage system which pertain, according to the law, to the gross proceeds, gross (officer"s)/ soldier"s monthly pay/ gross monthly salary, gross appointment indemnity, as they were allowed to the personnel paid from public funds for the month of October 2010 are, there by, increased by 15%, insofar the personnel does carry on its activity under the same conditions."

[2] The normative act was published in the M.O. nr. 340 of May 18-th , 2012 and was enforced at its publication"s moment.

[3] Published in the M.O. nr. 323 of May 10-th, 2011.

mentioned law has instituted for the teaching staff a modality of salaries'calculus which brought as consequence the fact that, in reality, not even after the application of the stipulations of the G.E.O. nr. 19/2012 concerning the approval of some measures in view of recovering the salarial reductions, the personnel did no more obtain on the payroll the same amounts, but diminished ones. As for the rest the Law nr. 285/2010 itself had inserted an error in the calculus, in the sense that, in the art. 1 par. (1) it stipulated: "*Since January 1-st, 2011, the gross quantum of the base rate/the pays of the base function/the salaries of the base function/the appointment indemnifications,as they were granted to the personnel remunerated from public funds for the month of October 2010 is increased by 15%.*" So, the law speaks of the month of October, not of the months of July 2010 or August 2010, thereby differences were generated.

The fact that a Frame Law concerning the unitary salarization of the personnel paid from public funds actually exists, namely the Law nr.284/2010[1], but it was never applied, though four years have passed since its publication in the *Monitorul Oficia[2]l*, through the repeated prorogation of its enforcement term, is not a sign reflecting the good governance, neither the responsibility. Practically, due to mesquine political interests, the discrepancies existing among the categories of personnel which activate in the zone of the public service are preserved, through applying some special juridical norms which rule over the salaries from the various domains of the public sphere. The actuality of the existence of a smouldering social crisis, even if there are only few people who possess the courage of asserting this fact, is proven by the attitude of visible quietness and satisfaction, apparently adopted by most of the public sphere's personnel; they all start from the absolutely justified line of thought: better a badly paid job than no job at all. This position is in contrast with the quasi-general grief of the citizens, who, with various types of

[1] Published in the M. O. nr. 877 of December 28-th, 2010.

[2] The Government"s Emergency Ordinance no. 103/2013 concerning the remuneration of the personnel paid from public funds in the year 2014, as well as other measures pertaining to the domain of public expenses was published in the M.O., Part I, no. 703 of November 15-th, 2013, and it stipulates: "Art. 1. - (1) In the year 2014, the gross quantum of basic pays/ soldier"s pays for the basic appointment / remunerations for the basic appointment / appointment indemnities from which does benefit the personnel paid from public funds is maintained at the same level as the ones which are allowed for the month of December 2013 insofar the personnel carries on its activity under the some conditions and the reference value as well as the hierarchy coefficients which correspond to the remuneration classes stipulated within the Annexes to the Frame Law nr. 284/2010 concerning the unitary remuneration of the personnel paid from public funds, with the posterior modifications, should not be applied".

modulations in their voices, are saying, when they are in contact with the public services, that they are not satisfied by the quality of the latters'performance or by the difficult procedures required, which lead to useless and annoying time losses: "That's the way it is around us! " or: "There's nowhere like our place! "

Thus, stress is generated and with it the diseases it creates, which do cause immediate consequences: the pressure exerted upon the public budget due to the extended health-related expenses and the insufficiency of the funds for this domain of the public service, which lead to the most pernicious consequences: the jeopardizing of the citizens'life. A simple and raw-sighted analysis of the regulations concerning the good governance does lead us to the following few conclusions: in the space of the European Union the good conduct in administration is considered as one of the fundamental social values, the manifestation of this opinion being the adoption, by the European Parliament, of the European Code of Good Administrative Conduct. The brief, clear and concise form into which this Code is established is remarkable. The form into which the juridical norms are presented into this normative act is the sensible expression of the idea that a good governance could not be accomplished unless some clear positions are established about the directions of action and the means used for it, continued by the complete mental representation of each among the future actions. The Romanian legislation was analysed in order to see which is the juridical contents of the good administrative conduct. Our conclusion is that there are a lot of normative acts which together do constitute the juridical institution designated as the good administrative conduct. Among them we may mention: The Law nr. 188/1999 concerning the statute of public servants, republished with updated modifications[1], the Law nr. 7/2004 concerning the conduct code of public servants[2], the Law nr. 477/2004 concerning the conduct code of personnel under contract within public authorities and institutions[3], the Law nr. 393/2004 concerning the Statute of local representatives[4], the Government's Emergency Ordinance nr. 92/2008 concerning the statute of the poublic servant designated as

[1] Law nr. 188/1999, republished in the M.O.R., Part I , nr. 365 of May 29-th, 2007, modified, inclusively through the G.E.O. nr. 82/2013 and through the G.E.O. nr. 18/2014.
[2] Republished in the M.O.R. Part I nr. 525 of August 2-nd , 2007.
[3] Published in the M.O.R. Part I nr. 1105 of November 26-th , 2004.
[4] Published in the M.O.R. Part I nr. 912 of October 7-th , 2004 , modified through the Law nr. 216/2005 , the Law nr. 249/2006 and the Law nr. 286/2006, the Decision of the Constitutional Court nr. 61/2007 , the Law nr. 144/2007 , the Law nr. 35/2008 , the Law nr. 58/2009 and the Law nr. 187/2012 for the applying of the Law nr. 286/2009 concerning the Penal Code.

public manager[1], the Law nr.161/2003 concerning certain measures for assuring transparency in the practise of public offices and in business,the prevention and sanctioning of corruption[2] and the Law nr.7/2006 concerning the statute of the parliamentary public servant[3].

All these normative acts do rule over certain matters concerning the conduct of the personnel functioning within the public administration. Thus, the Title IV from the Tome I of the Law nr. 161/2003 does rule over the conflict of interests and over the regime of incompatibilities which might occur within the practise of public offices and functions; the law emphasizes upon the fact that the principles upon which does rely the prevention of the conflict of interests in the practise of public offices are: impartiality, integrity, transparency of decisions and supremacy of public interest[4]. The Law nr. 188/1999 concerning the Statute of public servants, republished, with updated modifications, holds "*the role of ruling over the general regime of the juridical relationships existing between the public servants and the state or the local public administration, through the autonomous administrative authorities or through the public authorities and institutions of the central and local administration, designated as (....) service relationships*"[5].

Concerning the purpose of the law, in its text itself the precision is[6] made that it is to ensure, according to the legal dispositions, a public service that would be stable, professional, transparent, efficient and impartial, performed in the interest of the citizens, as well as in the one of the public authorities and institutions from the central and local public administration. The precision is also made that the

[1] The G.E.O. nr. 92/2008 concerning the statute of the public servant designated as "public manager" was published in the M.O.R. Part I nr. 484 of June 30-th , 2008. It was modified through the Law nr. 284/2010--Frame Law concerning the unitary remuneration of the personnel paid from public funds and through the Law nr. 187/2012 concerning the applying of the Law nr. 286/2009 concerning the Penal Code.

[2] Published in the M.O.R. Part I nr. 279 of April 21-st, 2003, modified, inclusively through the Law nr. 187/2012 concerning the applying of the Law nr. 286/2009 concerning the Penal Code and through the Law nr. 255/2013 concerning the applying of the Law nr. 135/2010 concerning the Penal Procedure Code and for modifying and completing some normative acts which contain dispositions in matters of penal procedure.

[3] Republished in the M.O.R. nr. 345 of May 25-th , 2009 and modified through the Law nr. 263/2010 concerning the national unitary system of public retirement pensions, the Law nr. 284/2010-Frame Law concerning the unitary remuneration of the personnel paid from public funds and the Law nr. 187/2012 concerning the applying of the Law nr. 286/2009 concerning the Penal Code.

[4] Law nr. 161/2003 , art. 71.

[5] Law nr. 188/1999 republished and modified, art. 1 , par. (1).

[6] Law nr. 188/1999 republished, art. 1 , par. (2).

principles which constitute the ground of the practise of public office are[1]: legality; impartiality and objectiveness; transparency; efficiency and effectiveness; responsibility according to the legal stipulations; orientation towards the citizen; stability in the practise of public office and hierarchical subordination.

The Law nr. 7/2004 concerning the Code of conduct for the public servants "*does rule over the professional conduct norms that are valid for the public servants"*[2]. *Its purpose is to assure „the increase of quality for the public service, a good administration in view of realizing the public interest*" as well as of "eliminating bureaucracy and corruption deeds from public administration" through "*the regulation of norms of professional conduct which are necessary in order to realize some social and professional relationships that should be appropriate for creating and maintaining at a high level the prestige meant to be acquired by the institution of the public office and by the public servant's*"; therefore "*the public is to be informed about the professional conduct it is entitled to expect from public servants in their practise of the public offices*" and a "*climate of confidence and respect should be created, on one side, between the citizens and the public servants along with, on the other side, the same climate between the citizens and the authorities of the public administration*"[3].

The Romanian Parliament has estimated "*as necessary to state nine principles, understood as general principles able*" to rule over the professional conduct of the public servants"[4]: the supremacy of the Constitution and the one of the law; the priority of public interest; the assurance of treatment equality for all the citizens when in contact with the public authorities and institutions; professionalism; impartiality and independence; moral integrity; freedom of expression and of thought; honesty and correctness; openness and transparency. The Law nr. 477/2004 concerning the Code of conduct for the personnel under contract from the public authorities and institutions „does rule over the norms of professional conduct for the personnel under contract"[5], "exception made of the persons who are elected or politically appointed".Through this normative act, the legislator aims to the following objectives[6]: "*to enforce the professional conduct norms required in order to realize some social and professional relationships suitable for creating*

[1] Law nr. 188/1999 republished, art. 3.
[2] Law nr. 7/2004 , art. 1.
[3] Law nr. 7/2004 , art. 2.
[4] Law nr. 7/2004 , art. 3.
[5] Law nr. 477/2004 , art. 1.
[6] Law nr. 477/2004 , art. 2.

and maintaining a high level of the prestige owned by the institution of the public office and by the personnel under contract"; "*to inform the public about the professional conduct that it should be entitled to expect from the personnel under contract in the practise of the public office" and „the creation of a climate founded on confidence and reciprocal respect: on one side, between the citizens and the personnel under contract from the public administration and, on the other side, between the citizens and the authorities of the public administration*".

According to this normative act[1], the professional conduct of the personnel under contract ought to be ruled by the following principles[2]: priority of the public interest; assurance of the treatment equality for all citizens when in contact with the public authorities and institutions; professionalism; impartiality and non-discrimination; moral integrity; freedom of thought and expression; honesty and correctness; openness and transparency. In order to situate the administration conduct within the zone designated as: "good administrative conduct", the principles by which it ought to be ruled are, according to the European Code of Good Administration Conduct: legality; non-discrimination; proportionnality; impartiality and independence; avoidance of power abuse; objectiveness; legitimate confidence; coherence and counselling; equity; courtesy[3].

The European Code of Good Administration Conduct, in the matter of procedure,does contain stipulations concerning the time interval during which the author of a request or of an intimation ought to be informed about the reception of the respective message; the obligation of forwarding the respective document to the service which is competent to solve it; the obligation of listening to the citizen's expressed perspective and of analyzing his remarks when, through the concerned administrative decision, consequences should be determined which would affect this latter's rights or legitimate interests; the obligation to motivate the taken decisions which would bring damage to the rights or to the legal interests of an individual person or the ones of a private moral person and, as well, to indicate to this latter the appropriate way to contest it. From the above presented arguments, resemblances but also differences do result as existing between the Community's regulation and the Romanian juridical institution.The differences do lead us towards a negative appreciation about the Romanian legal frame, because, as we

[1] The principles are ruled by the Law nr. 7/2004 , art. 3.
[2] Law nr. 477/2004 , art. 3.
[3] European Code of Good Administration Conduct , arts. 3 , 4 ,5, 6, 7, 8, 9, 10, 11, 12.

have argued since 2007[1], we do estimate that, even at the present moment, in the Romanian administrative law there are too many separate regulations which do not bring at all more quality to the administration's practise. For example, the Law nr. 7/2004 and the Law nr. 477/2004 could have been reunited into one sole law, which could have been denominated "Law concerning the good conduct in administration"; the precision could have been made, in its art. 1, of the categories of personnel to which the regulation would have been applicable. If a clear and concise definition should not be elaborated for the essential elements of the good administration conduct,which provide the substance itself of the good governance,it would be difficult to appreciate the action of the personnel functioning within the public institutions as being good or bad in the terms of administration conduct. It is also hard for the citizen to understand what concrete benefits he ought to be entitled to expect, in respect to the current legislative frame, from a person who, working within a public institution, is acting towards him in a good administration conduct'style. What the citizen needs is a regulation that should be easiest to access and to understand, in what concerns the concepts of "good administration conduct" and of "good governance", so that he could be able to understand :why and how public money are spent-in order to fulfill the component of the social purpose which is designated as "good governance". We also appreciate that the optimum solution for the legal implementing of the "good administration conduct" should be the one to adopt an Administration Code[2] where a chapter should be duly dedicated to the "good administration conduct".

4. Conclusions and Implications

As a conclusion, the personnel from the public sphere is required to act with celerity, politely, with the highest possible effectiveness and efficiency, no matter what would be the domain where it acts; under the actual circumstances, in the current social relationships and as well in the media, to these human resources the respect and appreciation that they should deserve is not manifested, or at least not enough (the invoked objection is the presence of an "epidemics" of corruption);

[1] The author"s perspective should be known in its details through the lecture of the paper : Nicu Alina Livia (2007). *Statutul funcţionarului public între plus şi minus*. Craiova: Universitaria Publishing House.

[2] The necessity of the adoption by the Romanian Parliament of the Administration Code and of the Administration Procedure Code was sustained since 2002. See Iulian Nedelcu, Alina Livia Nicu (2002). *Drept administrativ-Administratie Law*. Craiova: Themis.

this personnel is constrained to perform within the above mentioned salarial limitations, making also use of a logistic ground which, often, is either obsolete or incomplete. In order to prevent whatever social crisis, with an more or less economical motivation, the Romanian central and local public administration ought form a corpus of specialists (in the domains of prevision and programming, sociologists, economists and jurists) in charge of attentively monitoring the social phenomena and of preparing the earliest possible the normative acts destined to function as social regulation mechanisms. For instance, the fiscal amnesty[1] was regulated, thus ending a whole mess generated in the budgetary sector through the dispositions stated by the accounts'audit authorities concerning the restitution of some amounts of money that had been paid as salaries to the budgetary personnel, or ending the retired persons'worrying about the wrong calculus made upon their pecuniary rights.Yet, previously there had been people who had committed suicide because of the sums they had to restitute. If even an one and only person should come to lose his life or to suffer due to an error made in the public administration, then it would be obvious that the good governance does not exist. Media have the moral duty to help the population in understanding the social phenomena, not at all to generate worries. Media have as well the moral duty to sustain and promote the worthy persons pertaining to the human resource of the public services, who well deserve the citizens'respect, as well as a correct and finely balanced system of remunerations for all the public services. A system of moral rewards such as diplomas and trophys,which should be taken into account at the annual professional evaluation of the personnel, would also contribute to the quality increasing of public services and would determine the personnel to strive for the de-multiplying of the size index involved by the crisis. We are, therefore, entitled to speak about a multiplying of the type: crisis of the administration multiplied by the crisis of the administrated. This involves a size extent of more than sixteen millions and might generate social phenomena that would be out of control[2]. But, if the "good administration conduct" should be enforced, departing from the former we would

[1] The Law nr. 125/2014 concerning the exemption from reimboursement of some debts originating from retirement pensions was published in the M.O. Part I nr. 700 of September 24-th , 2014; the Law nr. 124/2014 on some measures concerning the incomes of remunerative nature for the personnel paid from public funds was published in the M.O. Part I nr. 700 of September 24-th , 2014.

[2] See the events from January 12-th , 2012 , when street manifestations took place for the purpose of contestation. As it is argued on the site we have visited on October 6-th , 2014 : "The main motivation of the manifestants was the expression of their solidarity with the founder of the Mobile Service of Emergency , Resuscitation and De-carceration (a.k.a. SMURD in Romanian), Dr. Raed Arafat , who is known as one among the critics of the initiative involving the foreseen liberalization of the medical emergency system."

be entitled to speak about the crisis of the administrated divided by the number of persons who work in the budgetary sector[1], and this evolution could reduce the size extent of the crisis at the level of tenfolded numbers only.

So, should we want no more crises to happen, either social or economical ones, inside of the Romanian society, we would have to be aware of the fact that each one among us citizens, from the high official to the child, we have to be honest, modest and responsible while the legislator, together with the governing parties,do have as duty to create the legal and material frame suitable for enabling the public servants from the budgetary sphere to perform under decent circumstances. Then, their action will assure the fulfillment of the social purpose and, through that achievement, would secure the prevention of whatever kind of crises. The austerity measures are only medications able to cure the unhealthy social relationships, but they are not actions taken in order to prevent future crises. It is only through a good governance that crises, should they be economical or social (consequently political) may be prevented. As it is shown in the specialized literature[2] (Negruţ, 2012), the principle of legal certainty can contribute to optimal management of crisis situations.

5. References

Alexandru, I. (2001). *Criza administraţiei/ Administration Crisis*. Bucharest: All Beck.

Dobrescu, E. M. (coord.) (2001). *Cartea crizelor. O privire optimistă/ Book crisis. A look optimistic*. Bucharest: Wolters Kluver.

Michaud, G. & Marc, E. (1981). *Vers une science des civilisations/ Towards a Science of Civilization.* Bruxelles: Ed. Complexe.

Piaget, J. (1968). *Le structuralisme*. Coll «Que sais-Je?». Paris: PUF.

Nicu, A. L. (2007). *Statutul funcţionarului public între plus şi minus/ Public official status between plus and minus.* Craiova: Universitaria.

Nedelcu, I. & Nicu, A. L. (2002). *Drept administrativ/ Administrative Law.* Craiova: Themis.

Negruţ, V. (2012). Applying the Legal Security Principle in Administrative Law. *Acta Universitatis Danubius. Juridica*, vol. VIII, nr. 1/2012, pp. 5-13.

[1] (.....) Friday , September 13-th , 2013 : "Actually, 1,19 millions of employees do figure upon the State"s pay roll."

[2] "*In this context of profound changes, the principle of legal security, through the complex content of its requirements, outline the necessary organization and operation of an effective administration, open and transparent, an administration that requires the public officials to operate in accordance with law, respecting the principle of legitimate trust of individuals*." (Negruţ, 2012)

*** (1981). *Dicţionarul explicativ al limbii române*/ *Explanatory Dictionary of the Romanian language*. Bucharest: Universul Enciclopedic.

Legea nr. 118/2010 privind unele măsuri necesare în vederea restabilirii echilibrului bugetar/ Law no. 118/2010 on certain measures necessary to restore budgetary balance, *Monitorul Oficial*, Partea I, nr. 441 din 30 iunie 2010.

Legea nr. 188/1999/ Law no. 188/1999, *Monitorul Oficial al României, Partea I, nr. 365 din 29 mai 2007.*

Ordonanţa de Urgenţă a Guvernului nr. 92/2008 privind statutul funcţionarului public denumit manager public, *Monitorul Oficial al României, Partea I nr. 484/30 iunie 2008*, modificată prin Legea nr.284/2010- Lege-cadru privind salarizarea unitară a personalului plătit din fonduri publice şi Legea nr.187/2012 pentru punerea în aplicare a Legii nr. 286/2009 privind Codul penal.

*** *Codul european de bună conduită administrativă*/ European Code of Good Administrative Behaviour.

Decizia nr. 20 din 17 octombrie 2011 a Înaltei Curţi de Casaţie şi Justiţie / Decision no. 20 of 17 October 2011, the High Court of Cassation and Justice, *Monitorul Oficial, Partea I, nr. 822 din 21 noiembrie 2011*.

Hotărârea CEDO/ ECHR Case, 8 november 2005, cause Kechko c. Ucrainei.

Hotărârea CEDO/ ECHR Case ,21 february 1986, cause James and all c. Marii Britanii.

http://ro.wikipedia.org/wiki/Protestele_din_Rom%C3%A2nia_din_2012,

http://www.mediafax.ro/social/sed-lex-are-peste-80-000-de-actiuni-in-instanta-privind-reducerea-salariilor-cu-25-7712285,

http://www.romanialibera.ro/economie/finante-personale/reducerea-salariilor-cu-25---declarata-ilegala-de-tribunalul-valcea-205674,

http://webcache.googleusercontent.com/search?q=cache:pekuoK9D9IMJ:www.hotararicedo.ro/index.php/news/2012/01/reducerea-salariilor-cu-25-prin-legea-nr-118-2010-compatibila-cu-art-1-protocolul-nr-1-cedo-decizia-inadmisibilitate-cauzele-felicia-mihaies-i-adrian-gavril-sentes-c.-romaniei&client=firefox-a&hl=ro&gl=ro&strip=1,
http://www.hotararicedo.ro/index.php/news/2012/01/reducerea-salariilor-cu-25-prin-legea-nr-118-2010-compatibila-cu-art-1-protocolul-nr-1-cedo-decizia-inadmisibilitate-cauzele-felicia-mihaies-i-adrian-gavril-sentes-c.-romaniei

http://dex.infoportal.ro