

SUMMARY
of the thesis titled “Integration Coordinates of Romanian Administration in the European Administrative Space”

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The elaboration of the thesis was of real interest but was a difficult demarche, as the information regarding public law with the community law ones needed to be correlated. This is the reason for which I tried to establish a balance starting from the fact that Romania is a member state of the European Union, reason for which we cannot judge public life outside the European space.

The integration in the European Union is a consequent process but it cannot last forever. Romania does not have a punctual, coherent and responsible strategy regarding the stages and objectives the Romanian public administration has to fulfill in order to be considered as being integrated in the European administrative space. Romania’s path in acquiring the membership of the European Union was winding. We went through a reform but unfortunately we do not have the feeling that the essential domains of public life have truly been reformed and it would be regrettable for our country to repeat the same mistakes regarding integration as well.

For this reason, my aim was not to make a strict academic research but an analysis with a pragmatic feature in which possible coordinates would be found in order to be considered for the future by the responsible factors.

The research within the first part of the thesis implicated the use of concepts, specialized language that haven’t yet been introduced in the Romanian language regarding which there is still some confusion of interpretation and understanding, namely *European administrative space* and its correlation with the *national administrative space*; the principle of *subsidiarity* and its correlation with the principles of *deconcentration*, *decentralization* and *local autonomy*; the concept of *europeanization* that can determine adverse reaction meaning that Romania is already a European country and another europeanization wouldn’t be necessary.

Therewith, I aimed at passing the gathered information through my own filter in order to be able to issue my own valuable judgments regarding their applicability and the particular manner in which they should appear in the Romanian system because, as my distinguished thesis coordinator pointed out in his papers since 1990, we are facing a veritable “*administrative crisis*”, with issues of understanding the fact that Europe is and has to remain a *unity in diversity*. Romania, as well as the other member states of the European Union, has the duty to find the balance between *maintaining the national identity, on one side and receiving the community requirements in the national system, on the other side*.

Therefore, the harmonization with the community law does not entitle an *ad abruptum* take over of certain directives or regulations, but the identification of the legislative and institutional frame through which they would reflect in Romania.

From this perspective, I perceived the structure of my thesis in the classic vision, with three parts, namely **Part I**, titled “**The state of the administration and administrative law in the European Union**”, **Part II**, “**Public administration and administrative law in some of the European Union member states**” and **Part III**, in which I identified and developed the aspects the title obliges me to, namely “**Europeanization coordinates of public administration**”. To this end, I analyzed, in the first two parts, the stage of the public administration and administrative law in the European Union and in some member states of the Union, only to underline in the final part, the objectives Romania has to fulfill in order that its administrative system becomes fully compatible with the administrative system of other countries.

The first part of the paper, titled “**The state of the administration and administrative law in the European Union**” is structured on three chapters, **Chapter I** being dedicated to the “*Emergence of the European administrative space*” (Section 1) in which the “*European administrative space*” is presented as a component of the *European public space* as well as the *determinants of the European public space* (Section 2), **Chapter II** is an analysis of the “*administrative system of the European Union after the Lisbon Treaty*” in which the concepts of *European administrative law* and *European public administration* (Section 1) are explained, as well as the “*sides of the European administrative integration*” (Section 2) and the “*Political and administrative structure of the European Union*” (Section 3), while **Chapter III** synthesizes “*the principles of good European governance*” and comprises the analysis of the “*concept of good governance at the level of the European Union*” (Section 1), “*the principles of administrative law defined by the legislation and jurisprudence of the European Union*” (Section 2), “*the right to good administration in the legislation and jurisprudence of the Court of justice of the European Union*” (Section 3), “*the right to good administrative justice at the level of the European Union*” (Section 4) as well as the “*convergences regarding the defense of citizens’ rights through the jurisdiction of the European Court of Human Rights and Court of Justice of the European Union*” (Section 5).

Part II of the paper is dedicated to the analysis of “**Public administration and public law in some of the member states of the European Union**” comprising three chapters. In **Chapter I**, titled “**Systems of administrative law in some of the member states of the European Union**” aspects regarding “*the diversity of the political and administrative law existent within the member states of the European Union*” (Section 1), an analysis on the “*structures of public administration in some of the member states of the European Union*” (Section 2) is performed, the final section of the chapter (Section 3) being consecrated to the analysis of the *public office within the European space*.

In **Chapter II**, titled “**Principles of administrative law in some member states of the European Union**” I performed an analysis of the *principles of good governance* (Section 1), of the significance of *the right to a good administration* (Section 2) and the *right to a good administrative justice* (Section 3) but this time, at the level of the member states of the European Union, in order to underline the manner in which these concepts developed in these states as well as the manner in which today they are assumed by the system of administrative law of the European Union, being the witnesses of a process of mutual interaction of the two systems of law.

Within **Chapter III**, titled “**The public administration reform experience in some member states of the European Union. Realities and lessons**”, I tried to identify

some *convergences* and why not, those *divergences regarding the reforms undertaken by some member states of the European Union* (Section 1), underlining the *necessity to revive the administration based on new managerial principles* (Section 2) as well as the *design of all the reform directions undertaken by member states of the European Union* (Section 3) as well as the *particularities regarding the reforms undertaken within member states of the European Union* (Section 4).

In **part III** of the paper, which I consecrated to **“Europeanization coordinates of public administration”** I approached within the three chapters, **“The impact of adhesion to the European Union on the Romanian public administration”**, **“The directions of reform of the public administration in the context on integration in the European Union”** respectively **“The democratization of public administration by applying the principles of good governance in national administrative law”**.

Within the **first chapter** I presented the *judicial and institutional frame* regarding the adhesion to the European Union (Section 1), as well as the *exigencies imposed by it in acquiring the membership status with full rights* (Section 2), *respectively the necessity to consolidate the state of law, the administrative capacity* in the reform process of public administration.

In **chapter II** I analyzed the **“Reform directions of the public administration in the context of European Integration”**. I considered essential in the demarches our country will make with the purpose of setting the Romanian administration in line with the exigencies of the European Union, the *de bureaucratization of public administration* (Section 1) both central as well as local, that continues to be perceived not as an instrument of accomplishing the needs of the citizens but as a form of torture for the citizen. *Bureaucracy*, in the realistic sense of the term, depends on the essence of administration, because it reflects the specific manner in which it is organized and functions. *Bureaucratization* represents the exaggeration of bureaucracy that, instead of simplifying the reports between the administration and citizens, it complicated them, makes them more difficult and many times not functional.

In Romania, there have been concerns in this context, but unfortunately, their efficiency is not very perceptible or on the contrary, sometimes the measures have turned against their purpose. We take into consideration the solutions of the unique counter, the regime of the petitions, tacit approval, personnel conduct and especially the eternal actions of de politicization of public administration (Section 2) that in reality many times serve the administration from a political point of view, making the *de politicization* a concept purely declarative, a slogan. It is sufficient to remind the OUG no. 37/2009 and OUG no.105/2009 and others declared unconstitutional that, in exposing the reasons, proclaim their reformatory character, of perfecting the administrative frame, to actually mutilate such a frame.

Still declarative and empty of meaning are the objectives regarding the *professionalization of national public office* (Section 5) when in reality, if we look at what happens with the prefects and sub prefects we notice that we are far from the proposed end.

Not last, I critically analyzed the phenomenon of *legislative instability* (Section 6) that causes serious inconvenience for administration, which has to apply ordinances that modify several times until being approved by the Parliament. The law of public servants was modified over 30 times and the examples could continue. All these are possible

because the Government exceeded its statute, by transforming itself from executive organ into legislator, abusing emergency ordinances with the flagrant breach of the judicial regime that article 115 in the Romanian Constitution consecrates for that type of judicial acts.

In the third chapter, titled “**Democratization of public administration by applying principles of good governance in national administrative law**” I have underlined the thesis according to which the democratization of public administration has to be accomplished by applying the *principles of good governance* in the national administrative space (Section 1). In the European conception, the notion of good governance evokes, according to article 115 of the Treaty on the functioning of European Union the obligation of the Union’s structures to act in order to respect the attribution they are invested with, according to the principles of transparency in achieving the objectives established. The principles that should govern the public administration in Romania, in order to reach the existent parameters at the level of the European administrative space are: *the principle of administration through law, principle of proportionality* as well as the *principle of transparency and access to information of public interest*, correlated with the participation of citizens at taking decisions that apply to them.

Reporting the actual status of Romanian public administration, in the last two sections that regard the *impact of administrative law of the European Union on the right to good administration* (Section 1) as well as the *right to good administrative justice* (Section 2), I have identified the specific manner in which these principles have to be found at national level, respectively the steps that have been made but also the steps that still have to be made in the future so that the Romanian administration is governed by principles typical for the administration of European states with consolidated democracies.

For the end on the thesis I have summarized on one side, the conclusions formulated from the research but also a set of *lege ferenda* proposals that would represent a possible guide for actions Romania is to perform in the future in completing the process of integration in the European administrative space.

I have synthesized these proposals on several categories. Thus, at institutional level, we assert as being necessary **the creation, in Romania, of a veritable school for training and perfecting the personnel working in the public administration**, solution existent at the level of almost all the member states, even at the institutional level of the European Union, where there is the European School of Administration. In the second place, I consider as important the depoliticization of the *National Agency of Public Servants* by creating an autonomous statute that takes it out of the subordination of the ministry, solution that is used in the present.

On legislative frame, we assert that it is necessary: **the adoption of an Administrative Procedure Code**, which all Governments sustain to adopt, without any Government finalizing such a demarche; **the adoption of a Code of Good Administration Conduct** in which the *principles of good administration*, mainly the *right to be heard, the access to own files and the motivation of administrative acts; assuming the exigencies of the triple criteria of German proportionality; the institution of the obligation of national administrative authorities to motivate the decisions regarding the application of the principle of proportionality*; regulating the *obligation*

of national administrative organs to reexamine the administrative decisions, considering the recent jurisprudence of the Court of justice of the European Union; regulating the obligation of the public servants to adopt all the acts adopted by them in exerting their function; the obligation of the public servant to communicate in written the decisions adopted by them, before any other source for all the persons that are implicated in the decision adopted as well as the terms of exerting them; the obligation of the public administrative authorities to mention in the content of the administrative acts they issue the possibility of the citizens to address to the Ombudsman, for all the situations that imply a case of bad administration; reconsidering the principle of local autonomy, according to which the public administrative authorities at local level will decide upon the problematic of continuous training, specialization and perfection of public servants and the contractual personnel in the public administration; the administrative territorial organization on three levels, respectively regional, on counties and local; institution, according to the law, of a severe sanction regime for the constitutional breaches and legality found in the behavior of the public authorities etc.

Considering the amplitude of the subject, as well as the actuality of it, in the context of the integration of Romanian administration in the European administrative space, I assess that the study performed and finalized, at least for the moment, in the form of a thesis, has to be completely developed in order to be published, reason for which I express the desire to persevere in the research on the administrative phenomenon in our country and contribute thus to the development of science and practice in the Romanian administration.