

Innovation and digital transformation in public administration and local communities



Editor
Cristina HINȚEA

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Cluj-Napoca

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Foreword

Public Administration and Management Department (PAMD) at Babeş-Bolyai University, Romania, has been since its establishment in the mid-1990s at the forefront of the movement to reinstate and redevelop higher education programs and research in public administration in Central and Eastern Europe (CEE). In most of the CEE countries, public administration education during the communist regimes was done by party schools and was clearly subordinated to political influences and political doctrine. After the collapse of the communist regime in Romania, PAMD, with the support of Western European and American partner universities, has been instrumental in the development of an interdisciplinary curriculum for public administration programs and for supporting empirical research as an important component of their mission. PAMD at Babes Bolyai-University is currently recognized at both national and international level as a leading teaching, research, and training entity in public administration.

Cluj-Napoca, the city which houses Babes-Bolyai University, is currently experiencing tremendous economic and social growth. Universities are a key engine for the growth of the city, together with the IT sector and creative industries. Cluj is currently regarded at both national and regional level as a positive example of urban growth which is the result of cooperation among the city, on the one hand, and other relevant stakeholders, on the other hand. The city is praised for implementing participatory mechanisms which allow citizens and interest groups to have a saying in how the city develops and in how decides its strategy for the years to come. DAMP has provided pro-bono consultancy for the city regarding the drafting of local master plans and sectorial comprehensive plans since mid-2000s. Currently, PAMD is deeply involved in conducting different analyses and studies for the city and its metropolitan area regarding quality of life and moreover factors which make the city of Cluj-Napoca more resilient and sustainable in how it develops compared to other cities.

Due to its leading role in the CEE region in the area of public administration higher education, PAMD organizes dissemination and networking events for PA scholars and practitioners. One important tool for bringing together academics, researchers, and practitioners in public administration is the Transylvanian International Conference in Public Administration, held annually in Cluj-Napoca, Romania, in the months of October or November. The conference allows PAMD to use the city of Cluj-Napoca

as a living lab for illustrating different practical implications of relevant scientific topics and paradigms. This is why, the conference is organized in partnership with the City Hall of Cluj-Napoca and the mayor of the city usually offers in his welcoming message the municipality's vision on the topic of the conference.

In 2022, the Transylvanian International Conference in Public Administration took place from 27 to 28 October. This event was envisioned to bring together academics, researchers and practitioners in the field of public administration from all over the world and to create the framework in which they can exchange ideas, disseminate best practices and develop networking opportunities for future teaching, research, and capacity building projects. **The overarching topic for 2022 is innovation and digital transformation in public administration and local communities.** Increasingly, governments and public sector organizations at all levels have been greatly affected by the external environment, facing turmoil, crises and increased demands from various stakeholders in the society, which implies greater complexity and significant challenges in governing and delivering public services. To respond to this context, traditional roles of government and public administration need to adjust to emerging and future needs of societies. Thus, public organizations have begun to seek greater innovative capacity and use innovation to achieve higher levels of organizational performance because of its potential to improve the efficiency, effectiveness and responsiveness of government organizations to society. Innovation in the public sector refers to significant improvements to public administration and/or services. Public-sector innovation can be defined as the implementation by a public-sector organization of new or significantly improved operations or products. Technology could bring innovation opportunities into the public sector, improve interaction between government and citizens through the simplification of procedures and contribute to open government. But innovation is not limited to technology, and more and more often emphasis is placed on the engagement of individual citizens and civil society organizations as partners in the delivery of public services, broad co-creation of policy solutions with the support of all relevant stakeholders, partnerships with universities, etc. The conference is designed as a venue for identifying and discussing main types of innovation in the public sector, advantages of these different types, best practices and how knowledge transfer can take place, role of technology in innovation, importance of networks of public sector innovators, relationship with university and research institutes, etc.

The present book includes a selection of the papers presented in all sections of the conference. The intention of the conference organizers is to disseminate the materials discussed during the conference and to generate scientific debates beyond the two days event. Papers presented by the PhD students are included, as an opportunity given to young researchers to publish the results of their work, even if it is still work in progress. Our hope is to be able to increase the visibility and reputation of international

conferences organized by universities/departments. While we acknowledge that big and well known conferences such as EGPA (European Group in Public Administration) and NISPAcee (Network of Institutes and Schools in public Administration from Central and Eastern Europe) play an important role, smaller conferences are also crucial for not only their scientific value but also for providing venues for interaction between academia and practice, between practice and PhD students, and among a variety of scholars who call public administration their area of interest. The book is a natural extension of the conference and serves similar purposes. Moreover, PAMD has significant experience in publication of scientific papers. The Department publishes independently a prestigious journal in PA, namely, Transylvanian Review of Administrative Sciences, a publication indexed by Thompson Reuters in Web of Science since 2008.

We would like to thank all conference participants for attending Transylvanian International Conference in Public Administration, 2022 edition, and for their contribution to this book.

Local conference organizers Cluj-Napoca,
24th of August, 2023

Performance and Resilience in Social Care. What's the Engine that Keeps Them Going?

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Abstract

This paper aims at analyzing how resilient and performant are the individuals within the Romanian social care system from Cluj-Napoca and which are their main barriers and challenges in introducing new tools, ways or methods in doing so. To give context, this particular health service works with children who are abandoned, are in severe conditions, and are provided with health care through social services. Therefore, doctors need a special set of skills and a special level of individual, team, and work resilience to be truly involved professionally and morally with the children. In order to analyze performance, institutional, and individual resilience, a quantitative method was used as the main instrument. The affirmations are scaled from 1-total disagreement to 5-total agreement, and frequencies were made to each main indicator to analyze the type of leadership and organizational culture, to identify their level and type of institutional resilience (organizational learning, innovation, general work conditions, and work environment), their individual resilience (work-life balance, motivation, working groups) and of course, performance. The main results suggested that there is a lot of room to improve in terms of innovation and to motivate the employees taking into account their special work conditions. Their main concerns rely mostly on the lack of support from superiors in terms of funding new equipment, improving procedures, and reducing bureaucratic steps (hence increasing performance).

Keywords: performance, resilience, individual resilience, social care, Romania.

1. Introduction

When talking about the healthcare system and especially intertwined with social services, it can be a sensitive matter especially when talking about children with special neurological needs and other handicaps (Community complex of services for children with handicaps and Familial type houses) that are left in the care of the system. It is a sensitive topic because due to a rotten, bureaucratic, and fragile system, most of them will fall under the cracks and will suffer not necessarily because of the miscarrying or mistreatment of the staff, but because of the aging equipment, suffocating paperwork and procedures that were not simplified. Thus, this presents a barrier and challenge to both medical professionals and their patients.

Therefore, it is imperious to talk about concepts such as public management, performance (implied in the public management concept), individual and institutional resilience and to have a better understanding of how these types of systems function and what keeps the medical staff's engine going in a system that sometimes works against them.

In doing so, this research wants to understand to what extent institutional and individual resilience is present, and how it affects the perceived levels of performance and performance evaluation. Elements such as leadership, organizational culture, and organizational learning are also taken into account due to their high influence on the aforementioned concepts. At the same time, we need to understand that the matter of discussion is a public institution that suffered among others from the public sector a tremendous number of changes in the administrative reform, changes that didn't necessarily have a clear sense of direction, therefore creating more blockages and suffocation in the system in terms of norms, procedures, rules and chains of control.

Hence, we also need to bring into discussion elements of administrative reform, how they developed over time (from weberianism to public management and open governance), and how they influenced (positive or negative) public institutions and their ability to be performant, resilient, and open to change. This is important especially because in some cases the 'pre-existing public administration had failed to establish solid institutional frameworks, rule of law, proper control structures and distortions in the administrative structure. The lack of basic public management orientation among public managers was reflected in the cumbersome administrative procedures (Akhtar, 2016, p. 5).

This is relevant especially when we talk about a post-communistic country like Romania, which suffered quite a few reforms over the past 30 years and still has a lot of issues and instabilities, where political trust and the level of transparency represent the main barriers in developing a system that is functional, digitalized, that offers easy access to citizens to (updated) information and to have a sense of control over how institutions use their information and why.

This is relevant especially in the healthcare system because here we see the main cracks and failure of the system, such as outdated technology, and hospitals catching on fire because of the poor electricity structure. In November 2020, in a hospital fire, 10 people lost their lives in Piatra Neamț. In December 2020, an outlet caught on fire in an emergency unit in Târgu Mureș, but fortunately, there were no victims. Other three psychiatric wards caught on fire between December 25, 2020 and January 5, 2021. On January 29, 2021, 20 patients died in a fire due to negligence and ignorance in terms of the safety and security of patients (Libertatea, 2021). And these are only just a few examples that indicate the rotting of the system and the urgent change that it requires in order to implement concepts such as public management, resilience, and performance, but at the same time to ensure a more transparent, just, and equitable system, especially if we talk about children with neurological issues that are left in the social care system.

To conclude, this exploratory research, having as a case study the social care system, wants to see if individual resilience can overcome the main barriers to working in this sector. The study will focus on the following main items: general work conditions and work environment, working groups, leadership, motivational levels, work-life balance, performance and performance evaluation, organizational learning, innovation, and organizational culture. Items that will be integrated to analyze and indicate the main levels of performance, individual resilience, and institutional resilience. The main elements that this paper wants to bring to light are: What is the performance level? What is the individual resilience level? What are the main challenges? What potential solutions can we bring to the table (and why if any was done beforehand to resolve the issues)?

2. Theoretical framework

When we talk about public management or the concept of New Public Management (NPM) we talk about the intent to introduce tools, practices, and different frameworks from the private sector to the public one. The intent is to increase the level of transparency, performance, and efficiency and to learn best practices from private entities. This reform was introduced with the hopes of modernizing and accelerating the potential of the public sector but also to increasing the level of satisfaction of citizens with public services.

‘The structural form of that non-political instrument was bureaucracy, which, as it became institutionalized, became infused with values such as the responsibility to democratic political authority, loyalty, integrity, reliability, and legal conduct, manifest in the practices of an increasingly professionalized civil service’ (Lynn, 2006, p. 160).

In the Romanian context, we can see some serious issues with regard to the administrative reforms and how they were implemented. Here we talk especially about the lack

of clarity, coherence, and clear adaptation to the context, culture, and actual, real needs of the citizens. At the same time, the lack of long-term vision and political instabilities were also challenges in setting a clear, coherent direction of action (Țiclău, 2020, pp. 101–102). At the same time, the urgency with which reforms were implemented is another key factor. After the fall of communism and the introduction of ‘a democratic Romania’, there was a great lack of know-how and understanding on how to develop a reform having in mind the needs of the citizens. At the same time, the external pressures from neighboring countries, the adherence to the European Union (that started in 1993 and became a member in 2007) and also to NATO (in 2002 Romania was invited to Prague to start the process of adherence and in 2004 became officially a member) (Ministry of Internal Affairs, 2021) pressured Romania to accelerate a democratic administrative reform, regardless of the countless flaws, insufficiencies and incoherencies. Therefore, because of the lack of time, knowledge, and experience, there was a big leap that the country made from pre-bureaucracy to post-bureaucracy, showcasing a poor application of the reform; this also takes into account the poor financial situation, poor collaboration with citizens (and the lack of it) and of course, the lack of trust that citizens have in local and central authorities (lack of political accountability) (Țiclău, 2020, p. 102; Lynn, 2006, p. 136).

Thus, in a sense, we can talk about a type of hybridity, about a combination of different approaches in reforms (neo-weberianism, neo-taylorism, public management, open governance, good governance, quadruple helix models, etc.) that don’t necessarily respond to the real needs of the country, communities, and people. As Polzer *et al.* (2016) said, we can talk about the blending of concepts but it becomes an ‘amalgamate’ of elements that are layered and if they aren’t compatible, then we can have instabilities and confusion in public administration reforms (Polzer *et al.*, 2016, pp. 70–71). If the system and the culture are chaotic and proper actions aren’t taken into account, we contradict the core principles of public management—efficiency and effectiveness. The culture of the country and of the institutions is essential to be an open one, one that accepts and embraces changes and is willing to adapt, becoming more resilient at times. And here we can talk about an innovation-oriented culture as Wynen *et al.* (2014) describe it, in order to trigger the core values of NPM, to encompass innovation and the development of a supportive and open environment for creativity (Wynen *et al.*, 2014, pp. 46–48).

Unfortunately for the Romanian context, we don’t really have the aforementioned values present nor the intention to understand, adapt, and change the way things work. With a lack of corruption risk assessment (Gjorgjievska, 2015, p. 141), there is a slim chance for competent changes to be introduced. Another misunderstanding that Simonet (2013) brought to light is the fact that NPM has multiple variations and that is not really universal (p. 261), and it’s not a one-stop shop for institutions to solve their deficits, incompetency, nepotism, or heavy bureaucratic procedures.

In the case of French hospitals, for example, NPM was used to promote ‘corporate evaluation tools’, to increase performance and improve the collaboration between patients and medical personnel. Another element was ‘outsourcing to the private sector the construction and maintenance of hospitals that the local community will lease first and acquire later, as in the British model of private finance initiative, despite an evident lack of success’ (Simonet, 2013, pp. 262–264). Hence, in the medical field, there are some inconsistencies when we talk about public management and they need to be taken into account especially if we talk about our case study—children with neurological, psychological, and other disabilities and special needs. We can’t implement *ad literam* certain reforms due to the fact that we need to adapt them to the context, culture, and type of activity that is undertaken in said institution.

Consequently, performance in the healthcare system is quite difficult to measure at times considering the complexity of cases, situations, and illnesses that are treated. If it is to compare the performance of a hospital based on the number of cured people, then evidently a general hospital will be more performant than an oncology one. Maybe we can look at the way patients are treated if their needs are met, and if the present technology can help the medical personnel offer the most qualitative services.

However, transparency, accountability, and efficient communication, alongside the way information is used in the decision-making process (Gjorgjievska, 2015, p. 126; Abdel-Maksoud *et al.*, 2015, p. 531) are values that need to be embedded in the organizational culture and in the potential beneficial changes that need to be done. A true merit system is required and clear performance criteria for evaluation as well to ensure a just system, where the medical personnel have the essential tools to act professionally in their field.

Amirkhani, Aghaz, and Sheikh (2020) suggested some core indicators to have a clear and objective performance evaluation system: ‘a reliable accounting system’ making people accountable and offering remunerations or sanctions that are fair and equitable, ‘change management’, ‘comprehensive view’ in the interest of having a perpetuation of the reform, how it changes and how it influences your organization, the use of digitalized tools, the need of an ‘institutional environment’ that promotes change, creates a safe space to express your ideas, be creative and innovative, leadership and organizational culture represent the nucleus to change alongside available resources (Amirkhani, Aghaz, and Sheikh, 2020, pp. 385–386).

But how can we implement the aforementioned in a way that we can nurture at the same time resilience? Being performant, especially in the healthcare system, is crucial but it’s equally crucial to be resilient, to face adversity with little to no negative consequences, to be able to learn, adapt, and change to improve yourself (both as a person and also at institutional level). It is important to understand how capable the system is to self-organize itself and how capable it is to embrace change and continuously learn from past experiences (Harrison, 2003, pp. 11–12).

To understand how we can nurture resilience we also need to understand how institutions adapt to disturbances, how they handle them and more importantly, what are the values set by the leader and how strong the organizational culture is (Duit, 2016, pp. 373–374; Farrar, 2017, pp. 242–244). One can have a great team behind he/she but if the system is working against them and not alongside them, there is a lose-lose situation, especially if we take into account the topic of this paper, meaning the social care system for children with severe neurological issues and other physical and mental disabilities. According to Wenzler, Shimshon and Leigh (2009), we can look at the following ingredients for resilience: ‘identity, sensibility, tolerance, interdependence, guidance, conservation and adaptability’ and to see to what extent we identify them in our organization and how big is their impact on our performance (regardless if we talk about their presence or absence).

When we look at the identity element, we talk about the purpose of said organization’s existence. ‘Who we are, what is our purpose, how can we reach that purpose?’ are just some of the main questions that an organization should ask and most importantly, find a clear answer to those. This goes hand-in-hand with the second aspect (sensibility), being able to understand and constantly collaborate and interact with your external environment. The need to be an organic system, capable of understanding and accepting change when that is required is becoming more evident (sometimes creating a sense of urgency), especially when we look at the ‘interdependence’ element identified by the authors. At the same time, we need to see to what extent we are connected and permissive to internal diversity, not only external one. Furthermore, we ought to see to what extent we understand that diversity can give us different perspectives and understandings on certain aspects (tolerance), alongside our ability to act on the required changes, on the newly learned lessons or other aspects (adaptability). Lastly, after we implemented said changes or learned lessons, we need to see how can we manage the resources we have at our disposal and how can we ensure that the change will become the new *status quo* (conservation) and guide the new members or the current ones in the right direction (guidance) (Wenzler *et al.*, 2009, p. 6).

On that account, we must understand first the context of public institutions and some are so suffocated by the Weberian model, that they tend to fall between the cracks and miss the opportunity to adapt to new, improved reforms and consequently to become more resilient. And if it is to talk about social care for children with special needs, the implications are even higher and we must understand that, because not only the structure aspect matters, but also the political, financial, operational, technological, so on and so forth.

3. Methodology

In order to answer the questions addressed in the introduction part (meaning What is the performance level? What is the individual resilience level? What are the main challenges? What potential solutions can we bring to the table, and Why if any was done beforehand to resolve the issues?), we developed a 15-block questions survey that intends to analyze the main issues, challenges or even best practices that are present in the healthcare system within social services for children with special neurological needs. Therefore, the affirmations were scaled from 1-total disagreement to 5-total agreement to measure the main indicators relevant to this paper. We looked at their general work conditions, their perception of performance, leadership style, culture, innovation, and so on. The surveys were gathered between June 8, 2022 and July 23, 2022, and there was a total of 63 valid (meaning fully completed and answered) surveys.

Out of the total number of respondents, 81% were women and 19% were men, all raging from the age category of 18 (6.35%) to 57–65 (6.35%), the majority being between 51 and 65 years old (28.57%), hence we have a predominant age group and gender in this sample of respondents. In terms of education, 17.46% of them have a master's degree, 23.81% have an undergrad degree and 23.81% have a high school degree.

The purpose of this instrument is to see the general impression in terms of the main elements that can influence directly or indirectly the quality of life at work and how is that reflected in their behavior and attitude towards work and how they perceive them. Also, to better understand how they face adversity, what types of tools are used to measure performance (if any) and how can we offer solutions, suggestions of improvement or at least open the floor for discussions in this regard.

4. Results

As mentioned before, the purpose of this research is to understand the level of resilience and performance of the social care workers, and doctors and to see to what extent they have the necessary and adequate tools to perform at their highest level and potential. In order to do so, a quantitative instrument was used in this research and the affirmations were scored from 1-total disagreement to 5-total agreement for the purpose of trying to understand what is the general (perceived) image and general situation in the two social care centers analyzed in Cluj-Napoca, Romania.

Therefore, looking at the general impression presented below, we can see that the highest value was obtained by the 'work-life balance' indicator (3.56/5). This indicator looked at the level of stress, the toxicity (or lack of it in this case) of the environment, the perceived level of pressure, and working overtime. This can also be linked to the fact that 'motivation' received the second-highest score (3.35/5). Thus, we can see that they

perceive their work as rewarding and fulfilling to some extent and feel that they have a calling to this type of work.

On the other hand, we can see that ‘performance’ received the lowest score (3.14/5) in terms of having clear performance indicators and evaluation strategies. At the same time, we can speculate based on Table 1, that the performance standards are not as high or don’t look at the full potential of staff or equipment, thus, the expectations are realistic but they are not met as required. Just by looking at the general image of the two centers we can already identify a big issue in terms of performance and performance evaluation in the sense that the respondents didn’t feel that their needs and inputs were taken into account in an adequate way when talking about new ways to increase their performance.

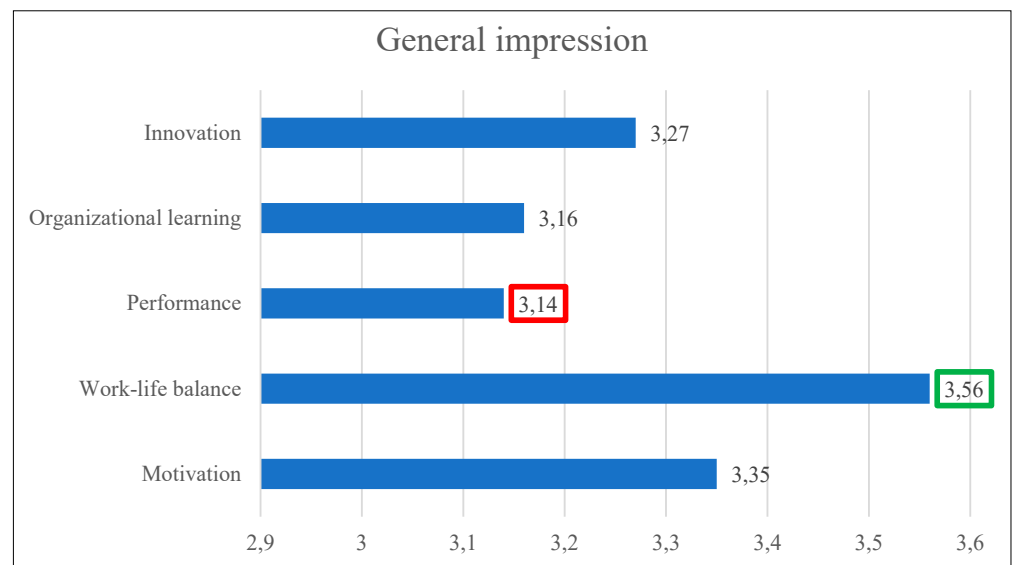


Figure 1: General impression

Source: Author’s own contribution

The question arises here because the particular reason for these circumstances can be related to the fact that not all staff members received adequate feedback or at all from general and/or direct management, and this can create an issue in having a clear, common understanding of success. But again, the issue is the area of work—children with severe mental and physical disabilities and what standards of performance can we develop? Again, the issue here is that regardless of the realistic expectations that are set, they are still not met and this is a challenge that we face. Why haven’t we met those expectations and what are the main barriers that we have (in terms of leadership, culture, teamwork, equipment, etc.)?

Table 1: Frequency of affirmation. Realistic performance expectations

My workplace provides realistic performance expectations				
	Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Totally disagree	4	6.3	6.3
	Disagree	10	15.9	22.2
	Neither agree nor disagree	15	23.8	46.0
	Agree	26	41.3	87.3
	Totally agree	8	12.7	100.0
	Total	63	100.0	100.0

Source: Author's own contribution

As seen below, the motivation and work-life balance demonstrate devotion and commandry between the employees, alongside the fact that they try to help each other, share their knowledge regarding work-related things, and try to overcome adversity together. This is also seen in Table 2, where 30.2% of the total respondents agree with that affirmation and 28.6% totally agree with it. Alongside that, the fact that conflicts are rapidly resolved shows professionalism and focus on their main tasks and working with the children, and confirms the decent level of motivation and balance perceived by the respondents. But that is due to their collegiality and teamwork, and not necessarily because of the direct or indirect involvement of management, creating a gap, a rupture between the two groups in the long run if not resolved.

Table 2: Frequency of affirmation. Teamwork

		Conflicts are resolved quickly in my workgroup	My colleagues share their know-how about work
		Valid Percent	Valid Percent
Valid	Totally disagree	6.3	9.5
	Disagree	9.5	6.3
	Neither agree nor disagree	20.6	25.4
	Agree	36.5	30.2
	Total agree	27.0	28.6
	Total	100.0	100.0

Source: Author's own contribution

Although we can see a strong connection of the group, we can clearly see a weak organizational culture, a culture that is cumbersome and very fragile, thus has the potential to be ruptured in any moment of adversity, this being linked with a weak leadership style as well.

The fact that the culture and leadership received a medium towards low score in the 'general impression' graph, can be easily correlated with the performance score that

is also medium and doesn't show clear performance standards that are being set, nor clear guidance in actions from management. This can create insecurities, especially in the face of adversity, making the resilience levels quite low, therefore the time to recover after different shocks can be increased because of the lack of inner stability.

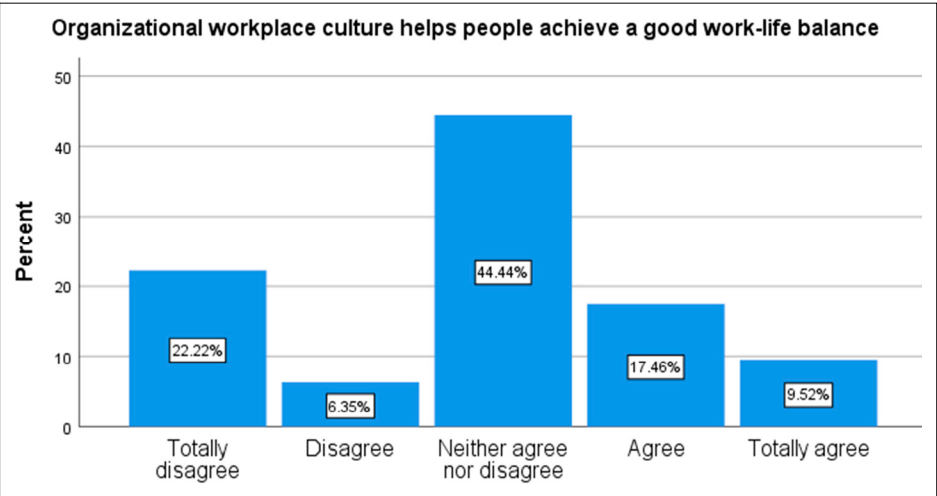


Figure 2: Organizational culture

Source: Author's own contribution

The weak culture is confirmed also by the fact that it doesn't resonate with the data from Figure 1 because in Figure 2 is shown that it doesn't have a direct involvement in supporting the equilibrium created by the group. This actively demonstrates that employees are not connected necessarily to the purpose of the organization nor does the management have a clear, direct involvement in giving feedback or listening to their opinions. This is tragic taking into account their line of work and the great lack of professional medical staff that is urgently needed in this line of work, creating (if not solved) a high level of employee turnover in the future.

Another indicator of the low performance levels and the challenges they face in their field of work is related to the lack of incentives for innovation and involvement. This can also be an indicator of the high score in work-life balance. If there are no other incentives besides their care and devotion to those children, then their involvement is at a minimum. We are not saying that these medical professionals don't care but besides the motivational, intrinsic factors, we need extrinsic ones as well to maintain a high morale. This is presented in Table 4, where 47.6% of the respondents confirmed that there are no clear sets of rewards or incentives to encourage them to be more involved.

Table 3: Data centralization

Performance		
Ideas are not listened to; lack of control over work or performance decisions; goals are imposed rather than set by consensus and collaboration. The performance targets to be achieved, the tasks and the way to achieve them are determined exclusively by the management, the employees do not contribute to the important decisions, and their opinion is rarely taken into account.	3.14	Responsibility for making key decisions; involvement in creating improvements. Employees have a say in important decisions, have autonomy in how they perform their tasks, are heard, and can make proposals to improve organizational processes.
Leadership		
My manager doesn't listen to my opinions. My work is not taken into consideration. I can't make decisions on how to do my job.	3.28	Looks at strategy, valuing people, professional development and learning, authenticity, employee authority and autonomy, team spirit and intelligence (in decision making).
Organizational Culture		
I don't feel connected to the organization/work. I have different understandings of work than my colleagues. My values are not aligned with those of the organization.	3.06	Evaluates the extent to which employees perceive that they are valued/appreciated. Assess the extent to which employees perceive an emphasis on work results and the use of standard operating procedures.
Individual Resilience		
The workload is very high and the deadlines are much too short. There is a continuous flow of new tasks, from replying to messages to traveling or other administrative tasks. I just don't have time for my personal life. Work and responsibility are individual, everyone is responsible only for what they do, so if problems arise you have to do it yourself, it is difficult to get support from others. The merits are rarely recognized regardless of the result. Burnout.	3.52	The deadlines for accomplishing the tasks are realistic, the tasks are complex but they allow me to learn continuously and I feel that I am developing, I can say that there is a balance between personal life and professional responsibilities. I have constructive relationships with superiors but also with other colleagues. If I need support, I always have someone to turn to. Work is based on collaboration and the merits are recognized when you have results.
Institutional Resilience		
The organization has sufficient resources (financial, human, informational) to perform even when unexpected situations arise, or that are difficult to anticipate.	3.35	Our organization performs well in difficult times or when facing a crisis situation.

Source: Author's own interpretation

Table 4: Frequency of affirmation. Incentive program

My workplace has reward or incentive programs that encourage innovation				
	Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Totally disagree	30	47.6	47.6
	Disagree	19	30.2	77.8
	Neither agree nor disagree	4	6.3	84.1
	Agree	8	12.7	96.8
	Totally agree	2	3.2	100.0
	Total	63	100.0	100.0

Source: Author’s own contribution

The lack of incentives is also reinforced in Figure 3, which got the highest score in being the biggest obstacle perceived by respondents and being linked with the second element, not being listened to by management again, reinforces the abovementioned aspects in terms of performance, weak organizational culture and a weak connection to leadership. A serious challenge is increasing performance and the level of efficiency, especially in this fragile environment. The instabilities within the two centers are not affecting only the medical professionals but their target group as well—the children they have in their care and this is the biggest trigger warning in this analysis. The fact that they are directly and indirectly affected by the instabilities, insecurities, and

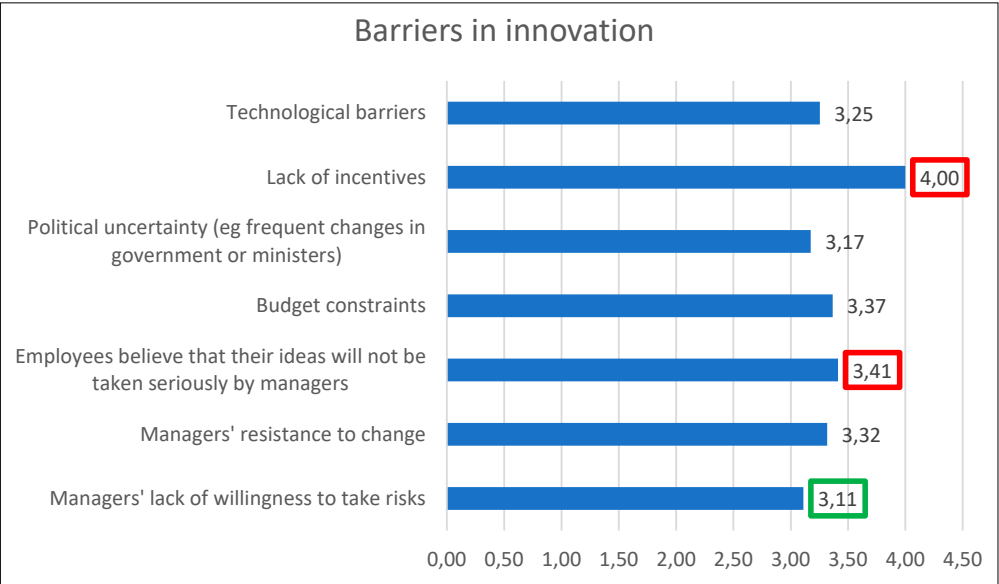


Figure 3: Barriers in innovation

Source: Author’s own contribution

miscommunication present and perceived in the centers can have a severe effect on their healing process and on their general quality of life in the analyzed centers. This presents another important reason to identify the main ‘cracks in the system’ and find adequate solutions because, in the end, the real victims are them, the children.

Another issue that we must look upon is regarding change management and how spread the opinions are, contrary to the other results presented above which had somewhat of a united direction. The fact that almost 50% of the respondents have a negative perception regarding change management is, again, a great issue taking the field of work into consideration. The fact that urgency and instability are not taken care well by management can, once more, have direct and indirect consequences on their patients and their quality of life in the system.

Table 5: Frequency of affirmation. Change management

		Change is well managed			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Totally disagree	4	6.3	6.3	6.3
	Disagree	13	20.6	20.6	27.0
	Neither agree nor disagree	19	30.2	30.2	57.1
	Agree	23	36.5	36.5	93.7
	Totally agree	4	6.3	6.3	100.0
	Total	63	100.0	100.0	

Source: Author’s own contribution

Issues such as those, if not taken care of in time can reduce funds, delay equipment improvement, reduce employees’ motivation, and increase their chances to leave to other centers or hospitals (public or private), thus contradicting public management implications and resilience. Due to the fact that there is little to no openness to stakeholders’ collaboration, their ‘customer services’ (treating children) will lower the quality, meaning that digitalization and modernization will not be something that will take place soon, thus affecting the quality of the human resource and, to close the circle, become another headliner in hospital incompetency, lack of staff and lack of clear resource management to truly serve and respond to their mission.

Hence, there is truly potential because the people working there, medical and general staff, put in effort and dedication to try and help those children but that is not enough to keep the two centers from failing, indirectly failing their patients as well. Poor management, weak organizational culture, and inadequate medical equipment are just a few identified challenges in this exploratory research.

5. Conclusions and points of discussion

To answer the research questions that started this exploration, we can start with the level of performance and as we saw in the analysis results. It received the lowest score, meaning that the medical staff lacks adequate feedback on their performance from their management, they don't receive inputs or incentives to perform better and at the same time, there is a clear detachment between employees and employers.

A low performance rate is only one of the main issues and challenges identified. Another one is the fact that there is a weak organizational culture and leadership that doesn't offer a clear vision and a sense of direction. These aspects can have dreadful long-term effects on the structure and working environment, which can become (if it isn't already) suffocating and overbearing, and can move the focus away from their purpose of existence. A weak organizational culture can mean that there isn't unity between the medical staff and the mission of the organization, they don't get proper motivation to be more involved, more innovative, and more open to discussions (nor is the management). Lack of a shared vision and a common meaning for success can, again, affect those who depend on them—the children.

To end on a somewhat positive note, the individual resilience and team resilience are thriving and can be active contributors to improving the way things work and turning the centers towards a more efficient way of doing things, simplifying procedures, improving work conditions, receiving incentives for innovation, and so on. But for this to occur, we must first improve the relations between teams and leadership and create a bridge that will stand in the long run and be sustainable.

Henceforth, as possible solutions, we can look at open discussions, setting a clear direction, setting clear, measurable sets of performance indicators, improving technology, simplifying procedures, and so on and so forth. But there are also some issues that need to be addressed. Firstly, in terms of sharing the decision-making process, there was another conundrum on our hands: on one side, the respondents said that management didn't want change, but on the other hand, they didn't want to talk to management about potential changes to see if this applies. So here is the first obstacle that we need to pass, to achieve those open discussions done in a safe environment.

Secondly, another challenge that we face is to clear the confusion in terms of roles, responsibilities, tasks, and hierarchical relations to be able to set a clear direction and a common meaning of success and also, measurable performance indicators (that are also verified periodically). Thirdly, because of the lack of incentives to perform better or to be more innovative, the digitalization and improvement process is delayed; but here we need to be reminded of the context of talking about public entities and the budget restraints that they face. Again, taking into account their target group (children with aggravated physical and mental disabilities and other neurological issues), simplifying procedures will not be so simple because of the extra protection and other special needs

they have. On that account, stronger collaborations with key actors (psychiatric wards, police, social services agents) must be developed to enhance and strengthen their positive and impactful contribution in these children's lives.

To sum up everything that was stated so far, we also need to take into account the context—discussing about public institutions, institutions with a high level of bureaucracy, and institutions that have yet to adapt and understand public management approaches to increase efficiency and performance. That is obvious from the low scores obtained by said variable. If things are not put into place and if viable solutions are not found, individual and team resilience will not be able to keep the cracks from cracking. In consequence, to answer the question in the title, the engine that keeps them going is the children, because if we look at the structure, work-relationships (in terms of employee-employer), and performance, we can see that those elements don't necessarily offer reasons or motivation to continue in this harsh environment.

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The Ukrainian Refugee Crisis and the Role of Public Authorities in Romania

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Abstract

Following the invasion of Ukraine by the Russian Federation, the refugee situation has evolved into one of the most significant forced displacement crises since World War II. A vast number of refugees have migrated across borders to neighboring countries. Romania is one of the main principle destination countries in the region for Ukrainian nationals affected by the conflict. Faced with massive displacement, Romanian regional and local authorities are at the forefront of responding to the needs of displaced people. The article analyzes the vital role of local and regional authorities in managing the refugee crisis, while simultaneously facing challenges and opportunities. With Romania acting as a transit country, people fleeing from Ukraine require urgent aid. The authorities face a formidable challenge in efficiently managing the reception of people arriving from Ukraine.

At the same time, the crisis represents an immediate challenge for border regions, compounding the strain on their public services already impacted by the COVID-19 pandemic.

Keywords: local authorities, measures, challenges, Ukrainian refugees.

1. Introduction

Russia's unjustified and unprovoked war against Ukraine has had multiple negative consequences, but the most serious consequence remains the humanitarian one. As the result of the Russian invasion of Ukraine, an unprecedented influx of refugees has entered the European Union. Millions of Ukrainians are fleeing the Russian invasion either to seek safety in nearby countries or in the safer western regions of Ukraine. More than a year after the start of the war, there is no respite from the bombings and rocket attacks, which persistently cause destruction and lead to deaths. As of today, 7,996,573 Ukrainians have fled the country and a large number of people have been forced to move inside the country (UNHCR, 2023). A vast number of refugees from Ukraine have crossed borders, primarily seeking refuge in neighboring countries, almost 90 % are women and children (Karasapan, 2022). 'The majority of individuals fleeing Ukraine and crossing the borders of Hungary, Romania, and Slovakia are only staying in these Member States for a brief period' (European Committee of the Regions, 2022, p. 7). 'Those who cross the borders of Poland and Czech arrive with the aim of staying there until it is safe to return home' (European Committee of the Regions, 2022, p. 7). The way member states have reacted to the Ukrainian refugee crisis is unparalleled, setting a standard for how future refugee crisis should be addressed. Ukrainians once they arrive in Europe are welcomed, in stark contrast to Europe's treatment of other migrants and refugees. 'The European Union countries have provided temporary protection since March 4, 2022 to all Ukrainian refugees that includes the ability to work, receive education and access healthcare in the same way as European citizens' (Council of the European Union, 2022). Romania faced a significant influx of people from the Ukraine and responded quickly, but the crisis has presented a trial for infrastructure, regardless of whether we are talking about the medical or school system of the European countries in the vicinity of Ukraine. The proximity of Romania and neighboring countries to the conflict zone has led to their direct impact by the war, as these countries serve as points of entry to the European Union. As a result of attacks on energy-related facilities and worsening weather conditions in Ukraine, Romania has seen an increase in the number of registered Ukrainian refugees. Since the beginning of the war in Ukraine, over 3 million Ukrainians have transited through Romania, and over 86,500 have chosen to stay in Romania. Regional authorities have been actively

engaged in supporting Ukrainian refugees from the moment they first arrive in their region. Local authorities play a crucial role as primary actors in managing refugees. Their experience in this matter is crucial to ensure that these people are accepted according to their needs. The important thing is that the official response of the national, local and regional authorities has been in harmony with the voluntary solidarity demonstrated by the Romanian citizens, who have been providing thousands of accommodation spaces, food and transportation since the initial days of the invasion. There are three key border entry points: Sighet, Siret and Isaccea. The article will focus on these counties, highlighting the pivotal role played by local and regional authorities. In these regions, the number of refugees is the highest, therefore the local public authorities had the most challenging situations. The article will analyze what were the specific stages and measures taken in these counties. The article will also explore how the authorities, both at the national and European level, could turn this challenge into an opportunity.

Table 1: Border crossings to Romania of refugees from Ukraine by border

Border crossings	Ukrainians (UKR)	Third country Nationals (NTS)	TOTAL
Halmeu	110,949	19,019	129,982
Sighet	337,750	21,585	359,321
Valea Viseului	154	0	154
Vicov	25,760	896	26,649
Vicsani	4,906	14	4,920
Siret	954,629	74,676	1,029,312
Radăuți Prut	37,841	3,296	41,151
Stanca	45,802	7,601	53,389
Sculeni	106,422	36,593	143,015
Iasi	13,152	4,495	17,654
Albița	168,862	73,676	242,524
Oancea	80,393	41,870	122,235
Galați	174,341	25,384	199,753
Isaccea	276,570	14,727	291,318

Source: UNHCR (2023, February)

2. The response of the Romanian public authorities to the Ukrainian Refugee Crisis

2.1 General response taken by the authorities

Since the beginning of the conflict, a substantial number of refugees have arrived in Romania, either to stay or just as a transit point for other European countries. Recognizing the necessity for coordination, Romania has taken steps to develop

an appropriate response and support measures that facilitate the protection of Ukrainian refugees. In terms of Romania's support, our country has established a clear decision-making and coordination structure that enables various government agencies with different law enforcement and responsibilities at all levels to effectively plan, coordinate and collaborate on the ground to address the humanitarian refugee crisis. The measures taken by the Romanian authorities to support Ukrainian refugees include but are not limited to: provision of temporary housing and shelters, distribution of food, clothing, and other essentials, access to healthcare services, enrollment of children in local schools, assistance in finding employment or other means of livelihood, facilitating communication with family members and support network.

The Romanian government created a 'high-level decision-making Task Force, coordinated by Prime Minister' (Popescu, 2022). 'In addition, the Humanitarian Assistance Strategic Coordination Group was formed under the Prime Minister's Chancellery' (Popescu, 2022). Romania's approach to the refugee crisis is well-organized, mainly on emergency assistance and protection. The Government of Romania has played an instrumental role in facilitating the transport of Ukrainian refugees from the arrival points to various location in Romania. Moreover, for those who opted not to remain in Romania, the government established green corridors to allow them to travel safely to other countries. Following a ministerial order, a comprehensive procedure was established to promote the cooperation of public authorities to protect the rights of unaccompanied children during their arrival (National Authority for the Protection of Child's Rights and Adoption, 2022). For instance, regardless of whether the minors arrive with an adult, the border police has to refer them to child protection services. The Ministry of Family, Youth and Equal Opportunities, the Ministry of Health and the Ministry of Education have established a task force on unaccompanied minors. The Minister of Family, Youth and Equal Opportunities has created the 'KidsUkraine' platform to monitor the situation of children displaced from Ukraine (Iacob, 2022). Overall, more than '106 million euros' have been allocated from public money to cover expensed related to housing and food, while an 'additional 12 million euros' have been designated for transportation (Romanian Government, 2023, p. 3). Furthermore, NGOs and UN Agencies have contributed approximately '26 million dollars in cash assistance' (Romanian Government, 2023). 'There are 2,191 capacity at transit centers, around 20,000 Ukrainian refugees have been accommodated in these transit centers since February. 720,000 Ukrainian refugees benefited from humanitarian transport provided by the Ministry of Transport: train, ship, truck' (Romanian Government, 2023, p. 15).

A series of measures at the local and regional level were also needed for the response to be effective and to duplicate or support the measures taken at the national level. Local working groups formed by representatives of local authorities and civil society,

supported by volunteers and citizens, were organized to provide humanitarian assistance (Romanian Government, 2022, p. 16). Local authorities provided medical assistance, and they also ensured special protection for individuals with disabilities and other health conditions. According to the FRA report, in the initial phase, there was weak coordination between volunteers and other actors at the border. After the Ministry of Internal Affairs implemented an integrated coordination mechanism, significant improvements were observed at border crossing points (European Council of Refugees, 2022). Also was developed Protocols of collaboration. The Collaboration Protocol designed to provide assistance measures to individuals facing unique circumstances, arising from armed conflict: 'sign language, interpretation, legal advice on employment matters and social benefits' tailored to individual circumstances (Romanian Government, 2022, p. 17). These services were offered by the authorities to help those in need during their stay in Romania. With the ongoing war in Ukraine, local and regional leaders have emphasized the urgency to speed up the integration process and provide increased support to Ukrainian refugees (Romanian Government, 2022, p. 17). Local authorities designed to facilitate fair employment of refugees in local labor markets, taking into consideration their skills and education. Local authorities also designed actions to facilitate refugees' access to education and training. Specialized training is given to teachers, so they can provide intensive preparatory Romanian language courses adapted to Ukrainian children. Currently 3,087 children are registered as listeners, 882 children officially enrolled in schools in Romania, an additional 288 preschoolers and 594 students (Romanian Government, 2023).

2.2 The specific response of local public authorities at the main crossing points

In this part of the article, the measures taken by the local authorities in the most frequented crossing points Siret (Suceava), Isaccea (Tulcea) and Sighet (Maramures) are analysed and include both Ukrainian citizens and third country nationals (TCN) displaced from Ukraine. Romania stands in full solidarity with Ukraine and its people. In response to Russia's aggression, Romania showed unity and offered Ukraine coordinated humanitarian, political and financial support.

Principal stakeholders, including local government and regional authorities, public institutions, businesses and civil society came together in a concentrated effort to provide support to those in need. Maramureş County have taken several measures to provide assistance and support to the refugees. Additionally, the authorities have joined forces with international organizations to offer assistance and aid to the refugees. To coordinate this unprecedented situation a 'Crisis Management Working Group was established at county level, involving the representatives of Maramureş County Council, Prefecture, and Inspectorate for Emergency Situations' (Committee of the Regions,

2022, p. 10). The Maramureș County Council earmarked €303,000 to address the refugee crisis by funding local NGOs. This allocation aims to strengthen operational capabilities to ensure more effective and unified humanitarian aid. Under the guidance of the Working Group, the project engaged more than 30 NGOs, managing all essential operations at the logistic centers and at the Children and Family Protection Support Hub (Committee of the Regions, 2022). In the entire county, there are 55 accommodation sites with a collective capacity of 1,640 people (UNHCR, 2022). The camp of tents and containers for refugees was set up within the Sighetu Marmăției Municipal Stadium, in collaboration with the Inspectorate for Emergency Situations and the Municipality of Sighetu Marmăției. 128 places are available for the rapid accommodation of refugees, it can be extended to a capacity of 200 places (Ziarul de Maramureș, 2022). Three logistics centers were established in Baia Mare, Sighetu Marmăției and Halmeu, for the management of donations received from local, national and international donors (Committee of the Regions, 2022, p. 19). The Maramureș County Council has developed an online platform that facilitates the connection between the requirements of those seeking refuge from the war and the availability of accommodation and transportation options. Until January 30, 2023, the amount of 2277.972 thousand lei was spent, of which 637 thousand lei by the Maramureș County Council, representing personnel costs, fuel, equipment (mattresses, beds, linens), various inventory items for refugees, food, sanitary materials, goods for personal hygiene and space care, consumables, material assistance, transport of people, other expenses necessary to manage the refugee crisis. Blue Dot was set up—the Integrated Center of Assistance and Support for refugees and their children. The Center was established at the Sighetu Marmăției border point, being the first Blue Dot type unit installed in Romania after the outbreak of the war in Ukraine. More than 20,000 people per month were assisted by the Blue Dot teams, where hundreds of volunteers worked day and night, including volunteers from the Ukrainian community in Maramureș (UNICEF Romania, 2022). In collaboration with NGOs, the Chamber of Commerce and the Employment Agency Maramureș, the Maramureș County has arranged meetings to present employment opportunities at both national and local levels. In the context of education, the General Directorate of Social Assistance and Child Protection Maramureș assumes a pivotal role in providing social support and safeguarding the well-being of Ukrainian children. The inclusion of Ukrainian children in educational system is another action to support refugees staying in Maramureș for a longer period. The summer camp for children from conflict zones in Ukraine hosted 12 children settled in the city of Tyachiv in the Transcarpathian Region, accompanied by 2 Ukrainian teachers, for 1 week in July 2022. The camp was organized in Baia Mare, from the Maramureș County Council in partnership with YMCA Baia Mare, within the program initiated by the European Committee of the Regions and the Association of Ukrainian Cities, with

the involvement of Tyachiv Municipality (Maramures General Directorate for Social Assistance and Child Protection, 2022).

Taking into account the existing situation at Romania's borders, generated by the Russian military aggression from Ukraine, Tulcea County faced a massive influx of people displaced from Ukraine. Ukrainians cross the Danube to escape the war, many Ukrainians have travelled by ferry. By decisions of the County Committee for Emergency Situations the measures established during the extraordinary meetings of this structure were put into practice: the establishment of the Base of Operations at the Isaccea Border Crossing Point, the establishment of accommodation spaces for refugees, the locations intended for individuals who are foreign citizens or stateless and find themselves in unique circumstances.

The transport capacities available at the level of Tulcea County in order to satisfy the need for road transport, prioritizing the access of humanitarian assistance transports destined for the regions of Ukraine. Here, the local authorities collaborated with volunteers and NGOs to provide support and assistance to displaced Ukrainians. The influx of people from the Ukrainian side was large, the formalities required time periods of several days, but together with law enforcement, coordination of activities was ensured. Some of the people who crossed the border into Romania at the Isaccea Border Crossing came with personal cars. A command center was established at the Isaccea border crossing point, composed of various entities, including the: 'Tulcea Inspectorate for Emergency Situations, the Border Police, the General Inspectorate for Immigration, the Tulcea Public Health Directorate, the Tulcea County Council and the Tulcea County Prefect's Institution' (The People's Advocate Institution, 2022, p. 1). The mayor's office offered assistance to guarantee that all the conditions at these reception centers, which involved the active participation of both employees and volunteers (The People's Advocate Institution, 2022). The sub-prefect of Tulcea County was assigned the responsibility of coordinating the aforementioned activities. 'The President of the Tulcea County Branch of ACOR coordinates the relations with foreign nationals or stateless persons in special situations coming from the area of armed conflict in Ukraine in order to involve them in volunteer actions for the storage of the necessary items' (The People's Advocate Institution, 2022, p. 5). Association of Romanian Municipalities, Tulcea County Branch administers a Humanitarian Logistics Hub in the municipality of Tulcea and has collaborated with numerous NGOs since the beginning of the armed conflict in Ukraine (Bigea, 2022). The Tulcea Humanitarian Logistics Hub is a humanitarian warehouse with a verified supply chain that delivers urgent aid directly to southern Ukraine with a unique digital warehouse management and inventory system. Through the Tulcea Humanitarian Logistics Hub, more than 500 humanitarian aid packages and 5.8 million food rations have been sent to Ukraine so far.

Siret border crossing continues to be the main gateway between Ukraine and Romania. Two reception centers have been established with the support of the competent public authorities and are supervised by the Inspectorate for Emergency Situations. In addition there are 9 other facilities organized and funded by NGOs and churches (The People's Advocate Institution, 2022, p. 2). According to the mayor of Suceava the most urgent issue is related to the financial resources for the payment of overtime performed by the city hall employees (The People's Advocate Institution, 2022, p. 2). The center in Suceava dedicated to storage and distribution, serve as a pivotal location for delivery of humanitarian assistance to Ukraine. In partnership with Ukrainian authorities, the transfer of humanitarian aid was made possible by Romania through the HUB. '25 soldiers from the Romanian military support the reception, storage, handling, redistribution of the aid which operates under the Civil Protection Mechanism' (Ministry of National Defense, 2022). Taking into account the integration of refugees, representatives of AJOFM Suceava visited Siret and provided employment opportunities, which migrants arriving from Ukraine can benefit from.

In conclusion, the national authorities as well as those at the local or regional level, demonstrated exemplary organization in managing the refugees arriving at the border crossing points. Impressive mobilization and collaboration were observed among competent local and county public institutions, as well as non-governmental organizations, in providing humanitarian aid.

3. Challenges and opportunities for authorities

3.1 Challenges

The ongoing crisis has posed an immediate obstacle for border regions and nations, whose public services have already been influenced by the effects of the Covid-19 pandemic. The convergence of economic pressures, security and energy issues is an additional burden on neighboring countries, highlighting the need for robust strategies to facilitate refugee integration. Romania was recovering from a crisis caused by Covid-19 that was already exceeding social and economic limits. Large influx of Ukrainian refugees can present challenges for local authorities. This can include issues related to education system, healthcare, employment, and integration into the local community. To address these challenges, it is important for the local authorities to work closely with various organizations and agencies, such as non-profit organizations and international organizations, to provide support and resources to the refugees.

The government, the ministry of health, local and regional authorities were at the 'forefront of coordinating the public health response' (Rayes, 2022, p. 1) for those who arrived. Mental health constituted a major contributor to disability in Ukraine,

impacting approximately 30% of the population (Reinhard et al, 2001. p.1). It is true that health systems across the EU and in Romania were not well equipped to handle the growing mental health needs of recent Ukrainian refugees. More than that, Ukraine has severe epidemics of some major infectious diseases. 'It has the fourth highest incidence rate of tuberculosis in the WHO Europe region, and a HIV epidemic, with an estimated 260,000 people living with HIV'. The prevalence of hepatitis C in Ukraine is estimated to be around 3.5%, which is significantly higher than the European average of 1.5% (Devi, 2020, p. 228). In addition to other non-communicable diseases, a large part of the population remains unvaccinated against Covid-19. At the same time, there were chronically ill patients who needed treatment to survive. Refugees from Ukraine need timely and appropriate health assistance, particularly for mental health and protection and protection from gender-based violence.

Considering that the majority of the refugees are children, the reopening of schools has introduced a new challenge: providing education for Ukrainian children as well. Romanian education systems have had to adapt to the linguistic and academic requirements of refugee students by developing curricula and improving teacher skills and support. The educational systems had to develop their capacity in a short time to be able to integrate Ukrainian refugees into schools. Romanian education systems have undertaken the implementation of a range of inclusion policies and practices aimed at providing support for the learning, social and emotional needs of these students. Therefore, it was essential that the Romanian education system quickly develop the capacity to enroll Ukrainian students, ensuring their successful integration. 'A holistic approach is needed to address the learning, social and emotional needs of Ukrainian students' (OECD, 2022a, p. 2). Facilitating coordinated exchanges with Ukrainian decision-makers and providing opportunities for students to maintain connections with the Ukrainian curriculum, culture and language are also significant for their future. In Romania, refugee students have the opportunity to enroll in one of the 55 schools that offer instruction in Ukrainian language (OECD, 2022a, p. 2). 'Only a part of the Ukrainian children is following courses at the schools in Romania. More than 45% of Ukrainian refugees in Romania are children, only 1 in 10 is enrolled in a Romanian school or kindergarten' (Edupedu, 2022). In Romania there are 10 high schools and 26 primary schools dedicated to providing education in the Ukrainian language (Dădăcuș, 2022). Approximately 71% of Ukrainian refugees do not have knowledge of the Romanian language and about 28% began learning Romanian but haven't attained a sufficient level to continue their education in Romanian. Moreover, only 1 out of 100 Ukrainian children learned the Romanian language well or had prior knowledge before arriving in Romania, being of Romanian ethnicity (Save the Children România, 2022). Regardless of all these challenges, it is obvious that the Romanian authorities have done everything possible for the Ukrainian refugees to benefit from the best

medical and educational services. Once these challenges are known, the authorities try to improve and respond adequately to all needs.

3.2 Opportunities

One of the challenging problems of contemporary Europe is the aging of the population. ‘Following a decrease by 3.5 million people between 2015 and 2020, the EU working age population is expected to shrink further in the coming years and decades, with the loss of an additional 35 million persons by 2050’ (European Commission, 2023, p. 1). The declining working-age population exerts pressure on labor markets and welfare states. As Europe’s working-age population is shrinking, sustaining economic growth necessitates either increasing the number people entering the labor market or enhancing productivity through technological advances and skills development (European Commission, 2023, p. 1).

Europe needs to become more open to immigration. Europeans must not see refugees and migrants only as a threat to national or European unity. It could be a great opportunity for an aging continent. Labor shortages in a number of sectors including agriculture, hospitality, information technology and the significant reduction in the working-age population demonstrate that migration could be very beneficial for Europe. Migration can be an opportunity in these moments, especially because European countries have opened their borders in unprecedented solidarity towards Ukrainians. Before the war, Ukraine had emerged as one of the primary origin countries for temporary migrant labor in various Eastern European labor markets (OECD, 2022b, p. 5). ‘10.4% of the Ukraine’s total pre-war workforce are now refugees in other countries’ (International Labour Organization, 2022, p. 15). In the medium term, refugees have the potential to contribute to economic growth and tax revenue, thereby providing assistance to the current labor market in most parts of Europe (Bird & Noumon, 2022). According to forecasts, Ukrainian refugees increased the labor force in Europe by approximately 0.6% in 2022 and by 2.7% in the countries with the largest number of arrivals (World Economic Forum, 2022). Tens of thousands of refugees are holding out hope that the war will soon end, allowing them to return and resume their lives back home in Ukraine. Despite the prevailing uncertainty regarding the length of stay, refugees are gradually showing an increasing interest in seeking employment opportunities (OECD, 2023, p. 2)

Romania, like many countries, is facing a shortage of certain skills and qualified workers in certain industries. This can be due to a variety of factors, such as an aging population, a lack of investment in education and training programs, and a trend of young people moving abroad in search of better job opportunities. At the national level, Romania must also see migrants as an opportunity. Romania’s demographic

situation has been constantly deteriorating since the Revolution, with massive emigration and natural decline. At the same time, Romania's birth rate is among the lowest (Dumitrescu, 2022). According to a report published by Eurostat, it is projected that Romania along with other Eastern European countries, will experience a demographic decline by 2050 (Gherasim, 2021). Romania is among 46 regions that are in a talent development trap. These regions experience an accelerated decline in the working-age population, and a low and stagnant number of people with a tertiary education between 2015 and 2020 (European Commission, 2023, p. 1). Identifying and addressing demographic trends, along with proposing tailored solutions, are crucial responsibilities of local and regional authorities. The government has implemented policies aimed at addressing this issue, such as encouraging education and training in in-demand fields, improving the business environment to attract foreign investment, and offering incentives for young people to stay in the country and enter the workforce. However, the shortage of workers remains a challenge for Romania and continues to be an issue that requires further attention and solutions. Successful integration depends on emotional openness, the desire to participate in the labor market, enrolling children in Romanian schools and wholeheartedly embracing the social fabric of the host community. Romanian Government has issued a Government Emergency Ordinance no. 20/2022 (GEO no. 20/2022) and stated the general framework for providing support and assistance to Ukrainian refugees—those displaced in terms of employment, healthcare, housing and education (Romanian Diversity Chamber of Commerce, n.d.)

The Romanian Government should continue its efforts to facilitate the entry into the labor market of Ukrainian refugees with temporary protection. This effort entails offering information to Ukrainian refugees on how to enter the Romanian labor market. 'Over 2,000 information materials have been disseminated towards this effort. 5,007 Ukrainians are currently working and registered in REVISAL in Romania. 1,300 Ukrainians mentored during the socio-occupational integration process' (Romanian Government, 2022, p. 22). At the same time, policies at the European level must help the integration of Ukrainian refugees in the long term.

4. Conclusions

Russia's military invasion of Ukraine requires a collective public response. The international community should step forward to offer humanitarian aid, access to healthcare, food security, social security and education to all Ukrainian refugees affected by the conflict. The EU has shown remarkable solidarity and leadership in addressing the challenges faced by people displaced by the war in Ukraine. This article provides an overview of the influx of refugees from Ukraine to Romanian cities and how the

national authorities in general, local and regional authorities in particular can address the challenges and maintain a positive contribution in supporting Ukraine.

Romania continues its humanitarian efforts in providing support to individuals seeking refuge in the region. This assistance includes protection, with special attention given to the most vulnerable groups, such as women and children. Romania's quick response to this crisis is admirable. The involvement of the authorities made Romania an example in managing this challenge. At the local level, it is crucial to draw lessons from this experience to ensure preparedness for any potential future wave of refugees, while improving the resilience system. Both national and European programs must ensure robust disease surveillance and reporting systems and enhance their ability to investigate and respond to disease outbreak effectively, especially in the light of large influx of Ukrainian refugee.

Considering that more than a year has passed since the start of the war, and there is no reason to believe that it will end soon, Romania is trying to integrate the refugees remaining on the country's territory. However, many refugees remain housed in temporary accommodation centers, impeding their ability to fully integrate into the local community. The tendency to join the labor market is generally limited for several reasons, including their hope that the conflict can end from moment to moment. The public health and education systems of Romania need to be adapted to address the emerging challenges. The research shows that the Ukrainian people can represent Europe's opportunity to reverse demographic trends. Refugees usually face specific obstacles in integrating into the labor markets of the host countries. They usually have lower levels of education and greater language difficulties (OECD, 2022). And last but not least, the migrants face a hostile response from the Europeans. Instead, the vast majority of Ukrainian refugees possess a higher level of education. They should also learn the language of their host country, in order to have more opportunities and to be better received by the citizens of the host countries. Romania continues to support the Ukrainian refugee population against this unjustified and illegal war.

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ICT Tools for Increasing Public Integrity. Digitization of Declarations of Assets and Interests for Public Officials: A Romanian Study-Case

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Abstract

Beginning with 2022, Romania started to implement an electronic system of filling the declarations of assets and interests for public officials, in line with other states such as Estonia, France, Georgia, Korea, and the US. ICT tools are generally recognized as complementary instruments used within the e-governance framework for curbing corruption, in terms of raising transparency and public accountability. Electronic disclosures of assets and interest declarations are also providing higher-quality data, which could be used by automated systems to enhance the efficiency of sanctioning incompatibilities and conflicts of interests. National Integrity Agency (NIA) used ICT tools for implementing some major projects during recent years, among which—PREVENT (2017), an automated system for detecting and preventing conflicts of interest in public procurements and E-DAI, an electronic system of filling and disclosure of declarations of assets and interests, adopted in 2020, but implemented in 2022. These major EU-funded projects using ICT tools were also ingenious ways for maintaining NIA's good track record, in a context where controversies related to the backsliding of the fight against corruption were often mentioned by the Cooperation and Verification

Mechanism (CVM), Rule of Law and GRECO reports, mostly between 2017–2019. In this context, the study focuses on the most important beneficial inputs of implementing E-DAI, in terms of raising the effectiveness of assets, interests, and wealth evaluations conducted by NIA. In line, NIA will have to focus on managerial capacity to maximize the electronic system capabilities and, at the same time, the political will shall have to prove its commitment to NIA's independence.

Keywords: e-governance, transparency, digital asset and interest declarations, public integrity, corruption.

1. ICT tools for increasing public integrity. Electronic disclosure of interests and assets declarations for public officials

Information and communication technology (ICT) tools are generally recognized in the literature as instruments used within the e-governance framework for curbing corruption, in terms of raising transparency, openness, and public accountability (DiRienzo *et al.*, 2007; Bertot *et al.*, 2010; Kim, 2014; Vargas and Schultz, 2016; Chêne, 2019). Improving access to information, simplifying procedures, and reducing arbitrariness in administrative procedures, e-governance as a part of broader reforms and strategies can be a factor in supporting good governance and reduce corruption (Rose-Ackerman and Palifka, 2016, pp. 145–146).

Public administration effectiveness depends on the quality of public services, and the use of ICT instruments within e-government can increase the quality of public services, reducing the level of corruption and sustaining good governance (Kaufman, 2009). In the opinion of some authors, the political will supporting reform strategies within public administration is a key factor in reducing corruption; in this respect, new technologies such as: 'digital public services, crowdsourcing platforms, whistleblowing tools, transparency portals, big data' (Chêne, 2019, p. 6), along with open data policies, blockchain technologies, robotics, and AI used to simplify administrative procedures, to improve transparency and civil society scrutiny could be successful instruments for increasing public integrity (Halai and Halai, 2021).

In addition, the interconnectivity of databases between public agencies and institutions, and one-stop shops, aiming to ease access to public services and to lower administrative burden or 'red tape', can contribute to reducing arbitrariness of bureaucracy and limitation of corruption (Martini, 2012). Understanding e-Government as a three dimensions concept, including ICT infrastructure, citizens' e-participation, and digital services, other authors (Choi, 2014) put an important accent on the effectiveness of

ICT tools in the most vulnerable areas, such as public procurement, public health, public services (p. 234).

The impact of e-government and the use of ICT tools within administrative reform strategies depend also on the level of digital skills and access to the internet and technology for average citizens, which can open the debate about the risks of digital exclusion. Still, e-government and digitalization of administrative procedures knew a fast development during Covid-19 global crisis, when governments' digital transformation reforms were forced towards a swift implementation. Although one of the Digital Decade Policy Programme 2030 (Decision (EU) 2022/2481) objectives is to have key public services full online access until 2030, Digital Economy and Society Index (DESI index) 2022 outlines a different level of progress among member states, mostly because new technologies' costs are often significant.

In terms of digital public services indicators (e-Government users, pre-filled forms, digital public services for citizens, digital public services for businesses, and open data), Romania has the lowest score (DESI index 2022, Digital Public Services Report, p. 4). Further on, Romania holds the lowest score also regarding the overall DESI Index 2022 (Digital Economy and Society Index (DESI) 2022 Report, Full Analysis, p. 14). Even if the Recovery and Resilience Facility raises the opportunities to invest in digital transformation, Romania's estimated expenditure towards digital objectives is only 20% (DESI, 2022 Report, Full Analysis, p. 10).

In the context of the advantages of using ICT tools within e-governance, it is acknowledged in the literature the idea of preventing conflicts of interests and incompatibilities by effective management of asset and interest declarations. In line, electronic disclosure of declarations of assets and interests has important beneficial consequences on increasing transparency, public scrutiny, accountability, and public trust.

Some authors emphasized the most important benefits of e-filling and e-disclosure of assets declarations: the possibility of automatic verification of submission compliance; the possibility of automatic processes of analyzing the content of declarations to detect potential conflicts of interest incompatibilities or unjustified wealth; increasing public scrutiny, in terms of raising the efficiency of monitoring and sanctioning conflicts of interests and incompatibilities for public officials (Chêne, 2015; Burdescu *et al.*, 2009).

Other beneficial effects of e-filling and e-disclosure of assets declarations pointed out by Kotlyar and Pop (2019, pp. 4–6) refer to the simplification of the processes for declarants in terms of standardized information; also, machine-readable formats and automated processes of verification and monitoring the declarations; electronic archive systems; an improved sanctions enforcement system; more transparency, leading to a higher level of public accountability of officials and raising public trust. In terms of costs, important public investments are needed to overcome the digital divide, by

improving digital skills and improving internet access and training for staff, electronic signatures, etc.; but, at the same time, the management of paper-based declarations means also important public costs in terms of human resources, physical archives, and time-consuming systems of disclosure, verification, and monitoring.

During recent years, more countries have adopted electronic disclosure of assets and interests declarations for public officials (Kotlyar and Pop, 2019; Kotlyar and Pop, 2020; Burdescu *et al.*, 2009). Since there is no universal model of electronic management of declarations, each country developed a tailored-made system based on their legislation and objectives (Chêne, 2015; Burdescu *et al.*, 2010). In many such countries, the management of electronic declarations has put in practice modules of automated processes, implying analysis of data and issuing notifications for cases needing a more detailed verification (Georgia, Ukraine, Romania) and crosschecking information within interoperable public systems (Romania, Croatia, Moldova, Latvia, Georgia) (Network for Integrity Report, 2020).

Undoubtedly, electronic disclosure of declarations of assets and interests encourages public scrutiny from civil society. Although the level of public disclosure may vary, most OECD countries require mandatory public disclosure for public officials; yet, some of them can present different levels of public disclosure of declarations between different categories of public officials (Network for Integrity Report, 2020; OECD, 2009).

2. National Integrity Agency: A Romanian study-case

Romanian National Integrity Agency (NIA) is the specialized autonomous administrative authority that has the competence to monitor and verify the incompatibilities, conflicts of interests, and unjustified wealth for public officials and civil servants. During recent years, NIA increased the use of ICT tools for implementing some important projects, such as PREVENT (2017), an automated system for detecting and preventing conflicts of interest in public procurements, and E-DAI, an electronic system of filling and disclosure of declarations of asset and interests (legal framework adopted in 2020, but started to be implemented in 2022). PREVENT and E-DAI, major EU-funded projects were also ingenious instruments for maintaining NIA's good track record, in a context where controversies related to the backsliding of the fight against corruption were often mentioned by CVM, Rule of Law and GRECO reports, mostly between 2017–2020.

Democratic decay in Central and Eastern Europe during recent years was challenging the independence of justice and anticorruption institutions, threatening EU rule of law core values. As a direct effect, the crisis of democracy extends corruption (Drapalova *et al.*, 2019). Lately, Romania also witnessed a serious democracy backsliding, mostly

during 2017–2019. Independence of justice, anticorruption reforms, and the fight against corruption institutions were politically targeted, along with EU rule of law core values and the primacy of EU law principle (for details, see Curt, 2022).

NIA and public integrity laws were imperiled: Parliamentary successive initiatives led to the fragmentation of the legislative framework regulating incompatibilities and conflicts of interests. Between 2017–2019 at least five legislative amendments negatively affected the coherence of integrity legislation, ‘exacerbating the fragmented legal landscape’ (CVM Technical Report 2019, p. 18) by: reducing legal situations defining incompatibility cases for MPs; introducing a prescription deadline of 3 years for ascertaining and sanctioning conflicts of interests and incompatibilities (leading to more than 200 cases closing due to legal prescription, Rule of Law Report, 2020); softening significantly the sanctioning regime regarding conflicts of interests for local elected officials and affecting its dissuasiveness. All these legislative amendments led to a weakened integrity legislation, questioning its sustainability. Previous CVM Reports (2016, 2017) recommendations referring to the need for clarification and codification of integrity legislation were simply ignored. Moreover, final court decisions sanctioning MPs’ conflicts of interests and incompatibilities were not implemented (CVM Technical Report, 2018). Simultaneously, NIA’s budget and prerogatives were sharply reduced during these years. Between December 2019–June 2021 NIA had an *ad interim* leadership since the Parliament delayed the appointment of the members of the National Integrity Council, an organism called to organize the selection of NIA’s President. In line, political pressures and defragmentation of the legal framework led to the publicly acknowledged idea that NIA ‘has slowed pace’, facing the threat of political capture.

In this context, major EU-funded projects developed by NIA in recent years could be seen also as ‘resilience strategies’ (PREVENT; LINC¹; E-DAI, NIAct²), preserving the *status quo* of NIA’s track record within CVM, Rule of Law and GRECO monitoring reports.

A successful such project, using ICT tools, was PREVENT system (2017). Since the public procurement sector was considered one of the most vulnerable sectors to corruption in Romania (EU Anticorruption Report, 2014; CVM Reports on Romania 2014–2018), PREVENT was designed to become a preventive mechanism detecting *ex-ante* potential conflicts of interests within electronic public procurements. It was implemented by NIA beginning in July 2017, being acknowledged as one of the most

1 ‘LINC—raising administrative capacity of central public administration in prevention and identification of conflicts of interests, incompatibilities and unjustified wealth’, 2018–2021.

2 ‘NIAct—Update public integrity legal framework and support public authority in the transition to e-declarations of assets and interests’, 2022–2023.

important ICT tools projects implemented by NIA in its preventive activity (GRECO, 2018). PREVENT is the result of an EU-financed project (since 2014), of approximately 7 million Euro total cost.

It is an automated system, based on the interoperability of different public data systems, issuing integrity warnings within public procurement procedures (including EU-funded), whenever detects a potential conflict of interest. The system automatically detects if participants in the public bid are relatives or connected to people from the management of the contracting institution (Pop *et. al.*, 2020). PREVENT analyses all electronic public procurement contracts and does not just operate on a sample basis. The contracting authorities must eliminate the causes of conflicts of interest, otherwise, NIA will start an *ex-officio* evaluation. The processing capacity and data precision collected by the PREVENT system has been improved since 2018, as information concerning public procurement procedures is collected electronically (GRECO Report, 2019).

It was also an important step to include EU-funded public procurement contracts under PREVENT verifications since it is well-known that very often EU funds were an important resource for corruption (Mungiu-Pippidi *et al.*, 2017).

Some critiques argued that PREVENT system does not include a monitoring mechanism for direct awarded public contracts. Attempting to mitigate this liability, beginning with 2018 NIA created a matrix of selection of direct awarded public contracts by local public administrations, using risk indicators and cross-checking information within interoperable systems, in order to identify possible conflicts of interests, incompatibilities or unjustified wealth (GRECO Report, 2019).

The most important achievements of the implementation of PREVENT system relate to a fostered accountability of public authorities in the field of public procurement, the prevention of blockages of EU-funded projects due to potential fraud contestations, and also, improved absorption of EU funds.

Between 2017–2022, PREVENT verified a total no of 93,869 public contracts procedures (approx. 16% of EU-funded contracts), and 175 Integrity Warnings were issued (referring to contracts over 440 mil Euro). In 92% of cases, the contracting authorities have taken administrative measures to avoid conflicts of interests, respectively for the rest of them NIA started *ex-officio* evaluations (National Integrity Agency, PREVENT results, 2022). It was registered a significant reduction, at least 50% of cases of fraud and corruption in public procurement procedures (OECD, 2022). In spite of important limitations (direct awarded contracts), PREVENT system is considered quite a success story.

Another important project using ICT tools, E-DAI is an electronic platform for filling and disclosure of declarations of assets and interests, started to be implemented by NIA beginning with 2022. In Romania, NIA has to process regularly about 400,000

declarations of assets and interests/per year and about 1.4 million declarations/per electoral years (National Integrity Agency, Activity Reports, 2017–2021). The need to substitute the paper-based declarations of assets and interests with electronic versions was repeatedly required, for better management of conflicts of interests, incompatibilities, and unjustified wealth (GRECO Reports 2016–2019). In terms of efficacy, the paper-based declarations imposed multiple resource-consuming operations, such as scanning, archiving, data securing, etc. for millions of declarations.

On the other hand, as explained above, strong political pressures targeting NIA's prerogatives and the deconstruction of the public integrity legal framework during recent years (mostly 2017–2019), led to important concerns related to the capacity of NIA to fulfill its core role in the management of declarations of assets and interests. In line, NIA was required to be more proactive in the detection of unjustified wealth, conflicts of interests, and incompatibilities, and GRECO recommended the strengthening of data-processing capabilities (GRECO Reports 2015–2019).

In this context, NIA started the development of E-DAI platform at the end of 2019 (within a larger EU-funded project, E-MOD, a project for consolidating the administrative capacity of NIA (approximately 3 million Euro). E-MOD project developed by NIA implies an integrated system of investigations, which will be connected to the previous system (SIMIDAI) in four modules: i) for registering persons under the obligation to declare assets and interest, ii) for the purpose of assisting persons concerned to fill in declarations, iii) enable interested persons to consult assets and interest disclosures, iv) reporting module, which would generate reports and statistics on the basis of available data and allow detecting cases triggering *ex-officio* investigations by integrity inspectors (GRECO, 2019). The E-MOD integrated platform includes advanced analysis systems and machine learning algorithms. E-DAI is supposed to be integrated within this platform and consequently, automated processes and cross-checking information within interoperable systems would be able to increase the effectiveness of detection of unjustified wealth, conflicts of interests, and incompatibilities.

Beginning with January 1, 2022, electronic filing of declarations became mandatory (between 2020–2022 it was optional). According to the law, each public institution must acquire electronic qualified signatures for all employees having the obligation to submit declarations of assets and interests. Initially, the law provided that beginning starting with January 1, 2022, the declarations shall be only electronically signed. The term was twice postponed (Government Emergency Ordinance no. 127/2021; Government Emergency Ordinance no. 182/2022) due to the impossibility of the employers (public institutions) to acquire all electronic qualified signatures for depositors (employees). The system implies the registration in E-DAI both of the depositors of declarations (civil servants and public officials) and also of the responsible persons from employers (validating the declarations within each public institution). NIA developed

a dedicated platform, tutorials for depositors and employers, and manuals and guides for e-filing.

During 2022, only 16% of the total number of declarations that were submitted in E-DAI was electronically signed (123,535 from a total number of 769,542 declarations of assets and interests); only 11,498 institutions or public authorities have at least one account created on the e-DAI platform, according to the motivation instrument of Government Emergency Ordinance no. 182/2022.

Apparently, the blockage relies on insufficient public funds for the purchase of all qualified electronic signatures for civil servants and public officials. Many public institutions and authorities are still financially and technically unable to provide the necessary number of qualified electronic signature certificates for the submission of assets and interests declarations.

It is important to emphasize that in this phase of implementation of E-DAI, depositors are practically allowed to electronically fill and submit the declarations also if hand-signed and in a scanned format. The only advantages reside in electronic management of declarations in terms of standardized format data, electronic archive, and a reduced number of human resources, compared to the previous time-consuming system of disclosure and archiving. However, automated processes of verification and cross-checking information within interoperable public systems are more difficult to put into practice. So, practically, the full effectiveness of the electronic management of assets and interest declarations is an objective still pending.

3. Conclusions

Information and communication technology (ICT) tools can be useful for increasing public integrity, mainly as instruments supporting good governance strategies and reforms. Transparency, public accountability, civil society scrutiny, and public trust are the most notable achievements of using ICT tools in the area of raising public integrity, especially if implemented with priority in the areas vulnerable to corruption. In line, electronic disclosure and filling of declarations of assets and interests have important beneficial consequences on increasing public scrutiny and public trust. Automatic verification and monitoring processes, and cross-checking information within interoperable public systems can be implemented to raise the effectiveness of prevention and sanctioning conflicts of interest, incompatibilities or unjustified wealth. Most OECD countries adopted policies for mandatory disclosure of private and financial interests for decision-makers (OECD, 2009); e-disclosure of declarations of assets and interests have been implemented in more and more states during recent years (Kotlyar and Pop, 2019; Kotlyar and Pop, 2020; Burdescu *et al.*, 2009).

But the success of implementation of reforms and strategies within e-governance, using ICT tools is dependent on factors such as access to the internet and digital literacy. Although the digitalization of administrative procedures has known a fast development during COVID-19 global crisis, Romania has the lowest score in the EU in terms of digital public services (DESI index 2022, Digital Public Services Report).

Romanian National Integrity Agency (NIA), the authority called to monitor and verify administrative public integrity incidents, increased the use of ICT tools in recent years, implementing some important projects such as: PREVENT (2017), an automated system for detecting and preventing conflicts of interest in public procurements and E-DAI, an electronic platform for filling and disclosure of declarations of asset and interests (started to be implemented in 2022).

In a context where controversies related to the backsliding of the fight against corruption were often mentioned by CVM, Rule of Law and GRECO reports on Romania, mostly between 2017–2019, NIA was also a target of political pressures. Its prerogatives and budget were reduced and the integrity legal framework was even more fragmented. At the time, it was publicly acknowledged the idea that NIA ‘has slowed pace’, facing the threat of political capture. In line, EU-funded projects developed by NIA in recent years could be seen also as ‘resilience strategies’ (PREVENT; LINC; E-DAI, NIAct), fostering its preventive dimensions and consequently, attempting to preserve the *status quo* of the track record within CVM, Rule of Law and GRECO monitoring reports.

Since EU Commission worries were strongly related to corruption in public procurements area, including the spending of EU funds (EU Anti-Corruption Report 2014), the implementation of PREVENT system, a mechanism detecting *ex-ante* potential conflicts of interests within electronic public procurements was perceived as a success. ICT instruments used to support automated processes and interoperability of different public data systems were tools for preventing and detecting potential frauds in public procurement contracts. But the limitations of this mechanism refer to the increased number of directly awarded contracts (eluding electronic procedures), according to the law.

A particular critique related to NIA activity is related to its capacity to assess declarations of assets and interests, in terms of *ex-officio* evaluations of conflicts of interests, incompatibilities, and unjustified wealth. E-DAI project, an electronic system of filling and disclosure of declarations of assets and interests, was meant to be implemented by NIA beginning in 2021. But since ‘the devil lies in the details’, a controversial provision of the law, as adopted by policymakers, provides the obligation of each public institution to purchase electronic qualified signatures for its employees, and depositors of assets declarations (civil servants and public officials). The argument of insufficient public funds led to successive postponing of the deadline for implementation of the

mandatory fully electronic declarations. In 2022, only 16% of the total number of declarations electronically signed were submitted in E-DAI. Consequently, automated processes of verification and monitorization (automated cross-checking information within interoperable public systems) seem to be not feasible yet, in terms of raising the efficiency of the management of assets and interest declarations.

In conclusion, NIA's activity and track record can benefit from using ICT instruments targeting an improved management of evaluation of the unjustified wealth, conflicts of interests, and incompatibilities, but only if used within strategies and reforms strongly supported by political will. 'Resilience strategies' cannot work indefinitely and, at some point, they tend to become simply illusions. Political will committed to promoting authentic public integrity standards and robust guarantees for NIA independence is a *sine qua non* condition for increasing public integrity.

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Investment Arbitration. Is it Tangible in Romanian Law?

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Abstract

In recent years, the Romanian legal framework has made important steps in making investment arbitration more appealing as an alternative dispute resolution means (ADR) for investors. In the context of the internationally growing backlash against investor-to-state-dispute settlement (ISDS), the viability of public—private arbitration is advanced internally as an innovative method for solving disputes that involve what is known in Romania as administrative contracts. The purpose of this article is to find out if and how arbitration can be properly applied in disputes related to internal investment law, not only in institutional, but also in ad-hoc procedures.

With the intention of sustaining its legitimacy, the research aims at applying internally the main principles of international investment law. The article analyzes the manner in which the transparency of the procedure and the tenure of the arbitral panel (the impartiality and the independence of the arbitrators) can be attained and also to offer, if any, proper appeal mechanisms in order to also satisfy the need for State deference. The article is an attempt to advance a favorable solution for the impasse of the public-private divide, which adds up to the national reluctance of using this ADR means in public contracts.

Keywords: investment arbitration, public contracts.

1. Romanian legal framework for arbitration in public contracts

Investor-to-state-dispute settlement (ISDS) is an arbitration mechanism that allows foreign investors to bring claims for damages against the State in which they invested, while claiming an alleged breach of one of the rights granted to them by a bilateral investment treaty (BIT) clause. This ADR means has continually grown since the 1990s until the present time and most cases refer to key-fields of economic activity such as oil, gas and mining, telecommunications, infrastructure or the energy sector, waste and waste management, which also encompass a great deal of political interference by the State to protect the public interest. At a regional level, the European Commission (EC) is against BITs because the main principles invoked in investment arbitration can affect the uniform and effective interpretation and application of the EU law (see Drecea, 2021, pp. 51–53).

Public contracts in Romania are called administrative contracts (Puie, 2008). An administrative contract is a contract in which one of the parties is a public authority, and the object of the contract consists in the capitalization of State's public or private property. This approach came about in 2005, once with the entry into force of Law no. 554/2004 on the judicial review of administrative action¹, which regards public contracts as similar to administrative acts. The problem with these administrative contracts is that since the change of the communist regime they have been very reluctantly seen by the scholarship as prone to arbitration. Also, their nature as public or private contracts has fluctuated in the legislative framework and with that, the competence for solving disputes related to the execution of such contracts was passed from administrative courts to commercial courts.

As from the 13th of September 2022, once with the enforcement of Law no. 208/2022² which modifies the Remedies Law no. 101/2016, the administrative courts seem to have regained their competence of solving disputes regarding public contracts, no matter the object of the dispute, either before or after the award of the public works, the supply of products, or the provision of services. This normally means that administrative courts will become competent for the solution of conflicts referring to the award of the contract and to the execution of the public contract.

There is though one issue regarding the newly reestablished competence of administrative courts, related to the unsure preservation of para. 1¹ of Art. 53 from Law no. 101/2016, which states that 'Disputes and claims arising from the execution of administrative contracts and those arising from the termination, resolution, unilateral

1 The basic version was published in the Romanian Official Journal (R.Off.J from here on), issue 1154 of the 2 December 2, 2004, while the latest version with all the legal adjustment was published in the R.Off.J, issue 555 of the 5 July 5, 2019.

2 Published in the R.Off.J, issue 697 of the 12 July 12, 2022.

denunciation or early termination of public procurement contracts ‘for reasons independent of the contracting authority’ [CA] are resolved in the first instance, urgently and preferably, by the civil section of the court in whose jurisdiction the contracting authority is located or in the jurisdiction where the claimant has its registered office/domicile³.

This article was introduced by Art. III para 2 of Government Ordinance no. 26/2022 on the modification and completion of normative acts in the field of public investments, in March, thus before the entering into force of the latest adjustment of Law no. 101/2016. The manner in which the article is written seems at first sight to contradict the first para. of the same article, because in the first one it is stated that, e.g., conflicts arising from the execution of public contracts are solved by the administrative courts, while para. 1¹ states that these conflicts are ruled, on the contrary, by civil courts. The key-phrase that makes the difference seems to lie in the cause of the conflict, that is when the dispute is based on ‘reasons independent of the contracting authority’.

The problem is that the reasons of the dispute are not to be established in the early stages of the trial, but only at the end, for otherwise a judge risks to give judgement before the actual trial is completed. Hence, the only meaning of this expression is that it suffices for the motive itself consisting of the independent reasons to be proposed by the CA.

This scenario is found in cases in which, for instance, the CA is the claimant, and the investor is the defendant accused of disrespecting its contractual obligations. The reverse hypothesis in which the CA is the defendant is more difficult to consider, given the fact that the very establishment of the reasons for the dispute implies establishing which part bears the responsibility and this is actually the result of the court’s judgment. Thus, it would mean that the court establishes its competence once with the solution of the dispute, which cannot be accepted.

The same Law no. 101/2016, which implements the Remedies directive, provides for arbitration as a means of resolving disputes arising from public contracts. Art. 57 states that parties may agree to settle by arbitration ‘disputes related to the interpretation, conclusion, execution, modification, and termination of contracts’. This ADR means of solving disputes is applicable to all types of public procurement contracts covered by Laws no. 98–100/2016⁴.

3 Law no. 101/2016 on legal remedies in the matter of public procurement, public sectors procurement and public works and services concessions contracts, as well as on the organization and functioning of the National Council for Solving Legal Disputes published in the R.Off.J, issue 393 of May 23, 2016.

4 Law no. 98/2016 on public procurement, published in the R.Off.J, issue 390 of May 23, 2016, Law no. 99/2016 on public sectors procurement, published in the R.Off.J, issue 391 of May 23, 2016, and Law no. 100/2016 work concessions and service concessions, published in the R.Off.J, issue 392 of May 23, 2016.

It is a premiere in the Romanian legal framework the fact that arbitration is clearly and undoubtedly announced as a viable ADR means, applicable to all types of procurement contracts. The previous legislature mentioned ADR only in government decisions (GDs).

It is the very nature of public contracts that made them less suitable for arbitration, considering the fact that these contracts contain negotiable clauses (Puie, 2008) and also typically formal clauses which pertain to the public order and which are not transactional. Admitting the fact that the present legal framework clarified the admissibility of arbitration in public contracts, the real impasse is to properly apply this ADR in disputes related to internal investment arbitration. Withal, still remains the question of the standards applied by the Court of International Commercial Arbitration (CICA) attached to the Chamber of Commerce and Industry of Romania (CCIR)⁵ (also see Junger, 2016) in order to ensure the quality of the procedure and the tenure, the impartiality and the professionalism (Ciobanu, 2014) of the panel of arbitrators, that are encountered in international arbitral tribunals with a long-standing tradition and consecrated case-law.

2. The innovative character of and the backlash against arbitration in public contracts

The centerpiece of public investment law is the conflict between the public interest of the receiving State to make good use of public funds while assuring good governance and the private interest of the foreign investor to protect its investment in that State, and here the key words are predictability and stability (Uzelac, 2009, p. 29). In case an arbitral ruling obliges the State to pay large sums of money as damages to the investor, the State in question might find the ruling unlawful through the lenses of the public interest. The need to improve international investment arbitration (IIA) is demanded also because other weaknesses have been put forward, such as the lack of certainty and consistency in arbitral rulings, the confidentiality of the trial, the bias in the panel of arbitrators, the need to give the host State a larger margin of appreciation when public interest is considered, the costs and the length of the arbitral procedure, the lack of substantial appeal mechanisms and of an appellate body (such as the World Trade

⁵ The CICA attached to the CCIR, established in 1953 and having the seat in Bucharest is, according to Art. 1 of its own 2018 Regulations on the organization and operation, the main national 'permanent arbitration institution, without legal personality, independent with respect to the exercise of its powers, organized and operating in accordance with the Law on Chambers of Commerce of Romania no. 335/2007'.

Organisation has), or the absence of the need to exhaust all national remedies before addressing the arbitral tribunal (Cosmas, 2014). All of these shortcomings lead to an actual backlash against investment arbitration in recent years because of the fact that for some States arbitral tribunals have a reputation of biased arbitrators or that these tribunals tend to favor the investor and to award it large sums of money, putting into question the sovereignty of the contracting State which is deterred from enacting certain laws necessary to serve the public interest (Simões, 2017, p. 253).

The backlash is closely related to the notion of ‘legitimacy’. Legitimacy is a concept that, in its essence, means that an institution, even an arbitral tribunal (whether permanent or *ad-hoc*), has to inspire trust not only to those addressed to it, but also to the public, and this trust refers to the belief that what this institution decides has the ability to establish rules through a right process. Based on the idea that increased transparency in arbitration procedure will boost its legitimacy and reduce the backlash, international organizations such as the International Centre for Settlement of Investment Disputes (ICSID) completed their arbitration rules in 2006, with several dispositions meant to allow for the public to be aware of litigations linked to public interests that involve private spending of public money and which satisfy good governance principles, while UN adopted the Convention on Transparency in Treaty-based Investor-State Arbitration⁶, which for example allowed interested third-parties to be informed of the procedural terms in order to intervene through *amicus curiae*⁷ briefs (Rule 37 para. 2 of the ICSID Arbitration Rules and Art. 4 of the UN Commission on International Trade Law—UNCITRAL convention).

In this international context of the backlash against investment law and the need for both scholars and arbitrators to secure its legitimacy, the legal Romanian framework embraced in a clear manner the possibility of solving public–private disputes through the use of arbitration.

As a Member State (MS) of the EU, Romania has to comply with the provisions of the treaties and the secondary EU legislation (regulations and directives) on the matter. The particularities of EU law, such as primacy, direct effect, its autonomy, and the consistent and uniform interpretation of it, are ensured by the constant

6 Also known as the Mauritius Convention on Transparency, these rules were adopted on the 10 December 2014 and they entered into force on October 18, 2017, <https://uncitral.un.org/en/texts/arbitration/conventions/transparency#:~:text=The%20Convention%20is%20an%20instrument,%22%20or%20%22Rules%22>, accessed 23 of January 2023.

7 This Latin phrase literally means *friend of the court*, and traditionally refers to nongovernmental organizations, other civil society groups (e.g., professional associations, trade unions, private companies), or even individuals who can justify a strong interest to intervene in the arbitral procedure through written submissions and, more scarcely, even by participating at the hearing.

communication between the national courts of the EU and the Court of Justice of the EU (CJEU). The EU has radically opposed arbitration investment inserted in BITs clauses due to the fact that, in the European Commission's opinion, shared by the CJEU, rulings of the *ad hoc* arbitral tribunals or even institutional tribunals which interpret EU law are incompatible with the EU legal order. This is because the EC considers that EU's primacy and direct effect are endangered⁸ if the arbitral tribunal renders rulings in which it interprets the EU law, because no other authority or institution is better positioned than the EU's institutions in general, and the EC and the CJEU in particular, to have insight on the legal and factual situation which involves the EU and its Member States.

A specific issue as far as internal investment arbitration is concerned is whether the arbitral tribunal has an obligation to render its ruling with respect to Art. 8 para. 2 of Law no. 554/2004 on the judicial review of administrative action, which is primarily meant for national courts and which states that 'in resolving disputes resorting from the execution of administrative contracts, the rule of the contractual freedom (*pacta sunt servanda*) is tributary to the principle of the priority of the public interest'.

My opinion is that the arbitral court cannot behave strictly as a commercial arbitration court and therefore it has to comply with the particularity of the administrative contract and give priority to the public interest. On this matter, there is a certain degree of deference to the administrative authority that the arbitral court must show.

8 For investment arbitration decisions which involve Romania and in which the EC has opposed the execution of the ruling given the incompatibility with EU law, see *Ioan Micula, Viorel Micula and others v. Romania* (ICSID Case No. ARB/05/20), <https://investmentpolicy.unctad.org/investment-dispute-settlement/cases/180/micula-v-romania-i>, and furthermore, CJEU joint cases *European Food SA et. a. and Ioan Micula, Viorel Micula et. a. v. European Commission* (Cases No. T-624/15, T-694/15 and T-704/15), <https://curia.europa.eu/juris/document/document.jsf?text=&docid=215106&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=4992681>, both accessed January 23, 2023. Even if the claimants had won the lawsuit at the ICSID, the EC made it very clear that any sum of money awarded to them as damages would be considered state-aid, incompatible with EU law. Even though in 2019 the CJEU rendered a decision in which it established that the EC was not competent *ratione temporis* to assess whether compensation paid by Romania to the investors constituted state-aid or not, this ruling was suppressed by the most recent ruling of the same CJEU in a judgement rendered of January 25, 2022, following the appeal of the EC. This recent ruling sets aside the initial decision of the CJEU and obliges it to reanalyze the initial annulment of the EC's decision, which declared the damages awarded by the ICSID as state-aid.

3. The main principles of international investment law applied in national investment arbitration

Applying international investment law principles in domestic arbitral procedures might seem inadequate, because unlike the IIA (in which the arbitral tribunal derives its competence from BITs or multilateral investment treaties), the national arbitral tribunal, in case of a conflict between a Romanian investor and a State authority, derives its competence from the arbitrary clause inserted in the contract, which is the law of the parties. However, given their overtime proven purpose of guiding the international arbitral tribunal, I am of the opinion that principles as the legitimate expectation of the conflicting parties, the proportionality of the constraining State measures, good will, fair and equitable treatment, non-discrimination (Florescu, 2011) or expropriation with proper compensation are fundamental concepts in investment arbitration, which can be successfully applied internally.

When compared to the national law of the host state, the legitimacy of the arbitral tribunal has given rise to many debates among scholars, who waver between the more certain solution of the increased tenure of judges provided by national law and the biased perspective of national courts, which are suspected by investors to favor the State authority's point of view.

In Romanian law, there is a set of procedural rules that can be applied in the Code of Civil Procedure (CCP)⁹, but the conflicting parties can establish their own set of rules in *ad-hoc* arbitration; however, if the presiding arbitrator cannot be appointed by mutual agreement of the others, it is the national court's duty to appoint him (her), according to art. 561 CCP.

On the contrary, in institutional arbitration, arbitrators are chosen by the parties only from the list made available by the CICA attached to the CCIR, which also applies its own rules of procedure that are updated constantly.

There are few arbitral clauses in public Romanian contracts, although this type of contracts is arbitrable, according to Art. 542 para. 2–3 CCP¹⁰. Government Decision no. 1/2018 states more specifically in Art. 70.2 para. 2 of Annex 1 that 'If any of the parties refuse to solve the dispute amicably through a mediator and the parties do not

⁹ Published in the R.Off.J. issue 247 of April 10, 2015, the CCP is an organic civil procedure law, which regulates what belongs to the organization and the functioning of the civil trial, but it also comprises the normative aspects of the arbitration in book IV.

¹⁰ Art. 542 para 2–3 CCP states that 'The State and public authorities have the ability to conclude arbitration agreements only if they are so authorized by law or by international conventions to which Romania is a party. Legal persons of public law who carry out economic activities have the ability to conclude arbitration agreements, except in cases in which the law or their act of establishment or organization states otherwise'. See also Junger (2016).

reach an amicable settlement of the dispute directly, any of the parties may resort to resolving the dispute through arbitration or by the court, but not earlier than 90 days from the date of the supervisor's decision'. Art. 70.3 para. 1 sets forth the compulsory use of the arbitral rules of the CICA attached to the CCIR for internal investment arbitration to solve any dispute resulting from a public contract or in connection with it.

In terms of competence, the arbitral tribunal decides on its own competence and upon the existence and the validity of the arbitral clause (the 'kompetenz-kompetenz' principle).

The rule of law in IIA is strictly connected to the degree of deference that the arbitral tribunal considers it has to pay to the host State. Following the above-mentioned remarks about the nature of investment arbitration (whether closer to private commercial law, or public administrative law), an arbitral tribunal pays a certain level of deference (Mojtaba and Akhtar-Khavari, 2018, pp. 40–48) to the State's choices in terms of public policies. Keeping a balance between the need of the investor to protect its investment from political changes and the need of the receiving State to safeguard issues of national importance (such as public health) is a constant concern for scholars when discussing the need for the States to respect their obligations resulting from BITs, which most of the times contain imprecise and very general obligations for the States involved, and thus, the arbitral tribunal plays an important role in defining the appropriate level of deference.

Too much deference may affect the independence of the arbitral procedure, so sought by the investors, while too little deference would accentuate the backlash against ISDS because perceived to favor the investor. Related to the notion of deference are the opposing principles of international law of the 'regulatory chill' versus the 'umbrella clause'.

The 'regulatory chill' is the effect that an arbitration clause may enact that implies the fact that the State or only a certain public authority will probably not issue certain regulatory measures needed to serve the public interest if these regulatory measures have the potential effect of being in contradistinction with the obligations assumed under the BIT or the administrative contract. The concept of the 'umbrella clause' is precisely the way in which an investor protects itself from the regulation that might affect its investing interests by stipulating that the State involved may regulate only under certain circumstances which have to be fulfilled.

Essential security interests and public order must be maintained and protected (Alvarez, 2011, p. 242), despite personal interests of the investor, which might prove to be a considerable change in the optics of the CICA, not so used to public law trials like national courts in Romania are.

4. Arbitrability, tenure of arbitrators, arbitration subjects and transparency

There are certain widely-known advantages for parties when choosing arbitration instead of State jurisdiction, namely in traditional commercial arbitration these are the velocity and the efficiency (Ardelean and Harosa, 2015, p. 4) of the procedure compared to the trial before national courts, and also the litness of the procedural rules, which in *ad-hoc* arbitration can be decided by the parties themselves. However, the lengthiness of the arbitral trial is an element worth studied in internal arbitration, because in IIA over the years, arbitral trials have become very expensive (an average daily cost of USD 3,000, which is a great deal of money for a developing State and it deters it from accessing arbitration) and also longer, with some procedures lasting even for 10 years (Cosma, 2014; Florescu, 2015). The internal situation seem to reveal that not even commercial disputes are solved at a large scale through arbitration, much less administrative investment conflicts and for that reason there still exists the probability that an arbitral dispute might finish after one year, as opposed to the duration of the same conflict brought before the court, which would take a period of a couple of years to be finalized (Junger, 2016).

Conflicts resulting from the execution of administrative contracts are administrative conflicts by nature and they have no business being solved by a judge specialized in commercial law, who by the nature of his lifetime activity has the tendency to see both parties as equals, ignoring the main idea existing in Art. 8 of Law no. 554/2004 not because of a will to disrespect the law, but because of the general optics in all other conflicts which are brought to him for resolving.

One of the essential elements in arbitration, whether internal or international, commercial or investment arbitration, is the appointment of arbitrators. It is only since the 2014 arbitration rules of the CICA that the disputing parties were allowed to assign their own arbitrators, from the list provided to them by the institution. This change of optics was inspired by the ICSID Arbitration Rules¹¹, and it was maintained in the current CICA Arbitration Rules of the 1st January 2018, which provided for the involvement of the President of the Court only if the parties do not agree on the number or the person of the arbitrators¹². Another important observation is related to the arbitrator's expertise: while more than 60% of the arbitrators in the ICSID list are corporate law professionals instead of public law specialists (Cosmas, 2014, p. 1), which means that the rest of almost 40% are public law professionals (and this is internationally

11 See the 2022 ICSID Arbitration Rules, Art. 13 *et. seqq.* regarding the establishment of the arbitral tribunal, https://icsid.worldbank.org/sites/default/files/Arbitration_Rules.pdf, accessed January 23, 2023.

12 See Art. 19 of ICAC's 2018 Arbitration Rules, <https://arbitration.ccir.ro/regulile-de-procedura-arbitrala/>, accessed January 23, 2023.

considered a weakness which justifies the backlash against investment arbitration), the CICA attached to the CCIR has a significantly lower score. From the total of 225 arbitrators (Romanians or foreigners, simple members of the panel or chairmen)¹³, only 18 are public law specialists (8%), and among these even fewer have expertise in public procurement.

In IIA, arbitrators take their legitimacy from the public office granted to them by the treaty and they are chosen from professionals with a high reputation that is difficult to build and very easy to lose (Brower and Schill, 2009, pp. 491–495, 497), and therefore, no professional would really risk his (her) entire career only to bluntly render an unlawful judgment in favor of an investor or of a State. In domestic investment arbitration, the panel is legitimized by the law and by the parties' convention. The arbitrators are listed mainly among lawyers, former judges and scholars, sometimes even among politicians and this is a drawback, since in investment arbitration, where public interest is involved, it would not be auspicious to have a politician in the panel, even if that person is also a lawyer or a professor at the university, for instance. According to Art. 23 of the 2018 Arbitration Rules, they can be challenged if there are justifiable doubts regarding their ethics (independence or impartiality), although there are no guiding lines about the cases in which such a request might be advanced, other than those contained in Art. 1.114 CPC¹⁴.

Romanian scholarship takes an evasive standpoint on the matter of the arbitrability of public contracts, because most scholars tend to make a rather general analysis as to what Art. 542 para. 2–3 CPC might refer to. This means that the State or the public authorities can resort to arbitration if the law expressly allows them, while other legal persons of public law such as national companies, for example, are seen as susceptible to become arbitration subjects only if involved in economic activities. This was basically the prominent aspect hypothesized over time and only minor references were made (Briciu, 2013, p. 8) to the situation of public contracts, which were generally seen not only by scholars, but also by practitioners, as not prone to arbitration.

Notwithstanding, arbitration agreements are currently allowed for the State and the public authorities only if they are so authorized by law or by international conventions to which Romania is a party; however, the general rule is that legal persons of public law who carry out economic activities have the ability to conclude arbitration

¹³ See the CICA's list of arbitrators online at <https://arbitration.ccir.ro/wp-content/uploads/2022/02/lista-arbitri-supraarbitri-RO.pdf>, accessed January 23, 2023.

¹⁴ Art. 1.114 CPC para. 2 states in the following manner: 'The arbitrator may be challenged: a) when he/she does not have the qualification established by the parties; b) when there is a reason for challenge among those provided by the rules of arbitration procedure adopted by the parties or, failing that, by the arbitrators; c) when the circumstances induce a legitimate doubt regarding his/her independence and impartiality'.

agreements; moreover, as far as public procurement contracts are concerned, arbitration is recently a legal means of solving disputes. Having reviewed these rules, the category of public law subjects which have the right to conclude a public contract with an arbitral clause must be established.

The two notions used by the CCP are rather bewildering than clarifying. In fact, the State, as a rule, stands in court through the Ministry of Public Finances (Ciobanu, 2014, pp. 64–67), while the public authorities, when in contractual relationship with an investor, either in public–private partnerships, for example, or in concession contracts, may overlap with the concept of ‘legal persons of public law who carry out economic activities’. In the attempt to overcome the text’s ambiguity, I am of the opinion that arbitration agreements can be concluded by autonomous administrations or companies in which the state is the majority or the sole shareholder, as well as by State’s secretaries or their subordinate agencies, without the need of a special authorization each and every time they need to engage in a public procurement contract.

The State secretaries and their agencies or subordinate institutions such as the National Agency for Fiscal Administration in the Government’s coordination or the Court of Auditors in the Parliament’s coordination, public institutions like State hospitals, national airports, libraries, theaters, schools or universities (Ciobanu, 2014, pp. 68–69), and even county councils belong to the category of legal persons of public law who can lawfully engage in arbitration agreements, through the lenses of Art. 4¹⁵ of Law no. 98/2016 on public procurement, Art. 3 clause 5 lett. e¹⁶ of Law no. 99/2016

15 Art. 4 states in the following manner: CA within the meaning of this law, are ‘a) central or local public authorities and institutions, as well as their subordinate structures that have been delegated the capacity of credit officer and that have established competences in the field of public procurement; b) public law bodies; c) an association of one or more contracting authorities from those provided for in letter a) or b); (2) public law bodies within the meaning of para. 1 lett. b) are any entities, other than those provided for in paragraph. 1 lett. a) which, regardless of the manner of incorporation or organization, cumulatively fulfill the following conditions: a) are established to satisfy needs of general interest, without a commercial or industrial character; b) have legal personality; c) are mostly financed by entities from among those provided in paragraph. 1 lett. a) or by other public law bodies or are subordinated to an authority or under the coordination or control of an entity from those provided for in para. 1 lett. a) or of another body governed by public law or more than half of the members of the board of directors/management or supervisory body are appointed by an entity from those provided for in para. 1 lett. a) or by another public law entity; (3) it is considered that the needs of general interest, provided for in para. 2 lett. a) have an industrial or commercial character, if the entity established by a CA cumulatively fulfills the following conditions: a) operates under normal market conditions; b) seeks to obtain profit; c) bears the losses resulting from the exercise of its activity’.

16 According to Art. 3 pnt. 5 lett. e of Law no. 99/2016, the CA in sectoral acquisitions are ‘(i) central or local public authorities and institutions, as well as their subordinate structures that have

on sectoral acquisitions, Art. 10 para. 1¹⁷ of Law no. 100/2016 on works and services concessions and, to sum up all of these articles, also Art. 3 para. 1 lett. b¹⁸ from the Remedies Law No. 101/2016.

The main issue with national arbitral rulings is the one related to the transparency of the case-law of the CICA, because unlike for example the ICSID main case-law, which can be studied through internet databases like www.italaw.com or www.icsid-files.worldbank.org, there is no public evidence of decisions rendered by the CICA on their website, there is only periodical case-law published as books by former or present arbitrators (Voicu, 2015, p. 6).

Regarding this aspect, if in case of a purely commercial law arbitration case this policy is understandable (Junger, 2016) (because of the need to protect the privacy of the parties), in investment arbitration the same approach of the Romanian arbitration court is unjustified, given the fact that these cases involve public money spending and other aspects which affect the public interest. With all, there are not so many investment arbitration cases solved by the CICA, in the general belief of judges, and it is widely appreciated that most conflicts are solved in national courts instead of through the use of arbitration as an ADR. The actual number and specificity of this case-law requires further investigation.

5. Conclusions

IIA and internal investment arbitration imply the acceptance of the fact that conflicts arising from public contracts are solved by arbitral tribunals, whether institutional or *ad-hoc*, the arbitrators having to apply not only principles of international law, but also the EU's secondary law, and the transposing national law to ISDS, while their main challenge is to conciliate the private interest of the investor with the public interest of the State. Recently, public authorities use public contracts more and more often in order to ensure good governance by providing the people with modern public services

been delegated the capacity of credit officer and that have established competences in the field of sectoral acquisitions; (ii) public law bodies'.

17 Art. 10 states that CA are entities such as 'public enterprises or any legal subjects which operate on the basis of exclusive or special rights granted for the exercise of one of the activities provided for in annex no. 2 and assign a concession contract for the exercise of one of those activities'. Annex 2 comprises a list of activities in which CA can conclude concession contracts, sorted by essential domains such as oil and gas, energy, water supply, transportation, postal services.

18 Art. 3 para. 1 lett. b of Law no. 101/2016 considers as CAs all of those previously defined in the legislation on public procurement in general, on sectoral acquisitions and on works concessions and service concessions, in particular.

with the involvement of actors from the private sector. As a result, investment arbitration is here to stay, because at an international level, foreign investors prefer arbitration to litigation in national courts precisely because of the independence of the arbitral tribunal of any particular domestic legal order.

In Romania, this is rarely the case, because very few public contracts contain an arbitration clause, therefore most conflicts are solved by national courts, either the administrative court in matters related to the conclusion of administrative contracts, or by civil courts, in matters related to the execution of such contracts. It remains to be seen to what extent arbitration in public contracts as set in GD no 1/2018 is a viable ADR in Romania, to what extent our national court of arbitration can and will apply principles of international investment law encountered in major arbitral rulings in which Romania was or is involved, as well as the means to guarantee the judicial independence of the arbitrators and the transparency of the procedure.

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Cybersecurity and Public Administration

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Abstract

Digital transformation is a process that offers public administration new opportunities to provide services and communicate with citizens in a much more dynamic and effective manner compared to the past. However, new technologies increasingly expose the public sector to growing risks. Nowadays, ensuring the security of information resources and systems, which serve in particular to fulfil public tasks, has emerged as a very serious issue. This study aims to focus precisely on the changing cybersecurity landscape, especially considering that PAs are rapidly becoming an attractive target for cybercriminals.

Keywords: Cybersecurity, public administration, ICT, public services, digital transformation.

1. Technological innovation and public administration

Digital transformation is a process that offers public administration new opportunities to provide services and communicate with citizens in a much more dynamic and effective manner compared to the past.

The accessibility of services has certainly been greatly facilitated by artificial intelligence. Technological innovation has also allowed public administrations to get involved in block chain-related activities (e.g., for the streamlining of bureaucratic procedures) and, more generally, to better meet public needs, while always respecting the principles of safety, privacy and data governance, transparency, non-discrimination, fairness, accountability and so on (European Commission, 2020, p. 9).

However, new technologies increasingly expose the public sector to growing risks. Public administrations (PAs) have in fact become susceptible to disruptions in the operation of hardware, IT networks, systems, databases, and the information processes based on these solutions. Digital innovations can relate to a wide variety of sensitive risks, which can have a significant impact on fundamental rights.

Nowadays, ensuring the security of information resources and systems, which serve in particular to fulfil public tasks, has emerged as a very serious issue. This has become even more relevant with the COVID-19 pandemic, which accelerated the long-standing technological changes (European Commission, Directorate General for Informatics, 2021, p. 5).

This study aims to focus precisely on the changing cybersecurity landscape, especially considering that PAs are rapidly becoming an attractive target for cybercriminals, who might access sets of personal data and other resources.

The expansion of modern communication and information technologies obliges the administrations to ensure the security of IT systems and networks while guaranteeing the widest possible access to public services for citizens. Therefore, cybersecurity is a crucial issue for State and local government authorities, and information-security and cybersecurity management are already, or are going to be, an important public task of PAs (Chałubińska-Jentkiewicz, 2022, p. 191).

2. Cybersecurity and public administration

The need to quickly develop appropriate and increasingly stringent protection mechanisms has risen on the agenda of many countries due to the increased exposure to cyber threats.

Cybersecurity is one of the main areas of intervention in the reforms recently undertaken by EU countries as part of their national digitisation processes and the digital transformation of public administration.

These reforms have a clear supranational matrix, as both the Council of Europe and the European Union have been developing specific action strategies in recent years to address cybersecurity issues.

For the Council of Europe, cybercrime—that is offences against and by means of computer systems—has not only a significant social and economic impact but has also evolved into a significant threat to human rights, democracy, the rule of law, international peace and stability.

Several recommendations, declarations, legal instruments, reports and guidelines have been issued on this subject and related topic¹.

The subject of cybersecurity has also been addressed with particular reference to teleworking (especially in the light of its spread during the COVID-19 pandemic), since ‘public administration and municipal employees often work with confidential and/or critical information, and teleworkers must exercise due diligence to ensure that public data and systems are protected, and not left available for intentional or inadvertent access by others’ (Council of Europe, 2020, p. 26).

Public administration is considered a very critical sector in terms of digital security because public IT systems contain and manage confidential information, including information related to national stability and security. Theft or tampering with these resources could cause various disruptions to citizens, as well as considerable economic and reputational damage to the public authorities that are victims of cyber-attacks.

The risks and threats for PAs are manifold and can occur in different forms (phishing, malware, credential theft, man-in-the-middle or entry-point intrusions, etc.) on different devices, platforms, applications, and Wi-Fi networks.

The consequences of cyber-threats are relevant (e.g. considerable service interruptions, data losses, thefts of intellectual property and individual identity) and significantly impact both individuals and public organisations. Ensuring proper delivery of public services is of fundamental importance in order to guarantee citizens’ essential rights and protect them from the theft of sensitive data while preserving the confidential information of the institutions.

Submitting software, wireless networks, and mobile applications to periodic tests to carefully assess security levels is therefore essential for PAs to act promptly on detected critical issues, avoiding dangerous cyber-attacks.

The European Union has elaborated a complex and wide cybersecurity strategy to build resilience to cyber threats and ensure citizens and businesses benefit from trustworthy digital technologies.

¹ See the special section devoted to cybersecurity and action against cybercrime on the web portal of the Council of Europe, [Online] available at <https://www.coe.int/en/web/cybercrime>.

The EU's new Cybersecurity Strategy for the Digital Decade forms a key component of Shaping Europe's Digital Future, the Commission's Recovery Plan for Europe, and of the Security Union Strategy 2020–2025².

The subject has been regulated by a 2016 directive (the so-called 'NIS Directive - Network and Information Security'), which provided measures in order to achieve a 'high level of network and information system security in the national sphere, contributing to the increase of the common level of security in the European Union'³.

It is also important to remember the 'Cybersecurity Act' of 2019, which created a single framework for the introduction of a European certification system for the cybersecurity of digital products and services⁴. The Regulation also gave a permanent mandate to the EU Cybersecurity Agency for Cybersecurity (ENISA), redefining its powers and streamlining its organisational aspects.

For the EU, cybersecurity means 'the activities necessary to protect network and information systems, the users of such systems, and other persons affected by cyber threats' (art. 2, Regulation EU 2019/881). What is most relevant is that, in addressing the long-term challenges of making Europe climate-neutral, sustainable, and ready for the next digital decade, the EU devotes special attention to the cybersecurity capability of Member States' Public Administrations.

Ensuring borderless public services and data flows requires common standards, easier interaction, and greater coordination among public administrations. Changes in technology, however, have made public management more complex (especially in combination with fiscal constraints) and require specific adaptation of PAs' working processes and purposes.

It has been observed that 'digitalization needs to be combined with regulatory simplification and simplification of interaction within and between administrations. The (re-)use of data and the deployment of data-driven novel technologies (artificial intelligence, blockchain, robotic process and automation learning, combined with improved

2 Documents, reports and other resources are available on the web site of the European Commission, in the section dedicated to the policy and strategy of the cybersecurity (which 'aims to build resilience to cyber threats and ensure citizens and businesses benefit from trustworthy digital technologies'), [Online] available at <https://digital-strategy.ec.europa.eu/en/policies/cyber-security-strategy>.

3 Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union.

4 Regulation (EU) 2019/881 of the European Parliament and of the Council of 17 April 2019 on ENISA (the European Union Agency for Cybersecurity) and on information and communications technology cybersecurity certification and repealing Regulation (EU) No 526/2013 (Cybersecurity Act).

interoperability between different systems for more efficient data sharing across boundaries, actors, and sectors, etc.) or crowdsourced data from citizens, apps give new opportunities for data-driven analysis, for testing models, for prediction, for determining sustainable, digital-ready policy options. Data gathering and extraction should be incorporated into the design of the information systems’ (European Commission, 2021, p. 9).

In response to the coronavirus pandemic and the new challenges brought upon the European Union, the European Commission has been working on coordinating, complementing, and initiating measures based on different digital technologies. Moreover, the digitalization and modernization of the public sphere play an important role in the Member States’ National Recovery and Resilience Plans⁵.

Since the so-called ‘NIS Directive—Network and Information Security’ many other initiatives have been taken; in September 2022, the European Commission presented the Cyber Resilience Act, which introduces mandatory cybersecurity requirements for hardware and software products⁶.

On January 16, 2023, the Directive (EU) 2022/2555 (known as ‘NIS2’) entered into force, replacing Directive (EU) 2016/1148⁷. The new European rules improve the existing cybersecurity status across the EU in different ways, by creating the necessary cyber crisis management structure, increasing the level of harmonization regarding security requirements and reporting obligations, and encouraging Member States to introduce new areas of interest such as supply chain, vulnerability management, core internet, and cyber hygiene in their national cybersecurity strategies.

5 On the political initiatives, the legislative instruments and the funding programmes for Digital Public Administration in the European Union, see the European Commission, Digital Public Administration factsheet 2022, [Online] available at https://joinup.ec.europa.eu/sites/default/files/inline-files/DPA_Factsheets_2022_EU_vFinal.pdf.

6 The EU Cyber Resilience Act has been proposed by the European Commission for guaranteeing ‘harmonised rules when bringing to market products or software with a digital component; a framework of cybersecurity requirements governing the planning, design, development and maintenance of such products, with obligations to be met at every stage of the value chain; an obligation to provide duty of care for the entire lifecycle of such products’. See the Proposal for Regulation of the European Parliament and of the Council on horizontal cybersecurity requirements for products with digital elements and amending Regulation (EU) 2019/1020, Brussels, 15.9.2022 COM(2022) 454 final.

7 Directive (EU) 2022/2555 of the European Parliament and of the Council of December 14, 2022 ‘on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (NIS 2 Directive)’. Member States must adopt and publish the measures necessary to comply with the NIS2 Directive by October 17, 2024 and they shall apply those measures from October 18, 2024.

The aim of the new European rules is, on the one hand, to enhance collaboration and knowledge sharing among the Member States and, on the other hand, to oblige more sectors of the economy and society to take measures to increase their level of cybersecurity.

Considering that PAs are often targets of cyberattacks, the most important aspect is that NIS2 will apply to Public Administration entities of central governments and at the regional level as defined by a Member State in accordance with national law. In addition, Member States may decide to apply it at the local level and to education institutions, particularly where they carry out critical research activities.

The new directive NIS2 expanded the scope of action of the previous one, introducing several activities and constraints on recipients, especially in the areas of incident response, encryption, software vulnerability disclosure, and cybersecurity product certification.

The new European regulation identifies two categories of sectors to which it applies. The critical sectors include providers of postal and courier services, waste management, chemical activities, processing and distribution of food, manufacturing, digital service providers, and research. The important and essential sectors (considered highly critical) include energy, transport, banking, financial market infrastructures, health, drinking water, wastewater, digital infrastructure, ICT service management, space, and public administration.

However, the Directive does not apply to public administration entities that carry out their activities in the areas of national security, public security, defence, or law enforcement, including the prevention, investigation, detection, and prosecution of criminal offences.

The inclusion of PAs appears to be appropriate, especially in the context of the critical issues highlighted by the COVID-19 pandemic related to cybersecurity. In smart working, the use of IT tools is not subject to the same forms of supervision existing in the private sector. Moreover, public administrations have become the privileged target of the so-called cybercrime market in recent years.

All EU countries have already transposed the 2016 European Directive, which dictates the legislative framework of measures to be taken for the security of public administrations' information networks and information systems. This is done through the establishment of a national cybersecurity perimeter and the provision of measures to ensure the necessary security standards aimed at minimizing risks.

All EU Member States have also defined their national cybersecurity architecture and established their National Cybersecurity Agency, implementing specific objectives of their National Recovery and Resilience Plans⁸.

⁸ For a comparative analysis of the digital objectives and investments envisaged in the National Recovery and Resilience Plans aiming at modernising administrative processes and improve their

Therefore, EU Member States are now called upon to transpose the new directive, revise and extend the scope of application of system and data security rules, strengthen supervisory bodies and activities, and foster the sharing of experiences at the European level to increase cooperation in the face of growing cyber threats. This meant that PAs will be concerned with the definition of minimum-security requirements and cyber incident reporting procedures in a more rational manner, as well as with the extension of the concepts of risk management and vulnerability assessment (Schaberreiter *et al.*, 2022, p. 5).

Public administrations will thus have to analyse and assess the security risks of their information systems, constantly monitor and equip themselves with an incident response plan to manage possible cybersecurity incidents, build a plan for crisis management for ensuring service continuity, and regularly test the security of their IT infrastructure.

3. New training needs in public administration: building a 'cybersecurity culture'

The new European rules have expanded the responsibility for cybersecurity to public administrations, urging them to work together, including at the EU level, to ensure the security of information systems that are now deeply interconnected nationally and globally.

Cybersecurity is a new frontier for public administrations, and an important, urgent task that requires a very proactive attitude and a great effort to raise awareness. Currently, there are no comparative studies to foster the sharing of best practices and common solutions, which would be very useful indeed, as the risks and cyber threats are the same in all countries.

What is certain is that cybersecurity is destined to become one of the main investments in the digitization of public administration, especially in countries that are still lagging behind in this field, as shown by the EU Desi index (the Digital Economy and Society Index) on the degree of digital advancement.

efficiency while ensuring better quality and wide accessibility, as well as at enhancing the cybersecurity of the critical information systems, see the Briefing of the European Parliamentary Research Service, *Digital public services in the National Recovery and Resilience Plans*, December 2022, [Online] available at [https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/739271/EPRS_BRI\(2022\)739271_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/739271/EPRS_BRI(2022)739271_EN.pdf).

All country-specific information about the recovery and resilience plans and their key points are [Online] available at https://commission.europa.eu/business-economy-euro/economic-recovery/recovery-and-resilience-facility_en#national-recovery-and-resilience-plans.

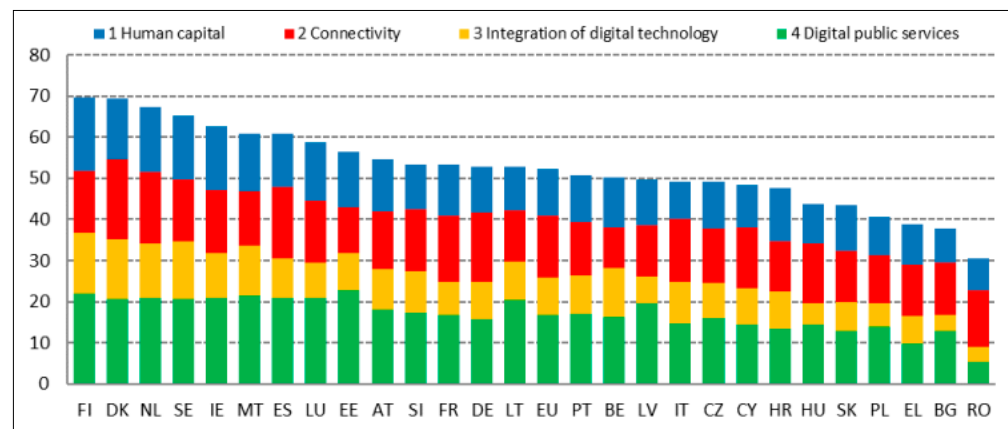


Figure 1: Main Dimension of the DESI

Source: European Commission, DESI Simulation Tool (2022)

There are many challenges posed by cybersecurity, and cyber threats are rapidly taking on new forms. For example, the war in Ukraine has called for new actions to address new cybersecurity risks⁹. They require answers and solutions that should be elaborated with the input and work of specialists from different fields, not only IT and new technology experts or engineers. Experts from the social sciences should also be actively involved, as the topic implies solutions that have to be adapted to the characteristics of public administrations and must, therefore, be the subject of specific and detailed regulation.

Indeed, some actions to increase resilience to cyber risks require interdisciplinarity, as cybercrime itself acts with attacks based on the amalgamation of many disciplines. The European Union Agency for Cybersecurity (ENISA) offers an interactive map of the ways and actions through which states are implementing their national cybersecurity strategy¹⁰.

The various national cybersecurity strategies and their implementation plans will necessarily have to be updated to ensure that public administration data centers are in

⁹ In Italy for example, a recent regulation—Decree-Law No. 21/2022, Article 29—has provided for new obligations for public administrations on the security of networks, IT products in use and IT services. This is in view of the risks arising from the possibility that IT (information technology) product manufacturers, linked to the Russian Federation, may not be able to provide services and updates to prevent such risks, following the crisis in Ukraine. In addition, the National Cybersecurity Agency has to identify product categories for device security (antivirus, anti-malware, EDR) or network protection (firewall).

¹⁰ The access to the interactive map on national cyber security strategies is available at <https://www.enisa.europa.eu/topics/national-cyber-security-strategies/ccss-map>.

line with minimum security and reliability requirements, adopting more sophisticated protection systems to prevent the risks of cyberattacks and technology failures.

The planning of a security plan is now an obligation to which all PAs must adhere, with important repercussions at a legal level and on the liability of the public administration in the event of IT crimes. Additionally, the organizational-functional model for cybersecurity in public administrations should be partly redefined to fully integrate the activities of PAs with those carried out by national bodies that have new competences in digital technologies and cybersecurity, due to European strategies.

It is precisely the ENISA (European Union Agency for Cybersecurity, 2021 and 2022, pp. 13 and 14) that points out the need and urgency of rapidly implementing the national strategy for cybersecurity in public administrations. In the period between April 2020 and June 2022, the sector most affected in the 27 EU Member States by cyberattacks was public administration, with the highest reputational, economic, physical, and social impact¹¹.

Despite the fact that public administrations are often targeted by hackers, cybersecurity spending in some countries is relatively low compared to overall ICT spending. Adequate investments in cybersecurity should enable the public sector to better understand cybersecurity threats, promote cyber culture, and manage cybersecurity risks in a sustainable way, including addressing the human factor.

It should be noted that the risk of cyberattacks remains high in some countries due to low levels of digital literacy among the general public and specifically among public administration staff. To address this issue, public administrations should take specific actions to increase awareness of cyber risks and skills, and protect against cyber threats through risk assessment, education, monitoring, and knowledge sharing. They should

11 The ENISA Threat Landscape is an annual report on the status of the cybersecurity threat landscape. It identifies the top threats, major trends observed with respect to threats, threat actors and attack techniques, as well as impact and motivation analysis. During the reporting period, the prime threats identified include ransomware, malware, social engineering threats, threats against data, threats against availability (denial of service), threats against availability (Internet threats), disinformation–misinformation, supply-chain attacks.

In the context of the report, ENISA defines the different types of impact. Reputational impact refers to the potential for negative publicity or an adverse public perception of the entity that has been the victim of a cyber incident. Digital impact refers to damaged or unavailable systems, corrupted data files or exfiltration of data. Economic impact refers to the direct financial loss incurred, the damage to national security that can be caused due to the loss of important material, or a ransom requested. Physical impact refers to any kind of injury or harm to employees, customers, or patients. Social impact refers to any effect on the general public or to a widespread disruption that could have an impact on society (e.g., incidents disrupting the national health system of a country).

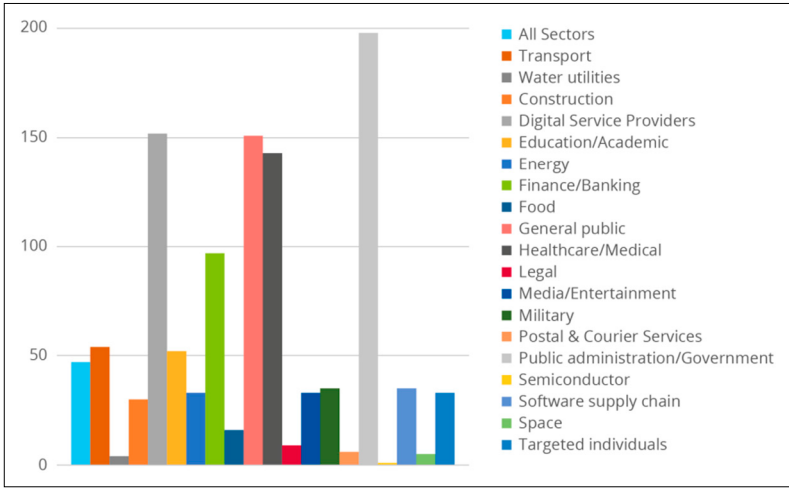


Figure 2: Targeted sectors per number of incidents (April 2020–July 2021)

Source: ENISA Threat landscape 2021, October 2021

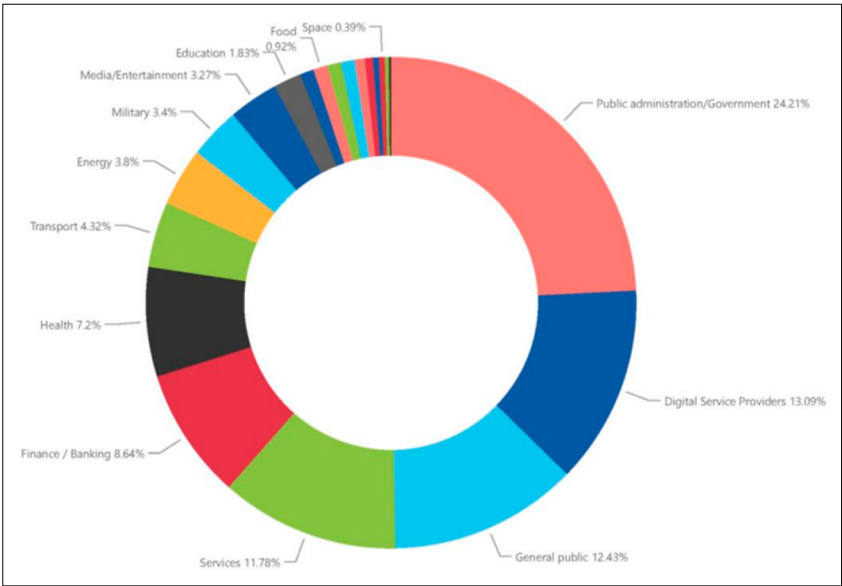


Figure 3: Targeted sectors per number of incidents (July 2021 to July 2022)

Source: ENISA Threat landscape 2021, November 2022

also find a balance between maintaining their desktop tools, websites, and extranets while enforcing laws related to cybersecurity.

The most common types of attacks faced by public administrations include phishing, malware, ransomware, and botnets, which can cause denial or destruction of

services, websites, or server blackouts. To defend against these attacks, public sector organizations commonly use antivirus software and firewalls. Stolen personal data is often used to commit online fraud and identity theft.

In recent years, even high-profile events like elections have been victims of fraud attacks. Activism, cybercrime, and cyberwar are all pressuring government authorities to prioritize cybersecurity. Public sector organizations are also at risk from illegal cryptomining, cyber espionage, and software supply chain attacks. Therefore, critical and urgent defences, such as log management or network traffic analysis, are still lacking, as not all public administrations are using these tools to monitor unexpected activity.

The human element is central in the approach to cybersecurity. It concerns officials who may suffer a cyberattack, security officers who defend public administrations from hacker attacks, and governance responsible for deciding on investments to reduce cyber risk and act promptly in the face of attacks (Wirtz and Weyerer, 2017, p. 1097). It also requires constant updating of cybersecurity skills.

Awareness and understanding of the actual and potential risks require public administrations to set investment priorities in protecting their information assets. Defining a strategic plan in this regard is essential, and PAs must reorganize processes to act sustainably and invest financial and human resources efficiently.

The PAs' staff training process appears crucial in the cybersecurity challenge (Pieczywok, 2022, p. 267): employees may lose important data through tablets, smartphones or laptops (because of using public WiFi access points); successful cyber frauds are sometimes the result of insider mistakes, such as through phishing emails.

Clearly articulate the importance of being aware of cybersecurity action guide, good practices and protocols to prevent security incidents and corruption. National, regional and local authorities should develop a specific cybersecurity action guide outlining the steps to take immediately to reduce the risk of disruption and public safety harm (Council of Europe, 2020, pp. 24–28).

Cybersecurity training and awareness among administrations are fundamental to minimize risks to an acceptable level. Employees should be empowered with the skills they need to face increasing threats. Developing a cybersecurity policy based on shared guidelines and a multidisciplinary approach is important. Establishing a strong relationship between technologies, industry, academia, and public administrations can help create a culture of cybersecurity awareness. Social sciences and technology must work together for proper 'digital governance', considering that IT security is a technical issue with undeniable social and legal implications.

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Controversies Regarding the Necessary Nature of Some Managerial Measures Taken by Administrative Authorities against SARS-COV2

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Abstract

Public administration reflects from an institutional perspective the way in which good state governance characterizes societies in various countries. Public administration should respond to society's needs and operate on the basis of organizational structures, processes, roles, relationships, public policies and programs. It influences prosperity, social cohesion, people's well-being, social trust and the conditions for creating public values.

Public institutions play a fundamental part in finding suitable incentives for reducing uncertainty, ensuring social prosperity, whereas deficiencies in the functioning of public administration can create significant obstacles in any given society. Administrative reform and a continuous development of the individual responsibility of civil servants in the decision-making process undoubtedly require the presence of public managers trained in this domain.

The need for human resources and the importance of their development in public administration is fully known in the field. The influence of the political factor on the public administration activity is also recognized along with its consequences, the interdependence of the political and the administrative phenomenon, together with the legal and moral limitations and delimitations thereof, as well as certain aspects regarding civil servants - the main human resource in the public administration - as well as the connection or interference of the activity carried out by certain civil servants (especially in high offices) who may have a political capacity, all these are even more controversial and debated.

Keywords: public health policies, SARS-COV2, public safety measures, human rights.

1. Introduction

Public administration reflects from an institutional aspect the way in which good state governance characterizes the societies of various countries. Public administration should respond to the needs of society and operate on the basis of organizational structures, processes, roles, relationships, and public policies. It influences prosperity, social cohesion, people's well-being, social trust and the conditions for creating public values.

Public institutions have a fundamental role in finding suitable incentives in reducing uncertainty, in ensuring social prosperity, and deficiencies in the functioning of public administration system. The administrative reform and a continuous development of the individual responsibility of civil servants in the decision-making process require, without a doubt, the presence of public managers trained in this field (Bălan, 2002, p. 33).

The need for and importance of human resources development in public administration is well-known in the field. The influence of the political factor in the activity of the public administration is also known and the consequences, the interdependence of the political and the administrative phenomenon, is even more controversial and

debated (Șandor and Hințea, 1999, p. 8). The focus on public management falls, obviously, on satisfying the public interest through the human resources in the administration - namely through the civil servant (Costachi and Hlipca, 2008, p. 15). An administration with a human resource having a true politico-legal culture makes the difference between good governance and bad governance. The global situation caused by the pandemic virus needs to be managed with wisdom and professionalism. In this context, political competitiveness and good administration of citizens' health and safety acquire new values, professional training and staff recruitment in administration being the guarantor of their achievement (Podaru, 2009, p. 10).

2. Measures of public institutions that have drawn doubts about their legitimacy and compatibility with natural law

Situations considered unpredictable and sometimes unprecedented have been encountered throughout history. The entire history of humanity reveals that, at various times, it has faced dangers that have sometimes threatened its existence. Even the last two years of our contemporary life, regardless of the type of society we live in, can prove this. The last few years have also been marked by such situations and have drawn up the adoption of equally unpredictable rules. The institutions of a state-organized society, both public and private, are present everywhere around us and we are part of society and of them. Each of these institutions has a well-established mission, purpose and objectives. At the same time, depending on the resources available to the society, but also on the socio-economic context, it opts for more modest or bolder strategies, in order to achieve the objectives set in relation to the sustainability of these institutions (Stroe, 2021, p. 35).

Controversies regarding the mandatory nature of quarantine and the SARS-CoV2 vaccine, for example, experienced an accelerated growth determined by the appearance on the market of the first vaccine. The speed with which fake news and anti-vaccination campaigns spread has given rise to many public debates.

Opposition to a vaccine like the one against the coronavirus often transcends the religious sphere because it is based more on scientific arguments that show the ineffectiveness of the vaccine and the fact that it has not been tested for a sufficient period of time to provide reliable information about its effectiveness and side effects.

Each EU/EEA member state usually has its own vaccination regime. In most of these countries the vaccine is recommended. There are twelve EU/EEA Member States where vaccination of children against certain diseases is compulsory. The voluntary or mandatory character of the vaccine is a decision that each EU/EEA member state adopts. In taking such a decision, governments take into account cultural norms, the

legal system and the health system. Vaccination is therefore not compulsory in countries such as: the United Kingdom, Norway, Luxembourg, Portugal, Germany, the Netherlands, Austria, Estonia, Cyprus, Spain, Finland, Denmark and Sweden. In France, for example, the vaccination schedule contains twelve vaccines, but this aspect has more approaches.

While in Poland the vaccination rate is high, Finland has similar results without imposing mandatory vaccination. Consequences for refusing to vaccinate differ from state to state depending on the law in force. In France, for example, two parents were sentenced to suspended prison terms for refusing to vaccinate their 3-year-old and 15-month-old children. In other countries, the refusal to administer mandatory vaccines for children entails other sanctions such as contraventional fines or restrictions in carrying out some activities of unvaccinated children, for example, the right to enroll in daycare (Braithwaite, Harby and Miletic, 2021, p. 13). Certain EU-funded projects (see the EU Strategy on vaccines against COVID-19 https://health.ec.europa.eu/vaccination/overview_ro) deal with such issues.

Although mandatory vaccination has the potential to solve the problem in the short term, experts argue that this is not a long-term solution, strengthening that communication strategies and improvements to the organization of health systems are more effective methods (Sfetcu, 2020, p. 54).

In Romania, Draft Law no. 399/2017 aimed at vaccinating people, but it was met with constant opposition from civil society because of its possible intent to impose compulsory vaccination on all adults and children. Moreover, many amendments were submitted to the committees of the Romanian Senate, but most of them were rejected. Given the fact that this Project was initiated in 2017, vaccination against COVID-19 is not explicitly mentioned, but, being in a special epidemiological context, the legislative framework of the project could allow the adoption of some measures regarding vaccination by government decisions or orders from the Minister of Health, by means of normative acts with lower legal force.

A preliminary analysis regarding the vaccination against coronavirus in Romania, according to aggregated information during the previous wave of infection, 01.02.2021-31.05.2021, demonstrates that the application of the full vaccination scheme reduces the risk of death due to infection with COVID-19 at least 14 times, that of hospitalization and admission to Anaesthesia and Intensive Care Unit by approximately 12 times and the risk of infection with the SARS-CoV2 virus by approximately 10 times.

These restrictions resulted in a wave of protests in the capital. The so-called discrimination against the unvaccinated led to protests in other countries too (Croatia, Belgium, the Netherlands, Italy and Austria).

Access to restaurants or cinemas at a capacity of up to 50% has become possible only for those who have been vaccinated, the same being valid for participation in sports

competitions, festivals, workshops, courses, ceremonies or conferences. The obligation of the vaccination certificate was established for almost all locations, except for pharmacies and grocery stores. Mere testing is not enough for the certificate to be issued, but either the vaccine or proof of passing through the disease is required, which anyway had only a limited value in time.

The same type of rules have been implemented in countries such as Austria and Germany. Austria announced the start of mandatory anti-COVID vaccination for the entire population on February 2022. In Romania, the National Committee for the Coordination of Vaccination Activities set a vaccination target of 10.4 million people by September 2021, but in reality, the complete vaccination schedule was applied to 7,186,386 people.

To preserve the safety of the entire population, the possibility of introducing mandatory or optional vaccination has arisen, but, indirectly, the obligation was imposed by restricting some rights of the unvaccinated. Therefore, many restrictions have come into force for unvaccinated people, yet without misdemeanors or legal sanctions for those unvaccinated.

3. Mandatory vaccination from the perspective of the European Court of Human Rights and some controversies regarding the acceptance of vaccination

The Grand Chamber of the European Court of Human Rights configured a formal response to the issues under debate, referring a case whose decision has been long awaited in the legal world, under art. 8, 9 and others of the Convention, namely the case of Vavříčka and others (application no. 47621/13, 867/14, 73094/14, 19306/15, 19298/15–43883/15) against the Czech Republic (Braithwaite, Harby and Miletic, 2021, p. 11). Thus, after this long wait, the essential jurisprudential coordinates were drawn by the Court, bringing clarity to the aspects regarding the mandatory nature of vaccination and the consequences of refusing to comply with the rules provided for in the country's legislation. The binding and opposable nature of the decision of the Grand Chamber to all the countries of the Council of Europe is an essential jurisprudential precedent due to its *erga omnes* effect. These hearings took place on 01.07.2020 and during them 18 questions were asked by the judges, which indicates the non-specific nature of the Court, some judges being skeptical about the usefulness of the mandatory nature of vaccination. Disposing of a chamber that was initially vested under art. 30 of the Convention led to this case being referred to the Grand Chamber. These types of referrals take place when a case raises serious issues regarding the interpretation of the Convention or its Protocols, or when there is a contradiction between the resolution of a case and a previous judgment of the Court.

In the Vavříčka case, the applicant, the father of two minors aged 13 and 14, refused to vaccinate his children against hepatitis B, poliomyelitis and tetanus, subjecting him to a contravention penalty under the law of the Czech Republic. Although he completed his domestic judicial review, he challenged the sanction through a constitutional appeal invoking his right to educate his children according to his own beliefs and values and the freedom of thought, conscience and religion, but the national courts decided to maintain the sanction.

There were other claimants who refused to vaccinate their children because of skepticism about the vaccine's effectiveness, religious beliefs or other reasons, and their claims were connected. Only one of the applicants was fined and the others were banned from enrolling their children in kindergarten. Before Vavříčka's request, there were other cases where the Court dealt with the implications of art. 8 regarding the required forced medical treatment or establishing the criteria that impose an imperative analysis in contexts in which the right to private life is violated, but in these cases the judgment of the Grand Chamber of the Court was not involved. According to art. 8 par. 2 of the Convention, if the law provides for the restriction of the right to private life as a necessary measure to protect public and individual health and the rights and freedoms of others, within a democratic society, this is possible.

'It is necessary to maintain a balance' between the interests of the community and the interests of the person, the relevance of the goals being provided for in art. 8. According to the Court's jurisprudence regarding interferences, art. 8 of the Convention protects the right to private life which includes the physical integrity of a person. The concept of 'private life' implies both the physical and psychological integrity of the person, the former referring to the most intimate aspects of private life, the obligation of medical intervention constituting, thus, an illegal interference with this right. Physical integrity as well as the fear that vaccination could affect the children's health were aspects by which the applicant in the Vavříčka case justified his choice. Thus, art. 8 of the Convention provides that vaccination as a mandatory medical intervention is a violation of the right to private life, the Court establishing that this measure represents an 'interference by a public authority'.

This interference violates Article 8 of the Convention, except for the cases when: it is 'in accordance with the law'; there is a legitimate objective provided for by art. 8 par. 2; it is 'necessary in a democratic society'. Therefore, the Court based the cases through these three criteria to determine whether the mandatory vaccination violates the right to private life provided by art. 8.

The interference is 'in accordance with the law'

The Court's jurisprudence must ensure that this aspect is fulfilled in such a situation. Rules that are clear, predictable and accessible regarding the mandatory or optional nature of vaccination are set by national legislation to avoid interference with

the law. Public authorities exercise a margin of appreciation to which the criterion of clarity applies.

In a democratic society, the principle of the rule of law must ensure a minimum protection, thus it is necessary for the national legislation to have an optimal clarity that indicates to the public authorities the scope and manner of exercising discretion. To regulate its obligations, the state narrows its margin when it comes to very important aspects related to the existence or identity of a person.

It pursues a legitimate objective provided by art. 8 par. 2

In contexts like the current global pandemic, protecting public health undeniably fulfills its legitimate purpose.

In the case ‘Boffa and others v. San Marino’, application no. 26536/95, there was an interference resulting from the imposition through a legitimate objective provided for in art. 8 paragraph 2 of the ECHR, which refers to the need to protect the public health. The Commission therefore decided that it was a justified interference continuing to examine it as ‘necessary in a democratic society’.

In the Vavříčka case, the Court’s ruling was that the objective of the legislation is protection against diseases of major health risk, referring to both the vaccinated and the unvaccinated who are vulnerable and rely on mass immunization within society. The objective in question corresponds to the protection of the health and rights of others provided by art. 8. Given the fact that the State takes measures to avoid major disruptions caused by the epidemic in order to protect the interests of public safety, and to preserve the welfare of the country, other recognized legitimate purposes of art. 8 paragraph 2 are no longer necessary.

It is ‘necessary in a democratic society’

The need for this intervention in a democratic society is suitable after establishing the need for the other two previously mentioned criteria. It is the Court that can make this decision, taking into account both the interests of the Member State and the right of the applicant. In one of the Court’s decisions regarding this subject, it was specified that the term ‘necessary’ is not as flexible as ‘useful’, ‘reasonable’ or ‘opportune’, but has in mind ‘a special imperative need’ whereby it justifies the interference. Due to the fact that in each individual case the national authorities have to make an initial assessment of the social need, they have a certain margin of appreciation, and the Court then, controls their decision. The restriction of a Convention right may be ‘necessary in a democratic society’, only when it corresponds to the legitimate objective established.

Regarding the general measures adopted by the government, the Court’s assessment of the legislative options underlying them will determine their proportionality. Thus, the importance of both the quality of judicial and parliamentary control of the necessity of the measure and the application of the margin of appreciation increases. In

order to determine whether the defendant state exceeded this margin of appreciation in establishing the regulatory framework, the procedural guarantees of the private person are of major importance. The Court considers the fairness of the interference and respects the interests of a person guaranteed by art. 8.

In the case of *Solomakhin v. Ukraine*, no. 24429/03, judgment of March 15, 2012, point 36, the Court justifies the interference with the applicant's physical integrity by the need to maintain public health and limit the spread of infectious diseases in this region.

The Court also ensured that precautions were taken so that the medical intervention did not harm the applicant and that the balance between the public interest and that of the applicant was maintained. The case of *'Boffa and others v. San Marino'* shows that the extent of the margin of appreciation of the domestic authorities is determined by the purpose and form of the interference. The Commission's statement emphasizes that it was not demonstrated by the applicant that the vaccine was likely to seriously affect the health of his child and explained that there was no overstepping of the state's discretion, noting that in most countries there have been similar vaccination campaigns through which citizens have committed themselves not to endanger the health of others in a situation where their lives are not in danger. The Court's jurisprudence is a stable one because it always takes into account the preservation of public health and the optimal condition for the vaccination of the individual.

3.1. Interference of the vaccination measure with the provisions of art. 9 of the European Convention on Human Rights. State of emergency and limitation of rights

By protecting these personal aspects art. 9 does not guarantee that behavior dictated by these beliefs is always possible in the public space, and the term 'practitioner' does not make any behavior justified by religion or creed to be legitimate because it does not have such a broad coverage.

The mandatory vaccination is valid for everyone, regardless of religion or personal belief if so provided by national legislation (*San Marino*). Therefore, the Commission did not report any interference with the freedom enshrined in art. 9 paragraph 1 of the Convention.

In the *Vavříčka* case, the applicant's request was declared inadmissible, the claims not being compatible with *rationae materiae* with art. 9. For this reason, the Court rejected the request referring to art. 35 par. 3 a) from the Convention and art. 35 par. 4, emphasizing that the approach of the domestic courts was reasonable and consistent with their own interpretation of art. 9. Considering that the applicant did not adduce additional arguments to support his complaint before the Court and taking

into account the decision of the domestic court, it was found that the critical opinion regarding vaccination is not sufficiently convincing and important so as to be supported by art. 9. Vavříčka's speech was incoherent and he motivated his opposition to vaccination by fear for his own health and only then invoked freedom of conscience, but he had no concrete arguments to support some interference of vaccination with his own beliefs.

All in all, at the present moment, the mandatory vaccination is not considered to be incompatible *de plano* with the provisions of the ECHR. The Vavříčka case is a true *magnum opus* and constitutes a landmark decision through which the ECHR outlined the essential benchmarks that establish the correctness of the measure and the proportion in which it corresponds to the rights enshrined in the Convention.

State of emergency and limitation of rights

The right to life is the most important right in the category of fundamental rights, being part of the category of civil and political rights because it is the basis for the existence of all other human rights. The actions of all states have at their center the respect of this right because it refers to the 'essence of the human being', but also to society as a whole.

The Universal Declaration of Human Rights guarantees the right to life for the first time on an international level, and later, the International Covenant on Civil and Political Rights took civil and political rights within its framework, giving them a binding legal character.

Art. 6 of the Pact provides for 'the abolition of the death penalty, but also the inherent nature of the right to life for any human being, the prerogative of each person not to be arbitrarily deprived of the exercise of this right, and the need for the express regulation of the right to life'.

The applicability of this right is not absolute. Any derogation from its guarantee must have a legal basis, and actions that harm it are prohibited. The precise definition of the legality of the right to life is necessary to avoid the risk of being misinterpreted or misapplied.

States Parties to the International Covenant have the obligation to respect and ensure the right to life, protecting individuals from both real and potential threats. These threats can be: violence, traffic and accidents, hunger and malnutrition, or medical hazards such as the coronavirus pandemic.

The right to life brings challenges in the context of the COVID-19 pandemic because the life of an entire nation is threatened and its exercise consists, among others, in taking measures to counteract the state of emergency. The European Convention for the Protection of Human Rights and Fundamental Freedoms has regulated this right, so that 'everyone's right to life is protected by law'.

3.2. The complexity of the measures to prevent and combat the spread of the SARS-CoV-2 virus with regard to certain fundamental rights violated during the pandemic period

In Romania, the COVID-19 pandemic has attracted an increase of law enforcement, with people entering the system without an exam. This, on the one hand, was in accordance with the context that threatened public health, but, on the other hand, it did not respect the obligation of the European Court to be specialized in order to protect the right to life. National authorities have the primary duty to ensure the right to life by implementing concrete criminal legislation that avoids committing harm to the person. Encroachments on the right to life following the application of force by public authorities resulting in the death of a person means a failure of the state's responsibility to ensure the condition of non-interference. The state must therefore strictly regulate the actions of law enforcement to avoid inevitable accidents, abuse of force and arbitrariness.

This fundamental right is also provided by the Charter of Fundamental Rights of the European Union: the absolute guarantee of the right to life in the context of the total elimination of the death penalty. Everyone has the right to life. No one can be sentenced to death or executed.

The guarantee of the right to life by the States Parties is closely related to ensuring the quality of services and medical devices to combat the pandemic. The lack of medical products and equipment and the 'falsification of medicines and equipment' casts doubt on the achievement of the goal of protecting the right to life, which is why there must be cooperation between states aimed at stopping the trafficking of counterfeit medical equipment.

The right to dignity and the prohibition of torture, of cruel, inhuman or degrading treatment or punishment

This is not only a human right, but also a legal principle and a social value. The protection of human dignity is formulated in the International Covenant on Civil and Political Rights to refer only to the prohibition of torture: 'No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, it is forbidden for a person to be subjected, without his consent, to a medical or scientific experience'.

This right is regulated by the Charter of Fundamental Rights of the European Union, thus: 'human dignity is the name given to the first title in the Charter', 'human dignity is the first right regulated in the Charter'. States Parties have the obligation to prohibit torture, inhuman or degrading treatment or punishment, but also to inform the public about the judicial, legislative and administrative measures adopted to prevent cruel, inhuman or degrading treatment on their territory.

In the context of the COVID-19 pandemic, the prohibition of torture, cruel punishments and treatments is also closely related to people in detention. Greater attention is also needed on elderly people who are not a threat to society and those who have

committed minor crimes, in the sense of finding alternatives to deprivation of liberty to reduce overcrowding in prisons. In order to reduce the emotional factor in the situation of detainees and their families, the National Authority for Prisons has supplemented telephone calls, online communication and information. At the same time, there were taken measures to avoid face-to-face meetings with those outside prisons in the context of the spread of the SARS-CoV-2 virus.

In the case of minors in detention, it was decided to replace the attending physician with their legal representative in order to provide them with medical assistance, thus limiting contact with people outside the center.

The complexity of the measures to prevent and combat the spread of the SARS-CoV-2 virus in penitentiaries led to the adoption of ‘suspension measures’ as well as ‘rights restriction measures’.

The right to security, liberty and safety

Encroachments on this right affect bodily integrity. This is not an absolute right, being able to bear certain limitations. The right to freedom and security has certain guarantees regulated by the UN and supported by the Council of Europe: informing the detained or arrested person; judgment within a reasonable time; exercising appeals against the decision to deprive of liberty; the right to compensation or reparations in the event of unlawful deprivation of liberty.

Regarding the freedom of movement in the conditions of the existence of the COVID-19 pandemic, the legal system of the European Union provides for the introduction of control at the internal borders of the Schengen area for a maximum period of 10 days as an exceptional method.

At the level of our country, free movement has been restricted to prevent the spread of COVID-19 and manage the consequences, in relation to the evolution of the epidemiological situation, during the state of emergency, the exercise of the following rights and freedoms being restricted, proportionally (art. 2, paragraph 1, letter a of Decree no. 195/202057).

Military Ordinance no. 2/21.03.2020 limits the movement of citizens outside their homes for strictly professional purposes, for medical assistance, for the assistance of the elderly, the sick and the disabled, for the provision of goods and for individual and animal physical activity.

Military Ordinance no. 3/24/03/2020 increases the range of reasons for travel: traveling for the purpose of donating blood to blood transfusion centers; travel for humanitarian or voluntary purposes; moving to carry out agricultural activities; the movement of farmers for selling their products.

Military Ordinance no. 4/29.03.2020 provides for the following sanctions:

(1) Persons who leave the place where they were quarantined, without the approval of the competent authorities, will be penalized for contravention according to the

provisions of the Emergency Government Ordinance no. 1/1999 regarding the regime of the state of siege and the regime of the state of emergency, with subsequent amendments and additions, and will be forced to resume the 14-day quarantine cycle, bearing the expenses incurred with their quarantine; (2) Persons who do not respect the conditions of isolation at home and are identified outside the isolation space, will be penalized for contravention according to the provisions of the Emergency Government Ordinance no. 1/1999 regarding the state of siege regime and the state of emergency regime, and will be forced to enter quarantine for 14 days, bearing the expenses incurred with their quarantine.

Freedom of thought, conscience and religion

Human personality is formed on the basis of respect for this freedom, and human identity is formed on the basis of the attributes of thought, consciousness and religion. Freedom of thought, conscience and religion is regulated by art. 18 of the International Covenant on Civil and Political Rights which admits that there may be deviations from the observance of this freedom in order to protect public health, order and security, the freedoms and rights of others and morals.

Freedom of thought, conscience and religion also implies: the freedom to choose one's own religion or belief; freedom to manifest religion or belief publicly or privately, jointly or individually and to fulfill rites through education or practice.

In the case of minors, those responsible for the manifestation of religious freedom are their legal representatives. Para. 2 of art. 9 mentions the restrictions regarding this freedom: the freedom to manifest one's religion or beliefs cannot be subject to other restrictions than those provided by law which, in a democratic society, constitute necessary measures for public safety, the protection of order, health, of public morals, rights and freedoms of others.

In the context of the COVID-19 pandemic, the number of people attending weddings and funerals has been reduced. Annex 1 art. 1 paragraph (2) of Decree no. 240 specifies the way practices and rituals are carried out: (2) Servants of religious cults officially recognized in Romania can officiate in places of worship, in public spaces or in private spaces: a) public practices and rituals specific to the cult, without public participation; b) practices and rituals of a private character specific to worship, such as baptisms, weddings or funerals, with the participation of the minimum number of people according to canonical norms and with strict observance of individual and collective protection measures to prevent the spread of COVID-19.

The 2020 Easter holidays took place in accordance with the measures to combat the coronavirus based on the Agreement signed between the Ministry of Interior and the Romanian Patriarchate.

Order no. 1070 of May 15, 2020 explains the way in which activities in places of worship must be carried out, with both 'valid precautions' and special precautions.

The Charter of Fundamental Rights of the European Union provides in art. 11 freedom of expression as a right that includes freedom of opinion and the freedom to receive or transmit information autonomously, without the interference of public authorities and regardless of borders.

The pandemic context has changed ‘the environment for the manifestation of freedom of expression, with the Internet becoming the main channel for transmitting and acquiring information’. The experts of the Council of Europe consider it necessary to pay more attention to the communication and dissemination of information about the virus and its spread, the number of cases of the disease or the reported deaths. Considering the large number of fake news about the coronavirus pandemic, NBC advanced Instruction no. 2 of March 16, 2020, through which it transmitted a series of information to clarify the way in which the information must be formulated and transmitted: rigor and accuracy in writing and presenting the news; the full and priority dissemination of the information and official communiques of the National Committee for Special Emergency Situations and of the other public authorities involved in the management of the state of emergency; speedy application of the measures ordered by the National Committee for Special Emergency Situations, the National Broadcasting Council, as well as other competent public authorities.

The Romanian Police, whose objective is to prevent and limit the spread of the virus, appeals to citizens not to take information from unofficial websites on how to obtain documents justifying travel during the state of emergency.

The right to peaceful assembly and association

Both freedom of expression and freedom of thought, conscience and religion are influenced at the content level by the freedom of peaceful assembly and association (Chaşovschi, 2008, p. 28).

These three freedoms are obviously interconnected: freedom of peaceful assembly and association can be a way of exercising freedom of thought, conscience and religion, and at the same time can be conceptualized in a way of embodying freedom of expression.

The freedom of peaceful assembly and association does not have an absolute but a relative character, being able to bear derogations in the context of the COVID-19 pandemic.

This freedom is regulated by the International Covenant on Civil and Political Rights both in art. 21 which provides that the right to assembly can only be limited in accordance with the law in the situation where it is considered necessary in a democratic society and only for the purpose of protecting public order and national security, as well as in art. 22, which refers to freedom of association, including trade union freedom.

Starting from the example of the International Pact, art. 11 of the ECHR mentions that this freedom has a trade union dimension, admits possible limitations and stipulates their conditions of application. Freedom of assembly and association as well as the building of trade unions and association within political parties are aspects regulated by art. 11 of the Charter of Fundamental Rights of the European Union.

The international regulations of this freedom give it a hybrid legal nature. The fact that citizens have the opportunity to protest peacefully against measures they consider abusive determines the character of freedom of assembly and association as a civil and political prerogative. Its political side emerges from the possibility of association in political parties that support a political ideology of government in the general interest of society.

Freedom of assembly is a guarantee linked to the essence of democratic society constituting the premise for counteracting state arbitrariness. On a secondary level, this freedom is a prerogative of the trade unions and has the social purpose of protecting the rights and interests of employees (Munteanu, 2007, p. 29).

How the pandemic is affecting freedom of assembly and association has been the subject of analysis by UN experts. While the possibility to restrict freedom of assembly and association for the purpose of protecting public health is accepted by law, UN experts have warned that it is necessary to verify the relevance and proportionality of the restrictions. This check should be done on a case-by-case basis. Given that freedom of assembly and association are parameters of the manifestation of civil society, the main strategic partner of the government in preventing and combating the COVID-19 pandemic, civil society must be active and consultative in the development of appropriate measures.

To find the right balance between protecting freedom of assembly and association, some European countries have chosen to protest against online government restrictions (we're talking about Germany, Hungary and Poland). Restrictions on freedom of assembly and association are different quantitatively (open meetings of up to 20 people can be held in Armenia, and up to 50 people in Sweden and Russia) and qualitatively (limitations apply for different periods of time: in Portugal two weeks, in Georgia one month and in the Netherlands and France two months). Some European countries such as Germany and the Republic of Kosovo have challenged the restrictions on this freedom, arguing that they are unconstitutional. These states admit a certain degree of limitation of human rights but not to the point of annihilating the freedom of assembly and association. Thus, the authorities have taken measures so that the exercise of this freedom is consistent with protecting public health.

The right to intimate, family and private life

Equality between spouses, as well as the protection of personal data, are closely related to this right. Its content includes elements such as physical, mental, and moral

integrity, the right to reputation and image, the right to autonomy and personal development, access and protection of personal data, the right to domicile and correspondence, to marriage and adoption (Pau, 2021, p. 98).

The protection of personal life influences the protection of family life, and this concordance between them is supported by a series of European and international legal provisions, such as art. 17 of the International Covenant on Civil and Political Rights.

The Human Rights Committee prohibits wiretapping, surveillance of any kind, or recording of conversations. Searches, both home and personal, must be carried out in relation to respect for human dignity. States must ensure that personal data are not disclosed to unauthorized persons. According to art. 17, any person has the right to electronically verify their personal data and find out who controls their files.

‘The honor and dignity of the person’ are also protected by the legal provisions of the states. In the situation of the COVID-19 pandemic, the protection of personal data is a sensitive subject and presents some particularities. A major importance in the context of the pandemic lays on the protection of the data of those infected and those suspected of coronavirus, which are considered special data by the National Supervisory Authority for the Processing of Personal Data. Thus, the following conditions were configured:

- The processing of data is done with the purpose of fulfilling the obligations and exercising the rights of the persons in the field of social security and employment only if the internal law or the law of the Union provides for this;
- The processing of data is done for strictly medical purposes;
- The processing of data is done for the purpose of protecting public health.

The right to a fair trial

This right has a wide spectrum of interest and contains both its own prerogatives and related prerogatives, regulated at the international level. The essential premise of the right to a fair trial is the presence in the courtroom of both parties. The ‘force majeure’ imposed by the COVID-19 pandemic results in the inability of the party to appear in the courtroom as a result of quarantine or isolation at home.

According to the Civil Code, ‘vis major’ is any external, unpredictable, absolutely invincible and unavoidable event. According to the provisions of art. 63, para. 7 of Annex no. 1 to Decree no. 240/2020, the trial can be postponed if the court decides so, thus that the right of defense being not affected. During the pandemic, forced execution procedures were allowed, but only with compliance with sanitary discipline rules.

The pandemic had a major socio-economic and psychological impact, thus reconfiguring the social status of debtors and creditors. The legal inferiority of the debtor is accentuated while the creditor has a procedural advantage. This imbalance between the parties causes procedural unfairness.

It is essential that procedural documents are communicated in order to respect both the right of defense and the transparency of judicial proceedings. Prisoners' right to legal aid is limited by restrictions on visits to prisons, although it is a useful measure in combating the pandemic, as contact with lawyers is maintained by phone or other means of remote communication. However, the staff in the penitentiaries would have been put at risk by the frequency of coming into contact with the inmates up to the means of communication, thus placing restrictions on the number and duration of conversations with lawyers. This, however, affects legal advice, and, implicitly, the right to defence.

Both the defendant's effective participation in his own trial and the confidentiality of the lawyer's assistance are affected by the video-conferencing system. Bulgaria has imposed as measures to prevent the spread of infection with COVID-19 the submission of court documents by litigants electronically or by mail, the telephone or electronic summons of litigants to participate in hearings and the remote organization of court hearings.

Estonia has created virtual courtrooms to make it possible to hold hearings remotely, Germany is maintaining the independence of judges even in the special context of the pandemic, and Italy is holding online hearings where only lawyers or parties need to attend.

Romania organizes remote communication to carry out court activities during the pandemic.

In the state of emergency, crimes such as thwarting the fight against disease are punished more harshly, adding up to two years to the statutory sentence. This period is characterized by political insecurity, and the application of the sanctioning regime is left to the court, this not being a safe method.

3.3. Other categories of rights affected by the pandemic.

Economic and social rights. Rights in relation to health

The right to health

The right to health is recognized by art. 12 of the International Covenant on Economic, Social and Cultural Rights and refers to both physical and mental health. The content of the right to health, so much circulated and tested during this pandemic period, also includes the elements that determine health: hygiene conditions and access to drinking water, nutrition, the existence of a home, access to health and sexual education. At the community level, decisions are made by mutual agreement with the population. In order for the right to health to be respected, it is necessary for health services to be available to all, to be accessible, financially acceptable and of high quality. The right to health of marginalized groups with limited access to health services requires

special interest. The optimal functioning of a society requires the well-being of all people, regardless of age, access to medical services and greater attention to mental illness.

ECHR jurisprudence establishes that, in the context of the COVID-19 pandemic, the responsibility for preventing infectious diseases rests with the internal authorities who are able to ascertain what the needs, priorities and resources are at the country level (Pau, 2021, p. 55). The Court also decided testing of detainees and their treatment. Measures taken by member countries to protect health limit the respect of personal data and privacy. The beginning of the pandemic led to the concern of finding patient zero, but epidemiological investigations were also necessary to identify suspects or those infected with SARS-CoV-2.

The right to health in the context of the COVID-19 pandemic is protected according to the example of the protection of HIV-infected persons imposed by the European Court and consists in guaranteeing the non-disclosure of health information. In other words, there must be a balance between data protection and protecting public health. However, the right to keep personal data confidential is not absolute, just like the right to privacy, therefore it can bear limitations.

The right to social assistance and medical assistance

The right to social assistance and medical assistance is stipulated in art. 13 of the European Social Charter, thus states being obliged to provide medical services to those who do not have resources without affecting their social or political rights.

The European Committee of Social Rights states that it is necessary to adopt urgent measures to prevent and fight the virus such as testing subjects, monitoring them, distancing and isolation, quarantine or wearing masks. These measures must be implemented in accordance with scientific evidence and human rights. States Parties must ensure that they make available a sufficient number of beds and equipment, that they ensure optimal working conditions for those working in the health field, and that they educate people about the risks of illness. Special attention is required for vaccine development research, a project that needs a great amount of money. In the context of the pandemic, there are two major objectives, namely the decrease in the number of deaths and in cases of infection.

Political decision-makers must be prepared, even if there may be changes in laws, for emergency situations, hoping in a good collaboration between the states that are part of the Council of Europe to achieve the proposed objectives:

- To reduce the risk of violation of individual rights and freedoms when adopting measures;
- To ensure psychological assistance after public health emergencies;

Non-discrimination in providing health care is essential in guaranteeing the right to health.

Medical conduct must follow some stages: testing, isolation until the moment one finds out the testing results, and transporting the samples in healthy conditions to the laboratories. The health authorities must pay special attention to the measures aimed at preparing the country's hospitals, as follows:

- Reducing the number of hospitalizations in order not to occupy beds;
- Staging the provision of medical assistance to those tested positive;
- Preparation of hospitals;
- Realization of the clinical-epidemiological circulation;
- Ensuring human resources;

Diseases that can lead to the person's death within 24 hours are prioritized and are first-degree emergencies, while individuals infected with the SARS-CoV-2 virus are considered third-degree emergencies.

The right to education

During pandemic, UNESCO has established a series of measures that must be taken into account in the event of school closures. Students in their final years and those who are at risk of dropping out of school due to financial limitations must be given priority.

The ECHR analyzes the correlation between the right to education and the right to health, thus, the authorities oblige themselves to be prompt in taking appropriate decisions to avoid contamination, thus maintaining a balance between the interest of the community and that of the person. In many European countries as well as in Romania, it was decided to close educational institutions as a measure of social distancing in the context of the spread of the SARS-CoV-2 virus. All stages of education, from preschool to high school, took place in the online environment. This also applied to university education too.

All, teachers, parents, and students must have the resources to cope with the new online teaching system. These resources are: computers, internet connection, and teachers' teaching techniques. Given that not all children have access to the Internet and computers, their participation in classes is sometimes limited. In this sense, the Order of the Ministry of National Education stipulates that the school inspectorates and the county and local public administration should equip educational units with the necessary equipment and internet connection. Romanian Television launched the 'Tele-School' project for final year students.

Measures to prevent infection were also necessary in connection with the end-of-year exams. Thus, at the entrance to the educational unit, it was established to measure the temperature of both teaching and non-teaching staff as well as students, and if there are suspects of coronavirus, they are not allowed to enter the schools. The route to the school entrance is demarcated and protective masks, disinfecting mats and hand

sanitizers are provided. The floors and objects in the classrooms are disinfected, and the amount of time students spend in the classroom is reduced. At the end of the activities, the protective masks are collected in specially arranged places and students are given new masks to wear until they reach home.

According to GEO no. 58/2020, the negative effects of the virus must be reduced to affect education as little as possible. Continuation of school activities is a matter of public interest; the principles of relevance and efficiency on which education in Romania is founded must be respected.

Regarding the national assessment exams and the baccalaureate exam held in 2020, we may say that: the substance of the right must not be affected by the limitations of the right to education; the measures adopted during the pandemic must be relevant both for the current context and for future contexts; exams must be held without prejudice to the requirements of equality and non-discrimination.

In the case of students who have health problems, a special examination session must be organized, being a necessary measure to protect the health of those involved in this process. If this measure is not implemented, the risk of illness among students is very high. Checking the body temperature, which should not exceed 37.3°C , was a relevant criterion that was given special attention. However, temperature is not a sure way to identify those infected, the temperature can be higher for other various reasons, such as pathology, summer heat or emotions.

Thermal scanning is not considered by law to be a medical intervention but only a measure designed to protect public health. The Ministry of Education and Research offers students who could not take the exams due to the high temperature the opportunity to resume the examination sessions.

In higher education, one of the measures to prevent the spread of the virus is the obligation of students coming from outside the country to demonstrate by declaration on their own responsibility, that the isolation or quarantine regime, as the case may be, has been respected and that in the last 14 days they have not come into contact with an infected person. Moreover they must bring a medical certificate attesting their current state of health.

In the context of the COVID-19 pandemic, in order to respect the right to continuous training, professional training programs can also take place online. In Romania, only 10% of citizens have high digital skills (Tomescu, 2020).

All EU countries, except Sweden, have suspended physical classes and conducted them online. Some countries have decided to maintain the functionality of some school units to ensure the supervision of students whose parents are fighting against this virus. Finland and Estonia have offered home-delivered meals to underprivileged students who, due to their inability to attend classes, can no longer have access to free food.

The right to social security

This right is supported by art. 9 of the International Covenant on Economic, Social and Cultural Rights. The right to social security includes the right to make benefits in order to ensure protection in a non-discriminatory manner for reasons related to: the absence of a salary due to illness, maternity, disability, unemployment, accidents suffered at work, heredity or a death in the family; health services are financially inaccessible;

These benefits must be made for social risks and must be remunerated fairly. Everyone must have access to them, especially those from the disadvantaged categories.

It is necessary, in the pandemic situation, to ensure social security, especially for the vulnerable. In this sense, the Government adopted a series of measures aimed at social protection.

Granting days off to parents to be able to supervise their children, offering an allowance of 70% of the minimum wage if the employment contract is temporarily suspended, the allowance for raising children, granting the monthly allowance of food are measures provided in GEO no. 30 of 2020.

According to the IOM, in the context of the COVID-19 pandemic, 278 social protection measures have been taken in Europe and Central Asia, including the introduction of new programs and benefits for those who work and their dependents, for the poor or other vulnerable people.

After the COVID-19 crisis, distinctions between part-time employees, temporary employees and freelancers were highlighted. When the state decides to grant benefits, it must not discriminate between categories (Toderan *et al.*, 2020, p. 11).

In our country, during the state of emergency in 2020, employees benefited from an allowance of 70% of the minimum wage depending on the workplace, an expense insured from the unemployment budget. Employees who have several employment contracts, one of which is full-time, cannot benefit from this allowance. Lawyers are among those who benefit from this allowance in the state of emergency, if they had receipts at least 25% lower than the average for 2019.

Social distancing measures must not worsen the situation of vulnerable categories, thus, states must provide people from these categories with sufficient resources. Social protection was a priority even in the state of alert. GEO no. 70 of 2020 provides for the extension of measures ensuring social protection in the context of the pandemic, and art. 1 of this Ordinance claims that allowances are also offered for the period between the end of the state of emergency and May 31, 2020. The allowances for professionals or those who have concluded individual work agreements, who can no longer carry out their work due to the COVID-19 pandemic, are provided in art. 3 paragraph 2 of Law no. 287/2009. These allowances may not be subject to enforcement or attachment during their award.

GEO no. 70 of 2020 guarantees that the period during which work is suspended in the state of emergency and in the state of alert is included in the 12-month contribution period of the last 24 required for granting of unemployment benefits. Regarding the professional training of adults, art. 3 of this Ordinance urges for the online performance of the following activities: the theoretical part of the training program; the practical part of the initiation and improvement program that does not need to take place in a specially arranged space; the graduation exam at the end of the initiation program.

The additional act to the individual employment contract establishes the individualized schedule and its distribution by days.

The right to work

This is a right regulated both at the national and international level by normative acts, being considered fundamental in all democratic societies.

The European Union, the Council of Europe and the ILO have imposed norms that support the right to work internationally. The methods followed to reduce the effects of the pandemic context induced a special situation on the domestic labor market. The measures by which the state of emergency was instituted on the territory of our country aimed to support both economic agents and employees in the fields of activity that were partial or total affected due to the decisions taken by the public authorities. A large number of employees entered 'technical unemployment' (Dinca, 2012, p. 35).

Technical unemployment represents either the cessation or the temporary decrease of activities in a company for technological, economic or structural reasons. During this period, the employer suspends the employment contracts of the employees. A very large number of employees lost their jobs because employers were no longer able to carry out their activity at the level before the pandemic. Thus, approximately 400,000 individual employment contracts were concluded and more than 600,000 employees entered technical unemployment.

ILO recommendations and conventions on health and safety at work are relevant to the protection of the right to work in the current context of the pandemic.

Working conditions and employment security have been regulated at the level of the E.U. through various directives aimed at improving this field, protecting employees in the context of insolvency and harmonizing the legislation of the member countries regarding collective redundancies (Fulga, 2000, p. 18).

Due to the pandemics, if the individual employment contract is suspended, there was established an indemnity of 75% of the basic salary which is borne from the budget allocated to unemployment, provided that it does not exceed 75% of the employee's average gross salary.

These measures were useful for employees working in fields where the activity was totally or partially interrupted due to the effects of the pandemic during the entire period of the state of emergency.

Internal measures and those taken at the level of the European Union have been corroborated. The European Commission had an initiative called the 'Support Instrument for mitigating the risks of unemployment in an emergency situation', which offer part-time unemployment and other similar measures to help members states to reduce the risk of layoffs and loss of employee income.

Apart from technical unemployment, during the state of emergency it was also possible to 'work from home or telework'. This was a solution adopted by the majority where the field of activity allowed the activity to be carried out in this way. In all levels of education it was possible to conduct courses in the online environment. However, it turned out that a very large number of students from poor or disadvantaged areas had no access to electronic devices and no internet connection, which had a negative impact on education, especially on primary education.

Social distancing and other prevention measures were the basis for the continuation of the activity, even at a limited level, of the economic agents. The measures they adopted complemented those of occupational health and safety and retained their importance even after the resumption of work.

Temporary measures instituted during the state of alert aimed at protecting the right to life, health and physical integrity, even at the risk of limiting the exercise of certain rights and freedoms. These measures were established under Law no. 55 of May 15, 2020 regarding some measures to prevent and combat the effects of the COVID-19 pandemic. The preamble of this law emphasizes that these restrictive measures are necessary to protect the constitutional rights to life, health and physical integrity of individuals and must be applied without discrimination and without affecting other fundamental rights and freedoms.

Occupational medicine played a particularly important role in the safe return of employees to work. Employers have the obligation to ensure the communication of the employees' state of health to the occupational medicine service so that they can benefit from the measures to prevent and combat the spread of the virus established at the national level.

The guide adopted by the European Agency for Safety and Health at Work supports both employees and employers to preserve safety and health at work in the context of the COVID-19 pandemic.

The WHO has launched several recommendations to reduce exposure to acute respiratory diseases or SARS-CoV-2 virus infection at work, including granting medical leave, separating symptomatic workers from others, staying at home for those who are sick, imposing rules of hygiene and reducing traveling abroad.

According to Decree no. 195/2020 (Decree no. 195 of March 16, 2020, regarding the establishment of the state of emergency on the territory of Romania, published in O.M. no. 212 of March 16, 2020), it was forbidden the conduct of collective labor

conflicts in the energy system, in the nuclear sectors, in sanitary units, in telecommunications, radio and public television, railway transport and public transport. Moreover, the supply of gas, heat, electricity and water and the sanitation of localities is required once with the establishment of the state of emergency on the territory of our country. In all European countries, the issue of financial support for employees and economic agents was addressed. In this sense, France decided that during the period in which the employment contract is suspended, the employees should not be at work nor should they comply with the employer's directives. Employees thus receive a compensatory allowance that must be at least 70% of the gross salary.

It is necessary to adopt some long-term measures to ensure the support of economic agents who have been affected by the pandemic, but also of employees who must learn new habits in relating to others in order to protect their health.

The right to water

The recognition of this right is the basis of all other human prerogatives. Water has, above all, a socio-cultural value and should not be evaluated only as an economic good, referring strictly to volumes and technologies. The interpretation of the right to water must be broad, clearly highlighting the connection with respect for human dignity and the right to life and health. Water must be a sufficient and continuously available resource to serve people in personal hygiene, food preparation and washing clothes. The water must not contain chemical or radiological substances or microorganisms, because they seriously affect people's health. The accessibility of water consists in the existence of adequate facilities and its provision to both individuals and institutions. Costs for water provision must not limit other rights.

In the context of the COVID-19 pandemic, water had a primary role because it can prevent and combat the spread of the virus on the one hand and, on the other hand, water is the resource that ensures the right to life and health.

Water quality and quantity are severely affected by poverty. National authorities have the obligation to institute measures to combat pollution, to solve the problems of water distribution and the extraction of water resources because these are deviations from respecting the right to water. Access to water must be ensured equally, and each individual must have a sufficient, acceptable and safe amount of water. In order to limit abuses, regulatory systems must impose sanctions.

The right to development

The right to development is not limited to its economic values. It includes the formation of a social climate in which fundamental human rights and freedoms are fully exercised. Being such a complex right, it is considered to be the essential tool of realization. The right to development creates an enabling context for all policies and programs at all levels. The effects of the COVID-19 pandemic, in terms of the right

to development, had a negative impact on both the political-civil and economic-social and cultural dimensions.

According to UN experts, the COVID-19 pandemic has accentuated inequalities within and between states. The strategic approach of developed states is a coherent one, and low-income countries are experiencing difficulties in overcoming the consequences of the pandemic (Toderan *et al.*, 2020, p. 48). Poverty and social exclusion make the right to development vulnerable. The UN recommendations for combating the effects of the pandemic aim to support high-income states to those with low incomes in order to avoid the economic crisis with long-term effects on agriculture and food.

The right to a healthy environment

Normative activity regulates this right, giving it the quality of main objective. Protecting this right is essential for both present and future generations because it protects the reality that surrounds us: flora and fauna, air and biodiversity. The Covid-19 pandemic has had a negative influence on the environment, with the number of communicable diseases in both humans and animals increasing. This happened due to poor air quality, which is why environmental sterilization methods were resorted to. Also, during this period, emphasis was placed on the importance of correct waste management and the optimal use of medicines and medical equipment to prevent infection with the Sars-CoV-2 virus.

Waste management is a public service that requires urgency in order not to have a negative impact on the health of individuals.

Consumer's protection

Given that much of the population was skeptical about the effectiveness of medical devices designed to prevent the spread of the virus, there were a number of consumer exploitation techniques through online marketing strategies to manipulate them into buying protective masks or other products that do not comply with the standards imposed at European level. The authorities managed consumer complaints with care and caution.

Illegal online marketing campaigns are prohibited by the European Commission and the Consumer Protection Cooperation Network. In the same sense, operators of online platforms must manage electronic commerce in such a way as to avoid exposing consumers to illegal commercial practices.

In the context of COVID-19, consumers of medical devices were the most vulnerable. Thus, traders cannot present their products as a solution to prevent or cure SARS-CoV-2 infection without relying on scientific evidence. Unclear information about the utility and availability of a product in the market is an illicit practice and the consumer is tempted to pay a much higher price for such a product.

The right to good administration

The administrative authorities have developed various strategies for the right to good administration to be respected: the administrative decision adoption process is open and transparent; the authorities have an increased degree of responsibility; public services are continuous, professional and specialized; the public administration must not adopt arbitrary decisions in an attempt to eliminate the risk of the spread of the SARS-CoV-2 virus.

Derogations from the state of emergency must not become a rule in the management of situations. The risks and urgent challenges of this period were indicated by the object and the number of citizens' petitions, so that the administrative authorities must analyze them with maximum attention, in order to normalize the situation.

The right to peace and security

There is an acute need to preserve this right in emergency situations. According to the UN General Assembly, every individual has the right to peace.

Peace is a universal value that requires special attention from national and international authorities. The context of the COVID-19 pandemic has posed a serious threat to the maintenance of peace and security because its negative psychological effects have created an unsafe environment, fraught with violence and social unrest.

Not only the economic and social environment were affected by the pandemic, the right to peace was also affected, the activity of the campaigning for peace being limited by social distancing and free movement restrictions.

4. Conclusions

During the pandemic, the exercise of human rights was sufficiently explored in terms of their restriction, although in the periods immediately preceding the pandemic there were no situations that associated human rights with such restrictive measures similar to those taken to limit the spread of this virus.

However, restrictive measures were used in order to maximize the effectiveness in combating the disease, diminishing the negative consequences. The goal was to save lives, as well as to ensure the right to health, for every individual. Analyzing the way in which the interconnection of rights was carried out, we notice that when a right is attacked, restricted by limitations, the other rights also become vulnerable. In this sense, in an exceptional situation, the states used their emergency powers, making sure that any restriction is limited to what is really necessary. Hence there were cases when the limiting measures that were considered optimal by the institutions were and are still considered inadequate by some of the citizens. There were and still are opinions

that governments are using the pandemic and limitations to diminish rights, a fact that is partially true since, according to some statistics of 2020, during the COVID-19 pandemic, at least a percentage of 19.91–20% of the population lived in ‘repressed’, ‘obstructed’ or ‘closed’ nations, where civil rights were visibly affected (Report on human rights and democracy in the world and the policy of the European Union in this regard annual report for 2020–2021; https://www.europarl.europa.eu/doceo/document/A-9-2021-0353_RO.html). So, the pandemic and the restrictive measures during this period did nothing but accentuate this perception even more.

The coronavirus somehow countervailed the existing balance between freedom and security, due to the fact that it was necessary to find a certain consensus, between saving lives and allowing people to manifest their rights and freedoms. When a community is in danger, it is essential to adopt measures to increase safety and it is natural to focus on preserving public health, but the measures must be legal and proportionate.

There were also unjustified interventions by the authorities on public demonstrations in defense of human rights. Controversies also arose as a result of the fact that governments either did not correctly estimate the response to the pandemic or tried to exploit the context of the pandemic to political advantage thus limiting certain individual rights and freedoms. However, the democratic process must prevail. Therefore, by dealing with more transparent administrative decisions and with a better communication with all citizens it is possible to dilute the controversies generated by the many misunderstandings and non-conformities, and for the future it is possible to identify ways in which situations of such crises could be improved.

Any society that will give up freedom—as an essential value for its citizens—in order to gain a little security, will gain none, but lose both, for the simple fact that only democracies represent the optimal environment for the exercise of human rights; diminishing democracy has a negative impact on the protection of all rights, including those in question (the right to safety and the right to democracy itself). As such, it will always remain relevant, the idea that ‘those who will give up freedom in order to acquire a shred of safety for the moment, deserve neither freedom nor safety’ (Benjamin Franklin; <http://autori.citatepedia.ro/de.php?a=Benjamin+Franklin>).

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Public Managers in Romania: An Overview of Their Activity

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Abstract

In Romanian public administration, public managers are considered agents of change, playing an important role in the process of implementing the administrative reform from the strategic to the operational level, trying to make public administration more attractive for young people and less resistant to change. In this respect, the present research aims to investigate public managers' current activity and their role in the Romanian public administration reform, in order to better understand their work and their real impact on public administration's modernization. The research is based on the experience and lessons learned from the Young Professionals Scheme in Romania, a program designed to develop and modernize public administration focused on human resources training, aiming to recruit in the public service some of the best and most talented graduates. The main objectives of the study are: (1) to investigate public managers' current status in the Romanian public administration and their activity, and (2) to analyse public managers' perception regarding their

role in the public administration and its modernization. The methodology of the study consists of a sociological survey based on a questionnaire addressed to the public managers in Romania. The research has revealed, that public managers are involved mainly in project management activities, and more specifically in projects related to public administration development. They play also an important role in the digitalization process and less in the decentralization process. They consider that their leaders, both direct and indirect, support the process of reform in public administration, but exhibit a pretty high degree of unsatisfaction towards the main institutions with prerogatives in modernizing the public administration.

Keywords: public managers, Romanian public administration, agents of change.

1. Introduction

In Romanian public administration, most civil servants are responsible for performing routine administrative tasks, such as applying laws, processes, project implementation, or internal instructions. The public servants' ability to improve public services is limited. Identifying talents in public administration is extremely difficult due to the politicization of the Romanian civil service. Therefore, the hiring and promotion of young professional people were measures that could be implemented during the reform of the public administration in the process of accession to the EU (Matei and Matei, 2012). During this process, the Romanian government, in cooperation with the European Commission, had established as goals the reform of the civil service to ensure the development of a stable and politically neutral professional body of civil servants through the adoption of a unitary and coherent legal basis, as well the fight against corruption, the decentralization of fiscal resources and public services, the increase of the management capacity of government structures, and the improvement of the public policies process (Romanian Parliament, 2004, Andrei, Profiroiu and Turturean, 2006, Ministry of Regional Development and Public Administration, 2019).

Then the Public Administration Reform Strategy was developed, proposing measures to be implemented in the public service. The strategy aimed to create a permanent and politically neutral professional body of civil servants in the local public administration by continuing the processes of decentralization and by improving the process of public policy development (Profiroiu *et al.*, 2005). Furthermore, the unsatisfactory quality of public services, the degree of corruption, the lack of motivation among civil servants, and the low level of trust in the public administration required the training of 'change agents' to acquire the necessary skills to speed up the reform process at the level of the Romanian public administration and cope with organizational changes (Profiroiu *et al.*, 2005).

In this regard, in 2003, the Romanian Government and the European Commission developed the joint program ‘Young Professional Scheme’ with the purpose of creating a professional body of civil servants. The scheme was inspired by the UK’s Fast Stream system. The idea of the program was to have input from good educational practices in Romania and also a selection process based on skills, learning ability, and will for change (Profiroiu, Profiroiu and Andrei, 2007). The initial goal of the program was to create a Fast Track scheme that would allow participants to have a merit-based career, outside the usual constraints and outdated procedures of the public administration (Matei and Câmpeanu, 2015). The Young Professional Scheme (YPS) program aimed to improve the management capacity in Romanian public administration by making the public service more attractive to young people. The program was developed during the 2003-2009 period, in four stages. Two groups of graduates were recruited, selected, and trained, namely: students (with bachelor’s degrees) that have followed a training program in the field of public administration for two years and then acquired the status of public manager, and interns (civil servants or contractual staff with at least one year of experience in the public sector) who have followed a one-year training program (Profiroiu, Profiroiu and Andrei, 2007). Unfortunately, even if the next three stages also targeted components to expand the support and development of the public manager’s body (National Agency of Civil Servants, 2015), the number of participants decreased from one stage to the next, the highest number was registered in the first stage of the program (129) and the lowest in stage IV (101). The program included periods of practical training in public institutions from other European countries and/or participation in university projects graduated with diplomas in the United Kingdom, Spain, Italy, France, the Netherlands, and Hungary. The participants in the YPS program were selected by the National Institute of Administration, which organized a national competition for graduates who completed higher education programs, and demonstrated that they had the necessary skills and competencies to occupy positions of public managers (National Agency of Civil Servants, 2015), which were considered agents of change even if they did not occupy a leading position.

The Special Scholarship of the Government of Romania (BSGR) was another program implemented in the 2004-2008 period, developed in partnership with the United Nations Programme for Development, which gave young people the opportunity to study at universities from abroad. They benefited from the financial support offered by the state and followed bachelor, master or doctoral studies, under the condition that at the end of their study period to develop a career in Romania’s civil service. The program had 100 participants, but only 12 became public managers (National Agency of Civil Servants, 2015).

Both the ‘YPS’ and ‘BSGR’ projects aimed to increase the management capacity in public administration, supporting young people’s career development to be part of the

modernization of public administration (National Agency of Civil Servants, 2015). These programs had a significant contribution to the transformation of mindset in terms of the approach to the public administration process. Graduates of the YPS formed the Public Managers Body, which facilitated the exchange of best practices and information with other public personnel from EU countries in various areas of public administration. Between 2005 and 2014, 395 graduates (out of a total of 431) occupied positions of public managers. Then, the Public Managers Body was completed with graduates from the BSGR program. After that, the number of public managers decreased and, at the beginning of 2015, only 373 remained in the system (National Agency of Civil Servants, 2015) due to the lack of interest of public administration to absorb them. In 2021, 323 public managers worked in the public administration (National Agency of Civil Servants, 2021).

In 2015, the majority of the graduates were employed in central public administration, and a very small proportion was found in the local public administration. Romanian public institutions were reluctant to hire young graduates, either because they did not recognize the duties of public managers or because they did not want to be 'intruded in'. Likewise, the remuneration level could exceed the salary of a civil servant or a dignitary, and the institutions did not wish to burden their budget or did not accept such a thing. At the same time, there were situations in which the positions of public managers were removed by the institutions from their organizational charts. In these cases, the National Agency of Civil Servants could not impose an institution to hire public managers and suggested the transformation of the posts into public positions distinct from public managers (National Agency of Civil Servants, 2021).

The National Agency of Civil Servants compared the YPS and BSGR programs and pointed out that the latter had a small part allocated to theoretical and practical training in Romania. As a result, there was a small possibility that BSGR graduates to carry out activities specific to the Romanian public administration as agents of change, after appointment to positions of public managers. Furthermore, the heterogeneous characteristic of abroad-pursued studies (university, postgraduate, master and Ph.D.) has led to major difficulties in the process of placing BSGR graduates as public managers. Therefore, only 7 of the 12 graduates occupied the position of public manager. The analysis of the two programs revealed the need to maintain a single program assigned to the training of public managers, namely, the YPS program (National Agency of Civil Servants, 2021).

The official role of public managers was to be the agents of change in the process of implementing the administrative reform from the strategic to the operational level and they could make public administration more attractive for young people and less resistant to change.

According to the Romanian legislation in force, a public manager performs his work following the provisions of Government Emergency Order no. 92/2008 on the status

of the civil servant named manager and with Government Decision no. 783/2005 in order to approve the implementing rules of Government Emergency Order No. 56/2004 regarding the establishment of the special status of the civil servant appointed public manager. In his activity, a public manager has the mission to support the design, management, and implementation of the government's reform policies and also to implement procedures and actions aimed at speeding up public administration reform as well as to apply legislation according to the *acquis communautaire*. Public managers are involved in projects, programs, and activities that aim to accelerate the modernization and transformation of public administration in order to increase the quality of the administrative act, improve public services, and harmonize public administration activities with EU standards (Government Decision no. 783/2005). According to the Government's Emergency Ordinance no. 57/2019 with respect to the Administrative Code, public managers represent a special category of execution civil servants. Their goals are to achieve performance goals, develop and maintain citizens' trust in public administration, and improve the quality of the administrative acts and services (O'Flynn, 2007).

In this regard, the present research aims to investigate public managers' current activity and their role in the Romanian public administration reform after fifteen years since Romania's accession to the European Union, to better understand their work and their real impact on public administration's modernization. The research is based on the experience and lessons learnt from the Young Professionals Scheme in Romania, a program designed to develop and modernize public administration focused on human resources training, aiming to recruit in the public service some of the best and most talented graduates.

2. Research methodology and main objectives of the study

The main objectives of the study are: (1) to investigate public managers' current status in the Romanian public administration and their activity, and (2) to analyze public managers' perception regarding their role in the public administration and its modernization.

The methodology of the study consists of a sociological survey based on a questionnaire designed by the authors, and it was developed starting from the public managers' competencies identified in the national legislation. The questionnaire consisted of 11 closed questions and seven mixed questions and was applied between June and August 2022 in all the institutions where public managers work. Out of the total number of public managers at the national level (323), 61 agreed to participate in the study. The respondents were chosen using the exhaustive sampling method. The sample is not representative, this being one of the research limitations.

2.1 The main characteristics of the sample

Regarding the main characteristics of the sample, the following aspects were observed:

1. The distribution of the respondents by gender shows that of the total number of respondents, 59% were women and 41% were men, respecting the gender representation of the human resources from the Romanian public administration.
2. The distribution by age shows that the majority of the respondents (70%) were between 35 and 45 years old, and 30% were between 45 and 55 years old. Thus, the majority of the public managers in the study are young people.
3. The tenure in the public administration reveals that 66% of the respondents worked in this field between 13–15 years, 31% between 16–25 years, and 3% over 25 years. It can be affirmed that public managers have practical experience, which helps them in conducting their activities, to the benefit of the public institutions because they can actively contribute to their modernization.

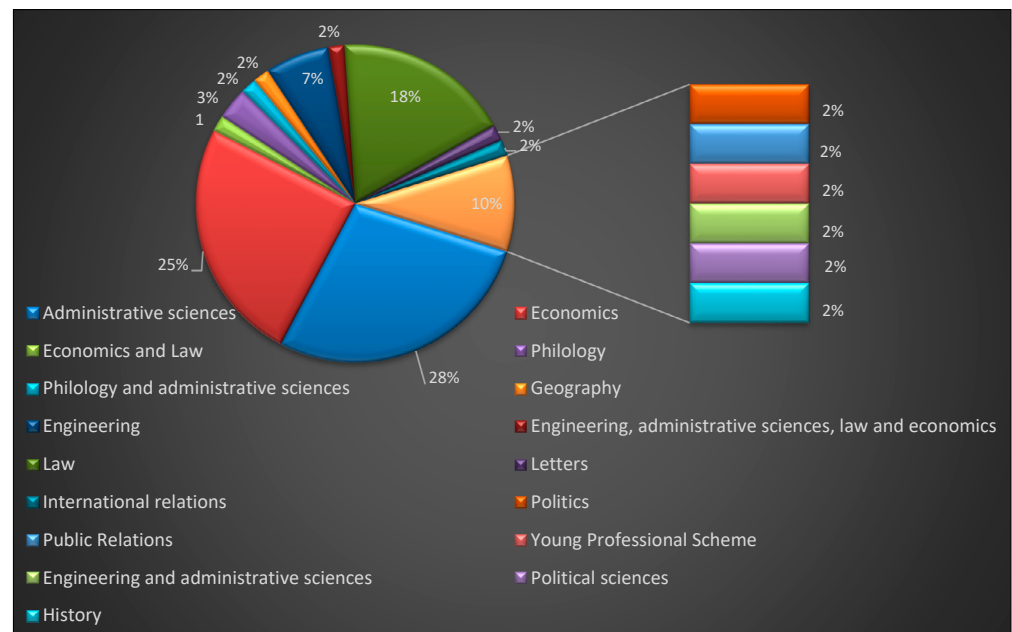


Figure 1: Distribution of respondents by fields of graduated studies

Source: Authors, 2022

Concerning the distribution of respondents by the fields of graduate studies presented in Figure 1, it can be observed that most public managers (28%) have graduated in administrative sciences, followed by economics (25%) and law (18%). A relatively small proportion of respondents (1% to 2%) graduated in fields such as public relations,

history, philosophy, geography, or literature, but also had a bachelor's or master's degree in administrative sciences.

3. Main findings of the study

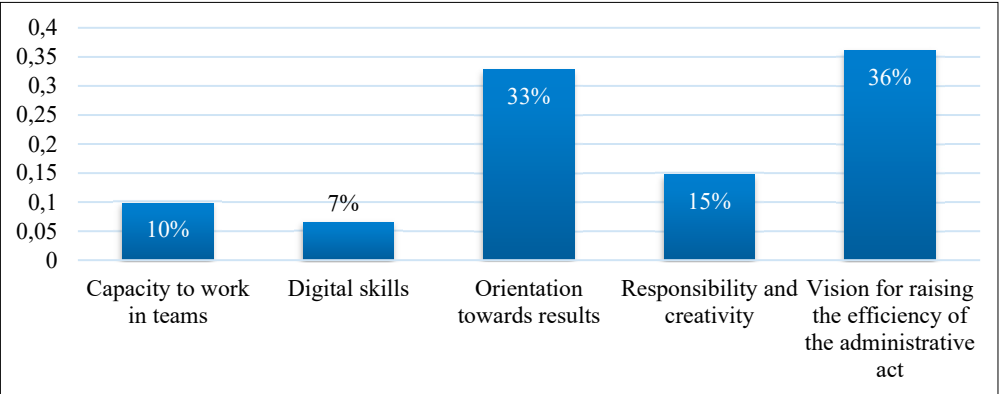


Figure 2: Public managers' competencies

Source: Authors, 2022

Firstly, respondents were asked to choose the most important competence that a public manager should have. It was observed, that the majority (69%) believed that the most important competence is to have a vision for raising the efficiency of the administrative act (36%) and to be oriented towards results (33%). On the other end, there is the capacity to work in teams (10%) and the digital skills (7%). The low importance attributed to digital skills was surprising as the role of public managers is to modernize the public institutions and digitalization is an important element in this process.

To find out which is public managers' role and what they actually do, they were asked about their field of activity. It was noted that the majority of the respondents (34%) worked in project management, followed by organizational development (18%), international relations (10%), institutional communication (8%), and human resources management (6%).

Additionally, public managers were asked to rate their involvement in the process of digitalization at the organizational level, on a scale from 1 to 5 (where 1 represented no involvement and 5 was very involved). The majority of respondents (40%), considered them to be involved and very involved, and an equal proportion 41%, declared that they were moderately involved. Digitalization is a key aspect of the process of modernization, consequently, it was expected a higher involvement from public managers' part.

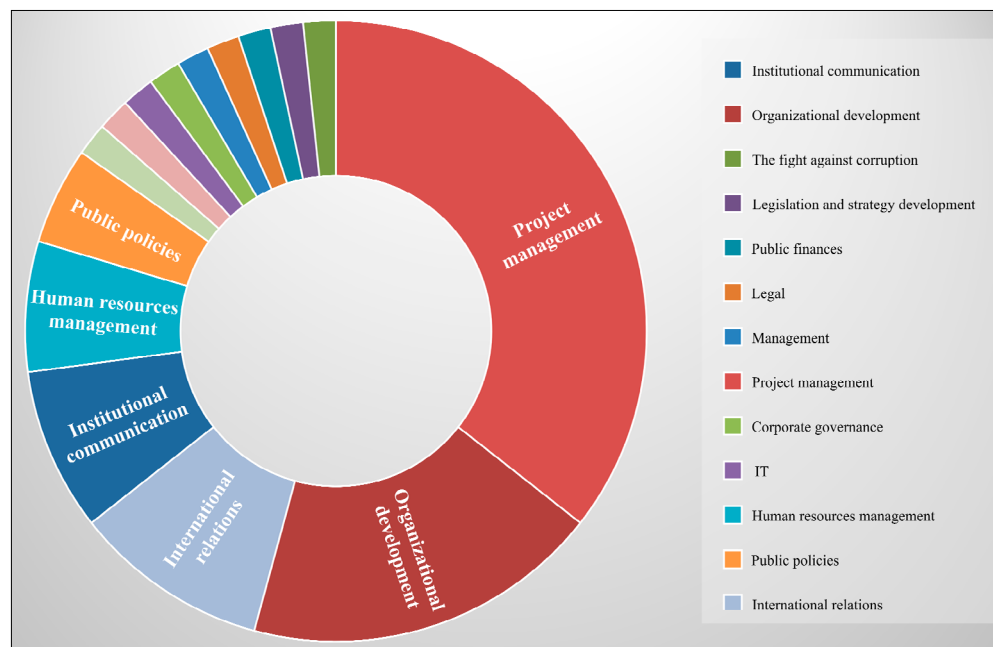


Figure 3: Public managers' main field of activity

Source: Authors, 2022

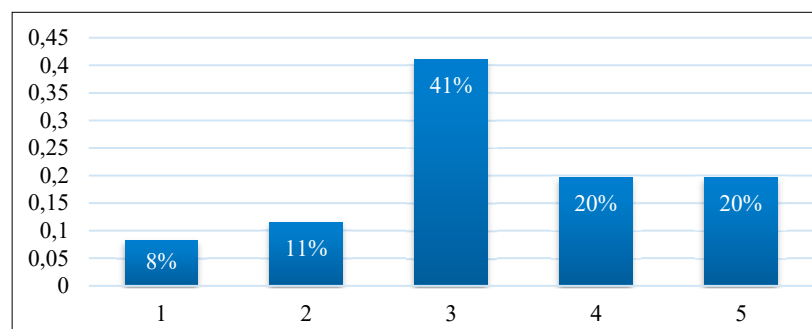


Figure 4: Public managers' participation in the process of digitalization

Source: Authors, 2022

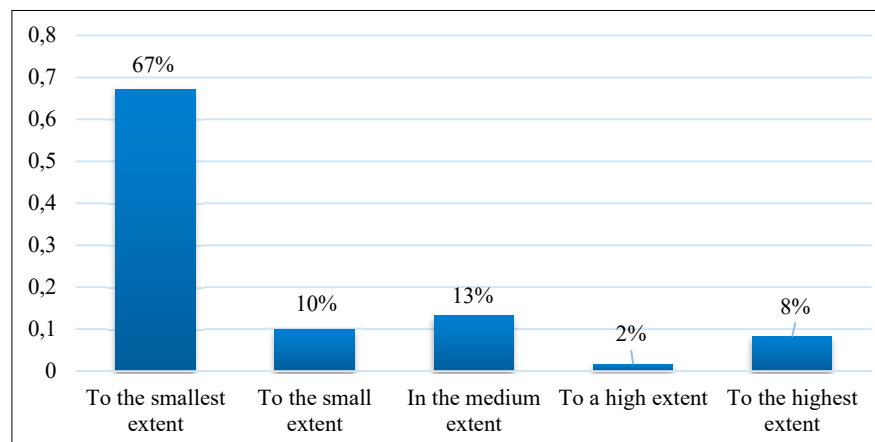


Figure 5: Participation of public managers in quality management activities

Source: Authors, 2022

Public managers were also asked if they conducted activities related to the quality management area. As can be observed, the majority (77%) carried out activities related to quality management only to a small and to the smallest extent. Consequently, it can be affirmed that the management of quality is not one of public managers' activities.



Figure 6: Categories of projects

Source: Authors, 2022

Since many of the respondents work in project management, it is important to know what kind of projects they are involved in. As it can be observed, the majority (30%)

participated in development projects, followed by managerial control projects (21%), legality (16%), and internal activities (13%). 10% of the public managers responded that they were involved in infrastructure projects. The rest are involved in projects relating to European affairs, the management of public functions and public officials, strategic planning, and non-reimbursable project management.

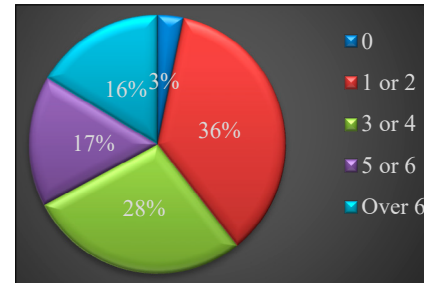


Figure 7: Number of projects

Source: Authors, 2022

Public managers were also asked how many projects they have participated in the last three years. The majority (36%) participated in 1–2 projects, and 28% in 3–4 projects. A small proportion (33%) has been involved in 5–6 or over 6 projects.

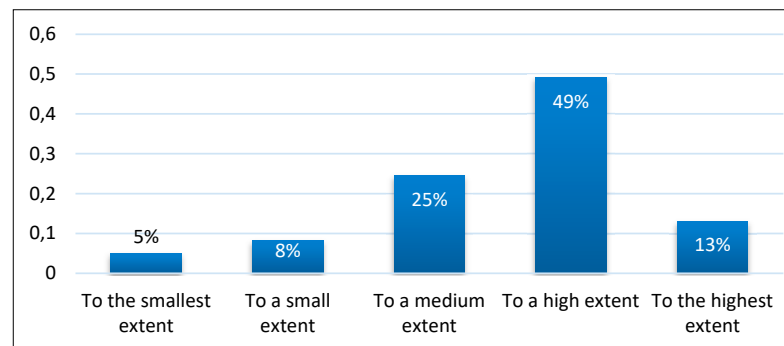


Figure 8: Perception about leaders' support in the modernization of the public organization

Source: Authors, 2022

Public managers were asked to rate on a scale from 1 to 5, their leaders' support in the modernization of the public institution in which they worked. As it can be noted, most of the respondents (62%) appreciated that the managers of the institutions supported the process of modernization from a high to the highest extent. Only 25% believed that their leaders wanted to offer support in this process only to a moderate extent. These answers lead to the assumption that public managers receive the necessary

support in conducting activities that can lead to the modernization of the public administration activities.

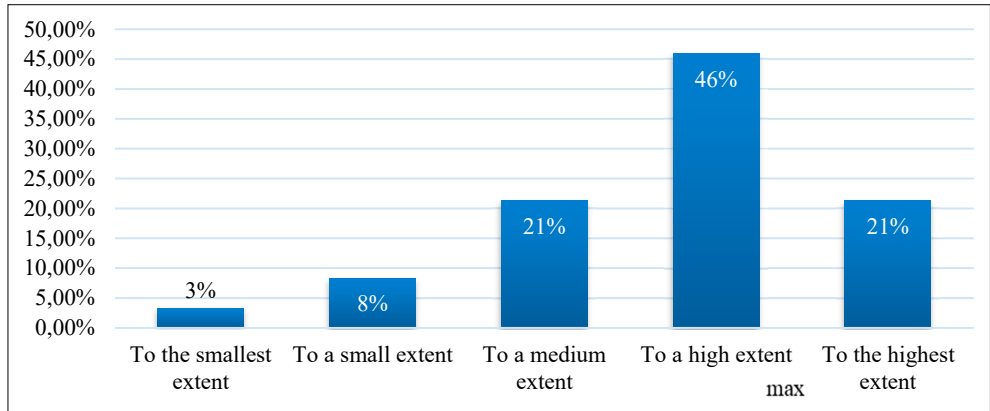


Figure 9: Perception about the support provided by the hierarchic superiors

Source: Authors, 2022

Another important aspect was to find out if the public managers received support in conducting activities from their hierarchic superiors. The majority -67% stated that they received support to a high and a highest extent. Only 21% considered that their managers show them support only to a medium extent and only 11% felt unsatisfied with the attitudes of their direct leaders.

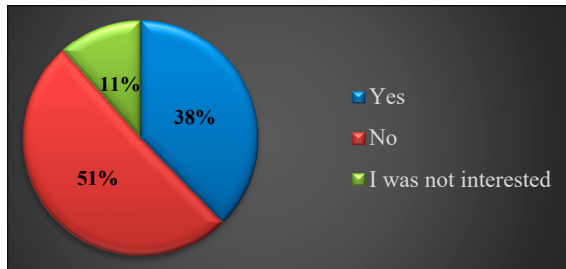


Figure 10: The participation in activities related to the decentralization process

Source: Authors, 2022

It also was important to find out if the public managers played any role in the decentralization process, consequently, they were asked about the involvement in activities related to this process. Most of the respondents (51%) declared no involvement or no interest (11%) in such activities. Only 38% of the public managers designed proposals to improve the decentralization process. Consequently, it can be considered that they did not play a major role in the decentralization process.

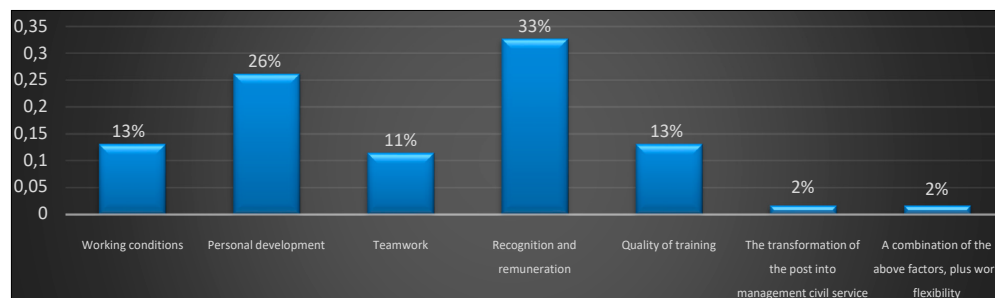


Figure 11: Main sources of motivation

Source: Authors, 2022

Public managers were asked what motivates them to carry out their activities. Most of them (33%) declared that recognition of merits and remuneration motivates them, followed by personal development (26%), working conditions (13%), and the quality of training (13%).

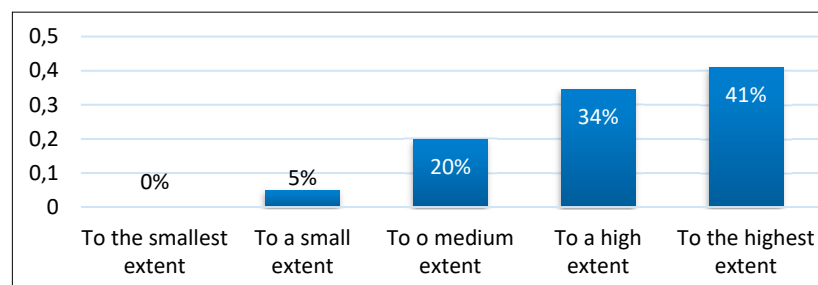


Figure 12: The perception about YPS and BSGR programs

Source: Authors, 2022

Furthermore, public managers were asked to assess to what extent they believed that the implementation of the YPS (Young Professional Scheme) and BSGR (Special Scholarships of the Romanian Government) had a positive impact on the development of public administration. The responses show a high degree of appreciation for the two programs, as 75% of the respondents stated that the programs had a positive impact to a high and maximum extent.

The analysis of the data indicates that the most important benefit of the implementation of the YPS and BSGR programs is the development of the administrative capacity at local and central level, professional training according to European standards, the development of new generations of public officials, and political neutrality.

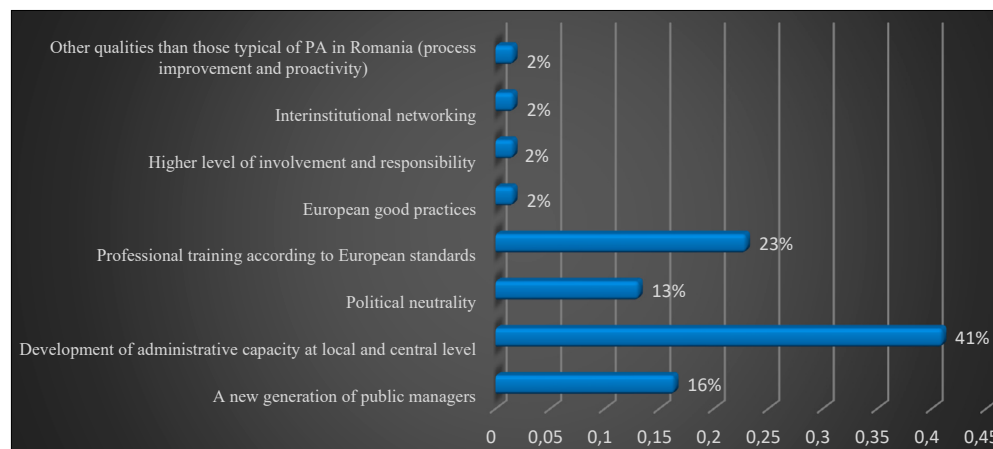


Figure 13: Main benefits of YPS and BSGR

Source: Authors, 2022

Table 1: The degree of satisfaction regarding the main actors involved in PA modernization process

Actors involved	Unsatisfactory (-2)	Satisfactory (-1)	Neutral (0)	Good (1)	Very good (2)	Total score
General Secretariat of Government	6	14	20	12	9	0,06
Ministry of Development and Public Administration	7	15	18	14	7	-0.04
The P.M. Chancellery	9	10	27	9	6	-0,11
National Agency of Civil Servants	3	17	11	20	10	0.27
National Institute of Administration	3	16	15	21	6	0.18

Source: Authors, 2022

The respondents were also asked about their degree of satisfaction related to the main institutions that are involved in the modernization of the public administration. Thus, it is noted that the public managers surveyed are relatively satisfied with the activity of the General Secretariat of the Government, the National Agency of Civil Servants, and the National Institute of Administration in their modernization initiatives. Regarding the work of the Ministry of Development and Public Administration and the Prime Minister's Chancellery, respondents declared a high degree of dissatisfaction. On the whole, public managers' satisfaction with the mentioned institutions is pretty low.

4. Main conclusions of the research

The study aimed to investigate the current activity of Romanian public managers and their role in public administration reform. As they are considered agents of change, both through their knowledge and experiences and through their open mindset to change, they should have improved the processes and structure of the institutions in which they work. The results of the research revealed that the YPS (Youth Professional Scheme) and BSGR (Special Scholarship of the Romanian Government) have successfully fulfilled their mission to develop the careers of young people in order to support the reform process of the Romanian public system at that time. Thus, the situation today has demonstrated that there are a relatively small number of employees in public institutions who have followed these programs, their number being in a continuous decrease. A cause in this regard may be the reluctance of the authorities to hire them, the reluctance of other colleagues, or the desire of public managers to practice in other countries with different mentalities and more open to change.

The research has revealed that public managers are involved mainly in project management activities, and more specifically in projects related to public administration development. They play also an important role in the digitalization process and less in the decentralization process. They consider that their leaders, both direct and indirect, support the process of reform in public administration, but exhibit a pretty high degree of unsatisfaction towards the main institutions with prerogatives in modernizing the public administration. On the whole, the analyzed projects fulfilled their mission in terms of training young people, but their impact is not the desired one as a relatively small number of graduates remained in public administration, and their impact on the reform and modernization of this field is a moderate one.

However, the research has some limitations, which made it difficult to create a comprehensive image of the current role of public managers. Firstly, the context of the COVID-19 pandemic has made it difficult to relate directly with the public managers and their leaders, and also the sample in the study is not representative. Consequently, the study will be continued, involving public managers' hierarchic superiors and conducting interviews with the public managers involved in the present research in order to find more specific information.

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EU Public Health Institutions and Public Administration Communication. Social Media and Covid-19 Vaccine. Content Communication, Consumption, and Perception

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Abstract

This paper applies a sentiment analysis on EU public health institutions on their social media accounts—Facebook, and generates a comparative result regarding how public administration organisms communicate during the COVID-19 vaccinations movement, but also how this communication is received, consumed, and perceived by the public.

Through data mining SaaS, the authors of this paper gathered a total of 300,000 data points from each EU country and its public health institution, starting from the 15th of December 2020 and ending on the 15th of May 2021.

The data analyzed was composed of the posts published, the comments, the reactions, and the shares. Also, the authors of this paper analyzed the engagement rate and the reaction score, based on models that have been previously used on similar research methods. In order to take into account the way Facebooks algorithm works, the authors have compensated the Engagement Rate (CER) and the Reaction Score (CRS) so that larger pages aren't penalized.

The results of the sentiment analysis were cross-checked with the vaccination rate of each EU country and with the COVID-19 cases per 1,000 citizens. The overall results showed that the northern European countries had the best CRS and that the most eastern countries had the highest CER, however the lowest CRS.

Keywords: Covid vaccine, vaccination, vaccine perception, social media, sentiment analysis

1. Introduction: crisis communication and the phenomenon of disinformation

The pandemic caused by the Covid-19 virus has had various repercussions in a variety of industries and on the quality of life in general. Because the virus took off in a very short time, state institutions had to act quickly for the sake of the population (Atalan, 2020). The beginning of the pandemic came with various campaigns and actions to inform the population, followed by hygiene and precaution campaigns, such as washing hands, using disinfectant and wearing protective masks. Only at the end of 2020 did the vaccine and implicitly the vaccination campaigns of public state and health institutions appear (Al-Salem *et al.*, 2021).

1.1 Crisis communication

Two important principles in crisis communication according to 20th century studies are danger and outrage. In the case of the pandemic, the danger was given by the number of sick people, the risk of illness and the number of deaths, and the outrage was given by a series of factors such as social and cultural ones, promptness, uncertainty and trust in public institutions and the media. Due to misinformation and outrage factors, the public thoroughly opposed the requirements of wearing a mask and social distancing, and in some countries such as Romania there were even protests, even during lockdown (Malecki *et al.*, 2021).

Given the isolation caused by the pandemic, the migration of communication to the online environment was not only imperative, but also the only effective method to

communicate in a secure way with the public. Of course, online misinformation has made communication for state institutions more difficult. The government, public health institutions and stakeholders communicated on platforms such as Twitter, and at the beginning of the pandemic, between January and April 2020, inconsistencies and incongruencies in communication were observed. During these months, though, due to the need to adapt to the situation, communication became more efficient, which helped to promote the vaccine among the population (Wang *et al.*, 2021).

In the EU states, crisis communication has been adapted to historical and socio-political contexts. Borders in the Schengen areas have been closed and some separation between EU countries has been established, agreed by the prime ministers and members of the governments involved. Emphasis was placed on the fact that the pandemic can be seen as a break, as an opportunity for people to put their lives in order or spend more time with their loved ones, in order not to bring to the fore a social problem that the population has faced: isolation. Each country had a different way of communicating and no strategy has been found that works globally, given that each country's history, traumas and contexts are different. However, the campaigns relied on the humanization of the problem and the common fear of the population: the fear of disease and implicitly the fear of death (Wodak, 2021).

The plurality of communication channels and the spread of false information from all communication media constitute an active risk in crisis communication during the Covid-19 pandemic. Following the questionnaire analysis of Italian citizens, the need for literacy in the field of health and the congruence in communication of public institutions was observed in order to make crisis communication more efficient. Thus, the education of the population plays an important role in understanding the risks given by the pandemic. Educated individuals had higher scores for understanding public messages and changing behavior in conjunction with the advice given. For this reason, an important step in crisis communication is informing the population about the problem, because assuming that the entire population is educated can be a fatal mistake (Viola *et al.*, 2021).

Building trust between institutions and the population, as well as the delivery of quality information at the expense of quantity are also factors that can make health crisis communication more efficient. There is a need for flexibility in public health institutions, which must institute behavioral changes without relying on fear of disease and fear of death. While for people with education the latter may be enough, for the rest of the population it is not always the case (Viola *et al.*, 2021).

1.2 The phenomenon of disinformation

As observed by Viola *et al.* (2021) in the previously cited study, the phenomenon of misinformation contributed exponentially to reducing the efficiency of institutional

communication. Since the beginning of the pandemic, a simple tweet posted by the French health minister related to medicine that can potentiate the effects of Covid-19 went viral, although there was no scientific basis behind it. Things got out of control, and soon all social networks were flooded with posts encouraging people not to use those drugs and to find various alternatives (Orso *et al.*, 2020). This analogy of what happened at the beginning of the pandemic, even ‘day 0’, accurately describes the disinformation phenomenon that would break out in the online environment.

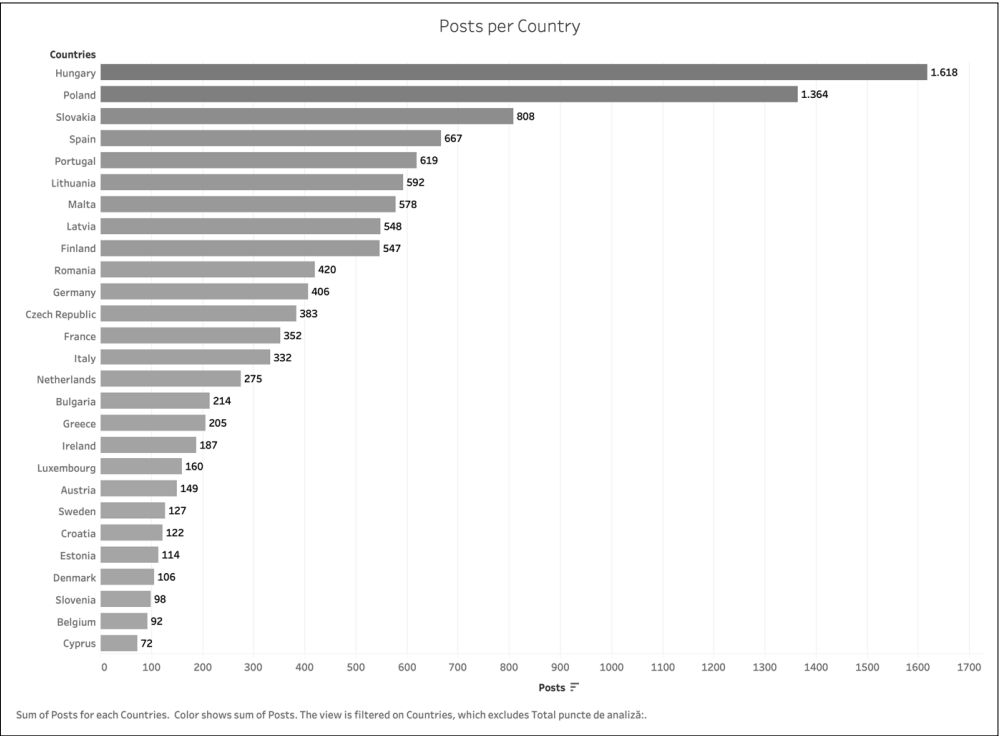


Figure 1: Posts per country

Source: Authors’ own work

The global crisis caused by the Coronavirus has also brought with it a global crisis of misinformation. This article examines two challenges that Europe has faced: one internal and one external. The internal one refers to the toxic effect that conspiracy theories have, such as those related to 5G, and the external one to the diplomacy campaigns provided by other geopolitical actors, such as China (Vériter *et al.*, 2020).

Between March and April 2020, the conspiracy about 5G penetrating the system and making you sick with the virus grew out of control, and from it branches arose, such as that Microsoft founder Bill Gates is behind the pandemic. During this period, campaigns and hashtags of public institutions had as much popularity as these

theories, and public institutions were unable to act against them in order not to create even more popularity for them (Vériter *et al.*, 2020).

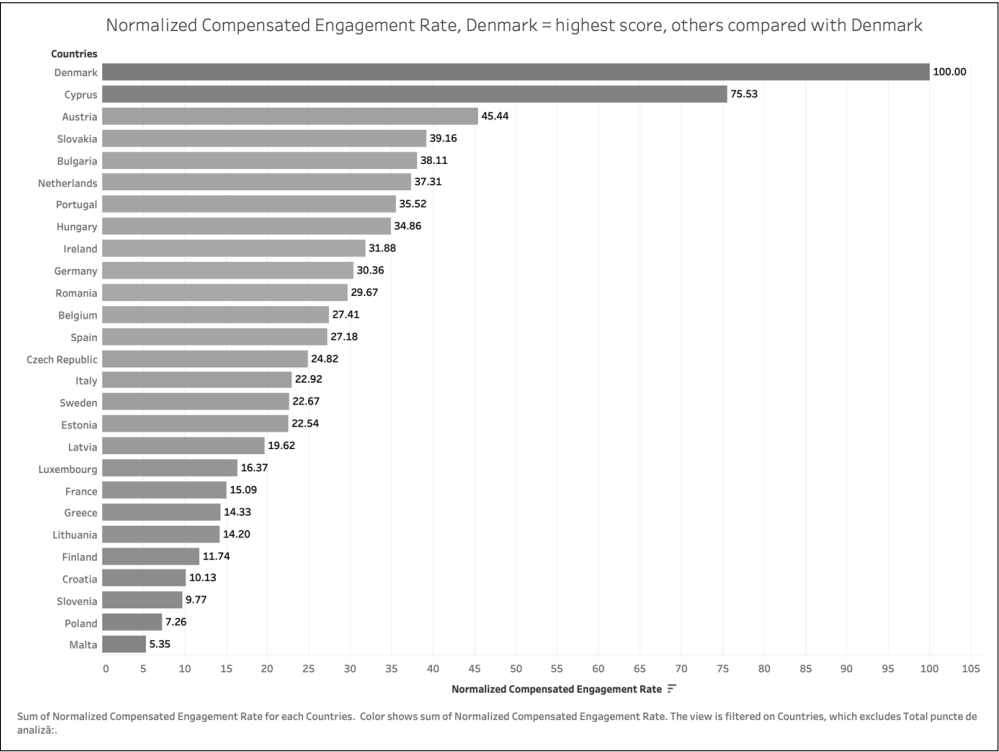


Figure 2: Normalized compensated engagement rate

Source: Authors' own work

Top reasons for spreading misinformation include low awareness, low health/media knowledge and literacy, entertainment, too much free time, socializing, and low trust in government/media. The profile of people most likely to spread such information is male, low education level and young people. AI and machine learning have developed various skills for differentiating and detecting fake news, being some of the most used prevention techniques. Among the most popular topics targeted by misinformation are vaccines, the virus, remedies, prevention, and treatment (Balakrishnan *et al.*, 2022).

When it comes to the vaccine, confidence in its effectiveness is damaged by misinformation. The biggest fear and the most popular reason for vaccine hesitancy was given by side effects, whether real or the result of misinformation. An approach to vaccination based on education and the provision of truthful information is recommended, which convinces the population of the benefits of a vaccine on a voluntary basis, at the expense of mandatory vaccination campaigns (Marco-Franco *et al.*, 2021).

2. Social media platforms and the Covid19 vaccine

Research shows that social media can be an important source of information about the COVID-19 vaccine for many people. However, social media platforms can also be a source of misinformation. Studies have found that false or misleading vaccine information on social media can contribute to vaccine hesitancy and mistrust (Karafillakis *et al.*, 2022).

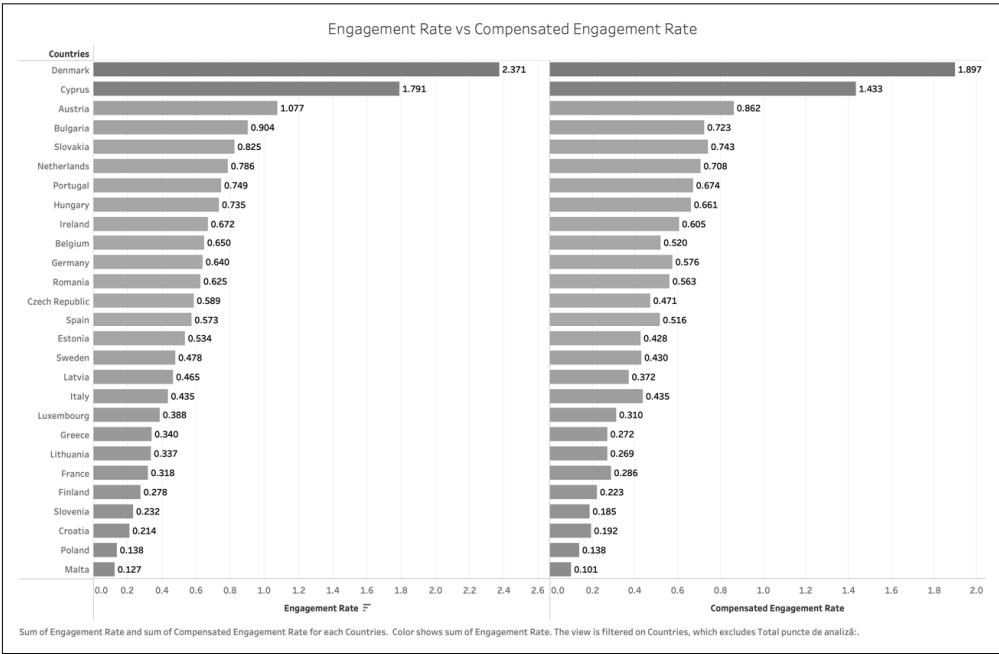


Figure 3: Engagement rate vs compensated engagement rate

Source: Authors' own work

Social media can also be used as a tool to promote accurate and reliable vaccine information and counter misinformation. Social media platforms such as Facebook have implemented a number of measures, such as fact-checking, to combat misinformation about the vaccine. Some research suggests that these measures have been effective in reducing the spread of vaccine misinformation on social media (Xue *et al.*, 2022).

On the other hand, some studies state that fact-checking is not enough to combat misinformation that occurs online. The following study suggests a series of actions that should be implemented in addition to fact-checking. These include educating the public with health information, including pop-ups to encourage the public to verify that the information they are about to read is truthful, or actually involving medical professionals in the process (Chou, 2021).

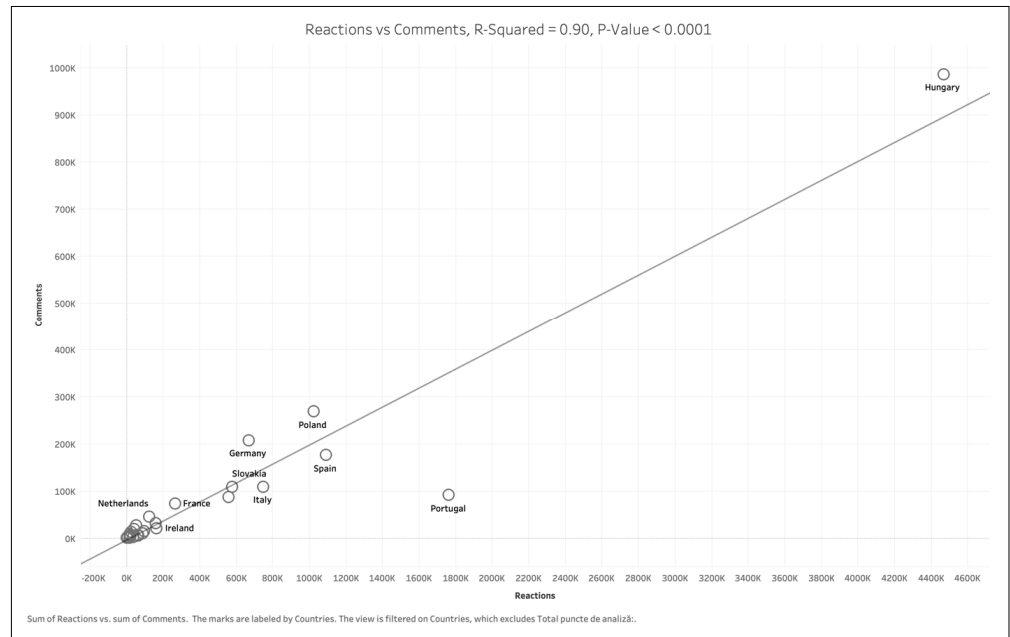


Figure 4: Reactions vs comments

Source: Authors' own work

Social networks have become real boosters of anti-vaccine movements, and verified information, along with false information, have overpopulated these networks, causing the phenomenon of 'infodemic'. An infodemic refers to the rapid and uncontrolled spread of misinformation or false information, often through digital media and social media. The term is often used in the context of public health crises, such as the COVID-19 pandemic, where misinformation and conspiracy theories can spread quickly and cause confusion, fear and distrust of official advice given by health institutions, or even distrust of the vaccine (Clark *et al.*, 2022).

Combating social media misinformation about COVID-19 requires a multifaceted approach tailored to different audiences. An effective strategy is the use of social media marketing in health promotion campaigns. Given the large number of social media users around the world and the increasing number of people accessing these networks via mobile phones, using these platforms to disseminate accurate information can improve public health strategies. This method has also been used successfully in the past, such as in HPV vaccination education and information campaigns (Bezuidenhout, 2021). Public health authorities and institutions should proactively address and counter false claims, taking into account the cultural and religious perspectives of each European country (Skafle, 2022).

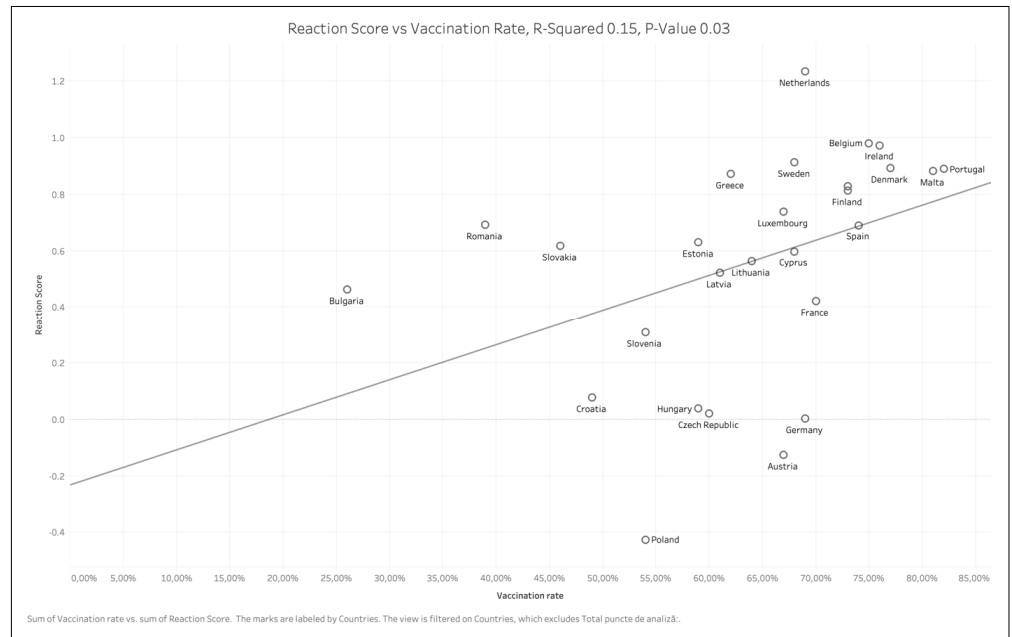


Figure 5: Reaction score vs vaccination rate

Source: Authors' own work

During the critical period during the pandemic and the quarantine, the public health institutions did not direct their communication towards the individuals who claimed on social networks that they were hesitant about vaccines, and these people were instantly called 'anti-vaxxers' by the public. This has led to a void that has been filled by several individuals misrepresenting vaccine hesitancy, and labeling them from the outset as uninformed, anti-science, or conspiracy theorists. The repercussions were not pleasant, as hesitant people who only had questions or reasons of their own to be reluctant about the vaccine became stigmatized, along with people who spread false information and conspiracy theories (Broniatowski, 2021).

The conclusion of several studies is that the messenger is important in social media campaigns. Trusted medical professionals and community leaders can create targeted, personalized vaccine promotion messages and insert them into online spaces of debate to reach specific communities and increase the chances of these messages going viral on social networks. Every community works differently, so the strategy must be adapted (Broniatowski, 2021).

3. Social media sentiment analysis

Social media sentiment analysis is the process of using language processing, text analysis, and machine learning techniques to determine the attitudes, opinions, and emotions of people on social media platforms about a particular product, service, or topic. This analysis can be applied to a wide range of social media platforms such as Twitter, Facebook, Instagram and others. The results of sentiment analysis can be presented as quantitative data, such as the percentage of positive, negative, or neutral sentiment, or they can be presented as qualitative data, such as charts or graphs. Sentiment analysis can be useful for companies, organizations, and individuals to monitor their online reputation, track the effectiveness of their marketing campaigns, and gain insights into public perception of their brand (Drus and Khalid, 2019).

On the Facebook platform, for example, sentiment analysis is done through the Facebook reactions: like, love, care, haha, wow, sad and angry. The first three are viewed as positive emotions and the other four as negative emotions. The importance of this type of analysis of campaign effectiveness during the Covid19 pandemic is given by the fact that institutions can analyze and improve campaigns based on public reaction (Alamoodi *et al.*, 2021).

A gradual acceptance of the virus was observed in a study centered on Twitter as the main network. While in the period January 2019–March 2020, most of the analyzed tweets portrayed neutral or negative feelings towards the infection with Covid19, in the critical period December 2019–May 2020, the feelings portrayed were mostly neutral or positive (Chakraborty, 2020). In another study also carried out on the Twitter platform, the sentiment towards the vaccines on the market was analyzed: Pfizer, Moderna and AstraZeneca. Sentiment analysis was performed on 701,891 tweets, which were collected over a 4-month period. Sentiment about the Pfizer and Moderna vaccines remained steady and positive over the 4 months. In contrast, sentiment toward the AstraZeneca/Oxford vaccine appeared to decrease over time, with a significant decrease observed when comparing December to March, 2020 (Marcec and Likic, 2022).

Returning to the Facebook platform, Hussain *et al.* conducted a comparative analysis between the United Kingdom and the United States of America. When sentiment was analyzed on posts related to COVID-19, it was found that the average positive sentiment in the UK was 58%, while the average negative sentiment was 22% and the average neutral sentiment was 17%. These percentages were slightly different in the United States, where the means were 56%, 24%, and 18% for positive, negative, and neutral feelings (Hussain *et al.*, 2021).

During the analysis, several key themes could be identified that were present in the posts. There has been a significant level of public optimism regarding the development, efficacy, and testing of COVID-19 vaccines. However, there have also been concerns about their safety, economic viability, and the role of corporations in

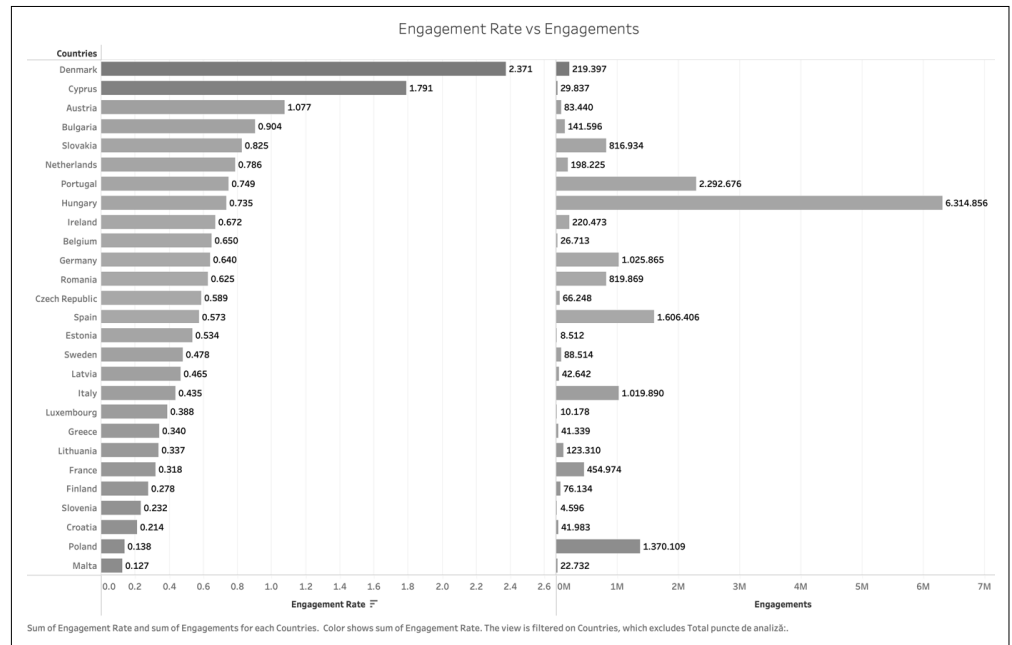


Figure 6: Engagement rate vs engagements

Source: Authors' own work

their development and distribution. These themes were present in both the United Kingdom and the United States, and the findings largely correlate with those of national surveys conducted in both countries (Hussain *et al.*, 2021). It is important to note that the sentiment analysis is based on Facebook posts, which may not reflect the general sentiment of the population. However, reactions can provide valuable insight into public perceptions and opinions on the subject. This can be particularly useful for organizations and businesses seeking to monitor public opinion and track the effectiveness of their communication strategies.

The study provided valuable insights into public perceptions and opinions about COVID-19 and the vaccines being developed to combat it. The results of this analysis can be used to inform decision-making and communication strategies for both government and private organizations. Additionally, they can help understand public sentiment toward the vaccine, which can help healthcare organizations and governments better communicate with the public (Hussain *et al.*, 2021).

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Public Participation of Civic Groups and the Emergence of Urban Assemblages. An Exploratory Research Framed by Actor-Network Theory

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Abstract

As part of a larger research about the public participation (PP) of civic groups (CG) in Bucharest, this article inquires about the emergence of ‘urban assemblages’ through agonistic PP of citizens in their reaction to (changes in) the urban space. The data collected was analyzed using the Actor-Network Theory (ANT) methodological approach on account of its strong empirical inclination. The interviews with CG members, nongovernmental, and public authorities’ representatives were analyzed within an ANT framework to identify the human and nonhuman actors, enrolling actors, and mediators/intermediaries that are producing the ‘urban assemblages,’ as well as their relational practices. Through translation, heterogeneous human and nonhuman actors become involved in relational practices as part of actor-networks that consist of humans, urban elements, discourses, technologies or events. This exploratory research brings contribution to a reflection on ontological aspects of the sociomateriality of PP and the city, in which the latter is seen as a multiple object, inhabited by human and nonhuman actors that are observed in an attempt to overcome certain entrenched symmetric limits.

Keywords: Actor-Network Theory, agonistic participation, civic groups, public participation, urban space, urban assemblages.

1. Introduction

There is a wide consensus among various social actors that citizens should actively participate in the design and the overall moulding of the urban space. At least at the discourse level, their participation is indisputably seen as positive and desirable by the authorities, urban planners, non-governmental organizations, scholars, and the citizens themselves. However, the debates around how and why the citizens should participate in the design of the urban space mostly focus on finding the best formulas for an efficient participation. There are insufficient policy, advocacy, and even academic works that look beyond these aspects to reflect instead on facets that deal with rather ontological aspects of the matter. One such facet that is explored in this article aims to move the spotlight from only the human factor, to also look at configurations of the urban space as integral to the public participation (PP) of citizens. When we think at the urban space, either as inhabitants, or researchers, we ineluctably consider its materiality, however, one that is or should be under human control. The urban space is more often than not seen as a subject of human agency, except perhaps in cases of calamities or natural disasters. Urban elements, or urban nonhuman actors, are rarely considered equally as important for their potential to shape human activity, in this case, PP. From the tradition of assemblage theory, authors like McFarlane (2011) consider that the notion of ‘assemblage’ can shed light into the topic of materiality and sociomateriality, as well as into the agency of both the social and the material. For McFarlane, the agency is not limited to humans as ‘different materials might matter within assemblages for how we conduct urban critique, whether those materials be glossy policy documents, housing and infrastructure materials, placards, banners, and picket lines, new and old technologies, software codes, credit instruments, money, commodities, or of course the material conditions of urban poverty, dispossession, and inequality’ (McFarlane, 2011, p. 215).

In this line, the objective of this paper is to explore, through Actor-Network Theory (ANT), how PP of citizens in ‘relational practices’ with the urban space is produced by more than just the human actors, by focusing as well on various nonhuman actors, and the networks they are all embedded in. If we posit that citizens interact in networks alongside other actors, then we can view them as integral parts of an environment inhabited by public authorities, non-governmental organizations, networks of civic groups (CG), and other human actors, but also, equally important, many more nonhuman actors like the material components of the city, discourses, technologies or snippets of knowledge. The principle of ‘general symmetry’ that lies at the foundation of ANT guides researchers to overcome a binarist perspective, a dichotomic thinking and ‘refute all pre given distinctions between classes of possible actors (natural-social, local-global, and economic-cultural) and treat these categories as symmetrical effects of relational practices’ (Jóhannesson and Bærenholdt, 2020, p. 33). Contrary to the modernistic perspective that relies on ‘purification’, on entrenched distinctions like

nature versus culture, in Bruno Latour's (1993) tradition, ANT proposes the process of 'networking or translation', 'a process of making connections between actor-networks' (Jóhannesson and Bærenholdt, 2020, p. 33) where all actors/actants are equal.

For conceptual clarification, it must be noted that this exploratory research employs ANT and assemblage thinking to tackle the PP of citizens in Bucharest CG in 'relational practices' to the urban space through the concept of 'urban assemblages' (Farías, 2011). A key component of this paper aims to also inquire into the nature of participation, namely its 'agonistic' tendency (Mouffe, 2007; Munthe-Kaas, 2015). The research is a multidisciplinary one, drawing upon relevant resources from assemblage theory, ANT, human geography, sociology, or critical urban theory.

2. Theoretical framework

There is a vast literature from various disciplines, such as sociology, anthropology, administrative studies, and urban studies, that explores citizens' engagement with the urban space. To only name a few, some already classical works deal with PP in regard to planning (Day, 1997; Grant, 1994; Hanna, 2000), the emergence of a particular type of citizens as defined in the concept of the 'creative class' and their importance to the city development (Florida, 2002), planning and civic initiatives that deal with climate change or urban green spaces, for example, 'civic action and climate experiments as new modes of urban governance' (Cloutier, Papin and Bizier, 2018), 'urban green communities' and variations in modes of civic engagement regarding urban sustainability politics (Laage-Thomsen and Blok, 2020), others that deal with the co-design of urban spaces (Munthe-Kaas, 2015), and many more. What bridges together all these heterogeneous attempts at understanding citizens' involvement in the public sphere is the tantamount importance of the urban space to their initiatives. A research about PP in Bucharest showed that the majority of the CG were established in response to a perceived danger to the urban environment (Voinea, Profiroiu and Profiroiu, 2022). It can therefore be argued that one specificity of PP in these citizen associations is significantly informed by their reaction to the transformations of the urban space.

Citizens' need to defend the city is not only important for the acknowledgment of the high significance of urban material components for PP but also because it imprints a certain type of participation. Citizens' activities in this respect have implicit forms of conflict with the authorities. Therefore, at this point, it is important to introduce a view of PP as deeply adversarial, or as Mouffe (2007) proposed for artistic practices, a view that 'denies the possibility of a non-adversarial democratic politics' (2007, p. 3). She further argues for an 'agonistic model of democratic politics' (Mouffe, 2007, p. 3), one in which the implications for the public space are that it is seen as 'the battleground

where different hegemonic projects are confronted, without any possibility of final reconciliation' (2007, p. 3). In her view, there is no one single public space, but public spaces, that 'are always plural and the agonistic confrontation takes place in a multiplicity of discursive surfaces' (Mouffe, 2007, p. 3). This model is applied by Munthe-Kaas (2015) to the co-design of urban spaces, where the aim of design interventions 'would be to create the best possible conditions for agonistic debates about the development of the city by including the voices of a variety of actors in urban space' (Munthe-Kaas, 2015, p. 220).

It must also be stressed that a special category of scholarly works that bring an important contribution to PP stems from the literature regarding urban planning and the use and conceptualization of the urban space, especially since it can be argued that CG is a manifestation of a rather urban reality than a rural one. For Williams (1976), citizen participation and the city are deeply intertwined as he finds that, at least in the case of the US, 'citizen participation reaches back to the beginning of the city and regional planning process. Efforts toward environmental improvement began with voluntary citizen groups—interest ranged from the 'city beautiful' to the 'battle against the slum' (Williams, 1976, p. 349). It must be mentioned nonetheless that the United States of America has a long history of PP and of CG, and there are numerous works that deal with this subject. As it is not in the scope of this paper, I would only add the work of Blackford (1980) who offered a historical account of CG, political action, and city planning in Seattle at the turn of the twentieth century. As many researchers deal with citizens' participation in and towards the public space, it must be noted that this paper opted instead for the use of the concept of urban space. This concept helps to avoid any confusion regarding a larger understanding of the public space that is used commonly to include both public and privately owned spaces. Some of the citizens' initiatives in Bucharest aim to improve and keep in check also private developments in the city that affect or impinge on the public space. Therefore, in order to also catch the interplay between public and private areas we focus on the whole of the urban space, in all its complexity.

2.1. Actor-Network Theory and citizen participation in the urban space

The importance of the material world for CG's participation, especially the theoretical contributions from areas such as urban planning and the intersection between PP and the urban space, has extensively been explored. The city, its urban spaces, and infrastructure, from parks, playgrounds, cultural centers, streets, sewage systems, plants and trees, to public toilettes, and many more have all been mentioned with respect to the development and practice of PP (Voinea, Profiroiui and Profiroiui, 2022). Therefore, we cannot fully grasp the theoretical implications of citizen participation if we do not

also take into account the nonhuman actors that exist in networks alongside citizens, public councilors, mayors, members of the nongovernmental sector, experts, etc. A similar perspective is brought by Erixon Aalto and Ernstson (2017, p. 309) who look at how ‘physical landscape itself becomes an active narrative element’ and how, through the analyses of case study, ‘demonstrates the ability of narrative to weave together actors, artifacts, and arenas, and to tell stories through which values are articulated and, in public discourse, de facto created’ (Erixon Aalto and Ernstson, 2017, p. 309). The authors focus on a wider phenomenon, in which the initiatives of CG, in their aim to protect the urban nature, develop ‘protective narratives’, and the interventions are seen ‘as examples of ‘value articulation’, which we view as a relational and sociomaterial practice that requires the enrolment of people, plants, and things that together perform, spread, and deploy stories about why given places need protection’ (Erixon Aalto and Ernstson, 2017, p. 309). The authors tackle how community and civil society groups act to protect, reshape, and sustain urban space, with a focus on ‘contesting dichotomist views about urban nature’ (Erixon Aalto and Ernstson, 2017, p. 310) that employ a polarization in terms of the city versus nature.

Therefore, I propose a look at PP from an Actor-Network Theory (ANT) approach. The theoretical roots of this approach can be traced in the 1980s in the works of Michel Callon and Bruno Latour, and was a subject of interest for diverse scholars, from the field of semiotics to epistemology, the sociology of science, or science and technology studies, etc. Among many, Law and Hassard (1999) dedicated a book to evaluate its legacy in *Actor Network Theory and After*. Even for Latour, it was a matter of recurrent re-visitation, Farías (2011) pointing out his ‘shifting positions regarding the label Actor-Network Theory, first chopping it into pieces (1999) and then vindicating it (2005), suggests that we are not dealing here with a clearly defined object’ (2011, p. 2). Furthermore, they argue that it should not be defined as a theory because it is not grounded on explanatory claims, but it ‘involves rather a certain sensibility towards the active role of non-human actors in the assemblage of the world, towards the relational constitution of objects, and the sense that all this calls for symmetrical explanations’ (Farías, 2011, p. 3). Before delving into the specificities of the intersection between ANT and urban studies, it must be noted that the term ‘actor’ is used as it was defined by Latour as ‘not the source of an action but the moving target of a vast array of entities swarming toward it’ (2005, p. 46). He further clarified that ‘any thing that does modify a state of affairs by making a difference is an actor’ (Latour, 2005, p. 71). Besides the numerous critiques and re-definitions of ANT, it is also important to note that it has pervaded into the field of architecture as it can offer novel tools to reflect on how the built urban space is produced. Several non-exhaustive examples of ANT influence in architectural and urban studies can be traced in the works of Yaneva (2012), Latour and Yaneva (2017), Amin and Thrift (2002), Gandy (2011), Zitouni (2004), etc.

2.2. Urban assemblages and ANT

An important concept used in ANT and critical urban theory is that of ‘assemblage.’ The notion has originated from the pivotal works of Gilles Deleuze and Felix Guattari (1987), namely from the concept of *agencement*, henceforth leading to what came to be known as ‘assemblage thinking’ or ‘assemblage theory’ (Brenner, Madden and Wachsmuth, 2011). Müller and Schurr (2015) consider even that ANT and assemblage thinking are some of the most popular conceptual approaches that are currently espoused in human geography. McFarlane (2011) and Brenner, Madden and Wachsmuth (2011) have brought significant contributions to understanding the concept, its position in critical urbanism, and its innovative potential, but also to the need for it to be more narrowly circumscribed. The latter stance is adopted in particular by Brenner, Madden and Wachsmuth (2011) who have divergent views to those of McFarlane (2011) and even Farías (2011), in that they propose a ‘narrower, primarily methodological application’ (2011, p. 230). Without dwelling on the conceptual debates that are nonetheless essential to researchers interested in ANT, derived from them, the central concept used in this paper is that of ‘urban assemblages’, in its plural form, as it was defined by Farías (2011). By using this concept, the city is seen as a ‘difficult and decentered object’ (2011, p. 2). Moreover, the concept can be understood as ‘an adequate conceptual tool to grasp the city as a multiple object, to convey a sense of its multiple enactments’ (Farías, 2011, p. 14), inhabited and produced by ‘heterogeneous actors, material and social aspects,’ one that ‘allows and encourages the study of the heterogeneous connections between objects, spaces, materials, machines, bodies, subjectivities, symbols, formulas and so on that ‘assemble’ the city in multiple ways: as a tourist city, as a transport system, as a playground for skateboarders and free-runners (‘parkour’), as a landscape of power, as a public stage for political action and demonstration, as a no-go area, as a festival, as a surveillance area, as a socialization space, as a private memory, as a creative milieu, as a huge surface for graffiti and street-artists, as a consumer market, as a jurisdiction etc.’ (Farías, 2011, p. 14).

Following Farías’s line of definition, Munthe-Kaas (2015) employed the ANT approach and further argued that the notion of ‘urban assemblages’ can help bring insights ‘into how urban spaces are formed through situational micro-struggles and compromises’ (Munthe-Kaas, 2015, p. 219). A key term that is borrowed from Munthe-Kaas’s assemblage perspective is that of ‘emergence’. Therefore, this article focuses on the emergence of ‘urban assemblages’ through agonistic PP of citizens in CG that react to (changes in) the urban space. The author stresses the relational aspect of urban development that relies on ‘urban controversy’ and the concept of ‘agonism’. These views are similar to other understandings of the city, like the ones of Amin and Thrift (2002) who contend that much of city life revolves around the ‘machine-like circulation of bodies, talk and objects, as well as the presence and regulation of trans-human and inorganic life (from rats to sewers)’ (Amin and Thrift, 2002, p. 26).

2.3. Citizens, the urban space, and the SARS-CoV-2 virus

If many of the CGs are born as a reaction to an external threat to the community and the city (Voinea, Profiroiu and Profiroiu, 2022), it can therefore be argued that crises inside communities act as drivers for PP, a view in line with the aforementioned concept of ‘agonism’. However, the question that arises here is if a common, global, health crisis, which saw put in place unprecedented restrictions on all aspects of life, will converge in the same direction of enhancing PP or if its restrictions will significantly build barriers to citizens’ engagement. Latour’s (2005) contribution to the development of ANT can provide an insightful perspective into understanding PP during the recent COVID-19 pandemic and the pervasive transformation it produced as an exemplar case study. With its focus on science and technology, the novel proposal to view both the social and natural world as inhabited by human and nonhuman actors which are all part of networks, offers an alternative theoretical understanding for the pandemic. The pandemic therefore brought to the front a large array of actors, from the virus itself, to ideas regarding public health and hygiene, emergency state and changes in the legal environment, face masks and other medical devices, ideas about solidarity towards the most vulnerable in front of the disease and the creation of solidarity networks to offer support, discourses of politicians and public health officials, the popularization of digital tools, communication via Zoom, and many other categories of humans and nonhumans (ideas, objects, discourses, etc.) interacting in sometimes rapidly shifting networks. ANT approach can add valuable insight into PP and how nonhuman actors (e.g., the SARS-CoV-2 virus) can inflict dramatic change not only to the natural world, but to the social one as well, especially if we follow Latour (2020) in considering the germs are ‘super-globalisers’.

Several authors have already tapped into the methodological potential of ANT in examining case studies of practices impacted by the nonhuman actant SARS-CoV-2 virus. To only mention a few, Ozuem *et al.* underwent a study that employed ANT in order to understand ‘customers’ responses to online service failure and recovery strategies during the Covid-19 pandemic’ (Ozuem *et al.*, 2021, p. 1440). Another research (Frimpong *et al.*, 2022) looked into the way community-based organizations responded to the health risks brought by the pandemic and their interactions with other entities. In this article, a special section is dedicated to the impact of the SARS-CoV-2 virus on PP as an actor with the potential to destabilize ‘urban assemblages’.

3. Methods

The findings presented in this article are part of a larger research that explored the PP of civic initiative groups in Bucharest, Romania (Voinea, Profiroiu and Profiroiu,

2022). The research took place in 2022 and inquired into the impact of the COVID-19 pandemic, types of PP, co-creation of public services, and also the relationship between citizens and the public space in their efforts for civic engagement. The data collected in the previous research was analyzed for this article using the ANT methodological approach. This approach has a strong empirical inclination and was used in numerous case studies, being considered by John Law as a useful ‘toolkit’ in material semiotics, that has a ‘predisposition to exemplary case studies’ (2009, p. 144). He further contends that ‘it is a sensibility to the messy practices of relationality and materiality of the world’ (Law, 2009, p. 142). Jóhannesson and Børenholdt also understand ANT as ‘a practice-based perspective’ (2020, p. 33).

The data collection employed qualitative methods: nine semi-structured interviews. Six interviews were done with civic groups’ representatives, two interviews with the representatives of non-governmental organizations whose main activity pertains to community building and advocacy, and one interview with a representative of the public administration (a local councilor). The database of civic initiative groups created by the NGO Centrul de Resurse pentru participarea publică (CeRe) (Resource Center for Public Participation) was used for the selection of the sample of civic groups representatives.

The analysis of the data was done following similar operational frameworks used by other scholars such as: Cvetinovic, Nedovic-Budic and Bolay (2017) in their study on the urban development dynamics in Belgrade’s neighborhood of Savamala, Müller and Schurr (2015) who explored the networks of transnational assisted reproduction, and Rydin (2012) with a case study of a commercial office development and discussions around its carbon performance in the process of regulatory planning. The ANT analysis drew on the data from the interviews with CG members to identify the following aspects:

- Human and nonhuman actors inhabiting the ‘urban assemblages’. In their analysis, Cvetinovic, Nedovic-Budic and Bolay (2017, p. 145) classified them as: ‘Human (urban actors and stakeholders) and non-human entities (urban structures/territories, natural/urban spaces), institutions, policy agendas, urban/communication infrastructures and social aspects (economic, political and cultural).’
- Enrolling actors. Out of the heterogeneous series of actors identified, a key category of actants was emphasized, those that had an enrolling effect on other actants in the networks. According to Rydin, the process of enrolling allows actants to ‘constitute other actants in their own agency, that is, involving them in network relationships on specific terms’ (2012, p. 26).
- Mediators and intermediaries. Among actors in the network, this is another category that is of great significance due to its relational potential of connecting other actors. Latour defines the role of mediators as that to: ‘transform, translate,

distort, and modify the meaning or the elements they are supposed to carry' (2005, p. 39). Although the two concepts are sometimes used undifferentiated, following Latour's line of thought, Cvetinovic, Nedovic-Budic & Bolay define intermediaries as 'simply bearers of meaning, whereas mediators actually change the actions/relationships they are involved in' (2017, p. 145). The authors distinguish between four types of mediators and intermediaries: entity, human, artefact, and event (Cvetinovic, Nedovic-Budic and Bolay, 2017, p. 145).

4. Results and discussion

The results of this research detail the emergence of 'urban assemblages' through the PP of citizens organized in CG in Bucharest. By applying an ANT framework, this chapter presents how, through translation, human and nonhuman actors became involved in relational practices as part of actor-networks that consist of citizens, experts, nongovernmental and public sector representatives, miscellaneous urban elements, discourses (including that about PP itself), technologies or events. As Jóhannesson and Bærenholdt argued, 'networks cannot be thought as distinct from practices, as they necessarily emerge through practices' (2020, p. 34). Therefore, this chapter aims to classify several categories of actors (human and nonhuman, enrolling actants, and mediators/intermediaries), especially the focal nodes in the networks, but also to depict several inexhaustive relational practices between these actors. The full list of categories of actors is found in Table 1. The results also show three ingredients of ANT identified by Law that can be traced in PP networks: 'semiotic relationality (it's a network whose elements define and shape one another), heterogeneity (there are different kinds of actors, human and otherwise), and materiality (stuff is there aplenty, not just 'the social')' (2009, p. 146).

4.1. Parks, playgrounds, petitions, and involved citizens in urban assemblages

The short history of CG in Bucharest seems to have a similar trajectory to the ones from other cities, ones that revolve around PP and the use, planning, improvement, and maintenance of the urban space. As Williams (1976) observed for the U.S., in Bucharest as well, the two categories of CG aimed to either resolve a problem, by involving themselves in adversarial participation or to make the 'city beautiful.' According to a report done by the NGO CeRe (2011), a project developed by them helped establish the first CG in Bucharest. It is not coincidental that some of the civic initiatives they first selected to grow were those that were already involved in activism, for example, a group that organized a protest against the authorities' action to prohibit parking on a

Table 1: List of human & nonhuman actors, enrolling actors, intermediaries/mediators
Bucharest civic groups

Civic Group	Human & Nonhuman actors	Enrolling Actors	Intermediaries and Mediators
1	H: CG founding members and leaders, children, regular CG members, NGO representatives, local councilors, the mayor, urban experts, and lawyers. NonH: neighborhood configuration lacking parks and playgrounds, experience of maternity, other CG, laws and regulations, rights, social media, petitions, protests, meetings, zonal urbanism plan, statistic documents, PP trainings and consultation from NGOs, property regimes, mayor electoral promises, SARS-CoV-2 virus, time, financial resources.	Neighborhood configuration, children, founding member, social media	NGO representatives, other CG, laws and regulations, rights, SARS-CoV-2 virus, petitions, protests, public hearings, Facebook posts.
2	H: CG founding members and leaders, regular CG members, NGO representatives, local councilors, mayor, business owners, urban experts, and lawyers. NonH: fence in the park, park alleys, railroad crossings, bars and restaurants in the park, laws and regulations, rights, illegal construction permits, social media, petitions, protests, meetings, consultation from NGO, other CG, SARS-CoV-2 virus, time, financial resources.	Fence in the park, founding members	NGO representatives, laws and regulations, rights, social media, SARS-CoV-2 virus, petitions, protests, public hearings, Facebook posts.
3	H: CG founding members, regular CG members, NGO representatives, public authorities' representatives, urban experts, artists, and historians. NonH: ideas about community (building), guided tours, historical landmarks, historical information, green spaces, murals, urban furniture, recycling material, ideas about recycling and environment protection, campaigns, social media, PP trainings and consultation from NGOs, financing mechanisms for CG projects, SARS-CoV-2 virus, time, financial resources.	CG founding members, ideas about community (building), ideas about recycling and environment protection	NGO representatives, social media & Facebook posts, campaigns, guided tours and historical information about the neighborhood, financing mechanisms for CG projects.
4	H: CG founding members, regular CG members, NGO representatives, public authorities' representatives, urban experts, and neighborhood inhabitants. NonH: ideas about community (building), parks & green spaces, recycling material, ideas about recycling and environment protection, social media, PP trainings and consultation from NGOs, financing mechanisms for CG projects, community events organized by CG (e.g., Days of the neighborhood), SARS-CoV-2 virus, time, financial resources.	CG founding members, ideas about community (building)	NGO representatives, social media and Facebook posts, financing mechanisms for CG projects, and community events organized by CG.

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Civic Group	Human & Nonhuman actors	Enrolling Actors	Intermediaries and Mediators
5	H: CG founding members and leaders, regular CG members, founding members former high school colleagues, NGO representatives, public authorities' representatives, mayors, urban experts, lawyers, and homeless people in the neighborhood. NonH: neighborhood configuration lacking green spaces, centers for the elderly, public toilettes, illegal constructions of parking lots, other CG, laws and regulations, rights, social media, petitions, protests, meetings, statistic documents, public authorities' initiatives from other neighborhoods (e.g., elderly centers), PP trainings and consultation from NGOs, social connections, public hearings, SARS-CoV-2 virus, time, financial resources.	CG founding member, neighborhood configuration.	NGO representatives, laws and regulations, rights, social media, SARS-CoV-2 virus, public authorities initiatives from other neighborhoods, petitions, meetings, and public hearings.
6	H: CG founding members and leaders, regular CG members, NGO representatives, local councilors, mayors, and urban experts. NonH: poor neighborhood infrastructure, a street affected by severe traffic jams, other CG, laws and regulations, rights, social media, online meeting platforms, petitions, protests, meetings, zonal urbanism plan, statistic documents, PP trainings and consultation from NGOs, a neighborhood restaurant where the CG held face to face meetings, SARS-CoV-2 virus, time, financial resources.	CG founding members, poor neighborhood infrastructure, a street affected by severe traffic jams.	NGO representatives, urban experts, SARS-CoV-2 virus, other CG, laws and regulations, rights, social media & online meeting platforms, petitions, protests, meetings, zonal urbanism plan, statistic documents, PP trainings and consultation from NGOs, a neighborhood restaurant where the CG held face to face meetings.

Source: Author's own analysis

boulevard (CeRe, 2011, p. 9). This comes to sustain what was previously argued, that PP is an 'agonistic' process that involves citizens in the management of the urban space. For I.L., a CG representative (CG2 in Table 1), the urban space was the medium that triggered their establishment and also a continuous source for their activities. The perceived danger to their community was the authorities' initiative to build a fence in the park they were using for their daily activities (running, walking, taking the children out, etc.). In this particular case, the fence in the park and the first citizens who opposed its construction are enrolling actants in the emergent network. The latter's subsequent actions towards PP, enrolled other human and nonhuman actors. In their efforts to stop this action that they thought would deeply affect the quality of life in the community, the members of the group also uncovered other irregularities. Therefore, besides the interaction with other human actors, such as public authorities representatives, they also became acquainted with other objects and discourses pertaining to the urban space: laws and regulations regarding the maintenance of parks, the protection of the

environment, ways of asserting their rights, other key sites in the parks, for example, bars and restaurants that functioned illegally, railways that were crossing the park and posed danger to citizens, illegal permits for buildings, social media that helped mobilize other members, etc. In the latter case it is important to note that when I.L. had to pinpoint the birth date of the CG, he chose the date their Facebook page was made. The Facebook page had limited enrolling potential for this particular CG; however, it is representative of how technologies are focal nodes in the networks of PP. Alongside NGO representatives, laws and regulations, rights, and social media can be viewed as intermediary actors in the network.

I.L.'s relational practices of participation in regard to the urban space were similar to those of other members of CG interviewed in this research. For G.H. (CG1 in Table 1), the move to a new neighborhood and her experience of maternity brought to the surface an important constraint of the urban space she was inhabiting: the lack of playgrounds and green spaces where she could take her child out for a walk. In her efforts to advocate for such spaces, she gathered other citizens who were confronted with the same problem. Like I.L.'s experience, their actions to change the space, also made them become acquainted with other 'urban assemblages', other CG, laws and procedures that they had to acquire knowledge about, difficult access to documents regarding the number of inhabitants affected by the lack of green spaces¹, interactions with NGOs, etc. An important aspect of G.H.'s experience was the fact that there was almost no more publicly owned space in the neighborhood to allow the establishment of the playgrounds and green spaces. It is important here to re-emphasize why we decided to use the term urban space instead of public space. A preliminary finding of the research indicated a significant shrinkage of the public space, due to a high level of privatization after the fall of the socialist regime. The urban space therefore pertains to both the public and the private space, their interplay, shifting boundaries, and dynamics. More importantly, it is also a matter of how these are experienced by the city's inhabitants, who sometimes blur the lines between property regimes, and experience them as the whole of the urban space. In the 'urban assemblage' that took form from G.H.'s initiative we can therefore also add other nonhuman actors such as different regimes of property, but also the subjective experience of the inhabitants on these legal arrangements of the urban space. In the particular case of this G.H.'s CG, the enrolling actors were: her child as the initial enrolling actant who helped her experience the city differently,

1 Similar to other CG leaders, G.H. recounted to have dedicated a large amount of time to documenting their requests addressed to public authorities, by checking statistical data and other official documents. Another CG member admitted to having sometimes acted like a 'detective'. All this effort was done at their own 'expense' of time and money. These can be considered focal actors in the networks for most of the CG groups.

herself, the neighborhood configuration that lacked parks and playgrounds, and social media. The latter acted as a potent enrolling actant in the mobilization of other members and in gathering signatures on petitions, but also a tool for agonistic PP in their online interaction with the mayor of District 6, where CG members held the mayor accountable to his electoral promises.

The neighborhood configuration with its lack of green spaces was also the enrolling actor that determined R.T. (CG5 in Table 1), a retired inhabitant of one of the most central neighborhoods of Bucharest, to get involved and help establish a CG. Her actions also brought to the surface a broader range of problems of urban spaces: the lack of centers for the elderly, lack of public toilets, illegal constructions of parking lots, etc. A similar array of human and non-human actors became visible in her accounts about how she experienced PP. Moreover, we can conclude that all nonhuman actors that are found in the complex 'urban assemblage' became sources of social connection between previously unconnected inhabitants of a neighborhood, as well as tools, and drivers for maintaining their social ties, and for overall PP. R.T. recounted how she started contacting neighbors and even high school colleagues to convince them to get involved in CG's activities. By joining the CG, all these newly engaged citizens became part of a larger social network, and more importantly, also took an active part in the newly formed 'urban assemblages.'

What all these accounts have in common is the centrality of the urban space, as well as the various human and non-human actors that make up these shifting 'urban assemblages' that came to the front while citizens became involved in PP to improve the space. It must also be re-emphasized, in line with Farías (2011), that the city truly appears to be a multiple and decentered object. It can be concluded that both the urban space and the 'urban assemblages' are not immutable, but constantly shifting in time and space.

One such cause for shifting dynamics was the experience of the COVID-19 pandemic for Bucharest CG and the limitations it brought to PP. This is another example of how ANT can bring valuable insight into the matter. Moreover, it reinforces the aforementioned idea that 'urban assemblages' are inherently dynamic as they are subject to constant changes, in their process of stabilization. According to Law, 'in the end, it is the configuration of the web that produces durability. Stability does not inhere in materials themselves' (2009, p. 148). Therefore, besides the virus and medical devices that became household items for the citizens, the urban space itself reconfigured starting with 2020. The SARS-CoV-2 virus can be viewed both as enrolling actant that connected actants like hygiene products, online meeting platforms, laws to contain the pandemic, etc., but also as a mediator that transformed PP and its relational practices to other actors, in aspects like a higher degree of online communication, the impossibility of organizing protests, restricting access to the urban space for several months,

difficult communication with public authorities, etc. Another actant that impacted PP and the citizens' interaction with the urban space was the measures taken to contain the pandemic. The parks that were previously the object of intervention and even platforms for protest were closed for several months, the interaction with the authorities was limited despite efforts for digitalization, face-to-face meetings of CG moved to on-line platforms. In their accounts, one member of the CG and one representative of an NGO voiced their concern regarding the negative impact of the limitation of the right to public assembly to a maximum number of 100 persons (Government Decision no. 636 from June 9, 2021, pct. 27). This measure made the urban space almost unavailable for many citizens. Consequently, this had consequences on the fabric of participation, because, as C.D. (a community organizer) stated, between the two actors there is a symbiotic relationship. From the interviews with CG members, it can be concluded that Facebook and online meeting platforms like Zoom had significant roles in establishing the network during the pandemic, allowing the continuation of relational practices, albeit markedly altered.

4.2. Agonistic participation in urban assemblages

Most of the citizens' actions that were organized in CG consisted of putting pressure on the authorities to improve the urban space. Their view on the nature of interactions necessary to obtain efficient changes was a confrontational and adversarial one. The agonistic nature of their interactions with the public authorities can be observed in the multiple types of actions (and actors) at their disposal: petitions, participating in public hearings, protests, using social media as a platform to exert pressure, etc. All of these are nonhuman actors connected in the 'urban assemblages'. Many of the CG received support from NGOs, that were important intermediaries to help them better use the legal tools available for PP. This is in line with Mouffe's claim that 'confrontation takes place in a multiplicity of discursive surfaces' (Mouffe, 2007, p. 3).

R.T.'s account is relevant for the agonistic nature of interaction between citizens and authorities as she claimed that public administration representatives need to understand the citizens are in charge, and that they are paid to be in the service of the citizens. From the non-governmental sector, C.D. considers that real collaboration cannot exist, because if it reaches that point, the authorities lose their incentives to do their jobs. She admits to being a 'conflictualist' and thus considers that the only way to reach efficient collaboration is, therefore, to constantly put pressure on the authorities. Asked about her NGOs experience in rural civic groups and if there can be successful initiatives outside the urban space, she further argued that it is more difficult as people in the rural areas are not that accustomed to PP, the mayors have stronger authority, the media is not very interested in their problems, and people are more alone than in the

city. This confirms the claim that PP is, at least so far in the Romanian environment, *par excellence* an urban phenomenon, and CGs are inextricably tied to the urban space.

Although the majority of CGs in Bucharest were established as a response to a perceived danger to urban life, there are some cases where they originated from the need of the citizens to build a community in the neighborhood (CG3 and CG4 in Table 1). One example of the latter category is the civic group M.N. (CG3) is part of, which was born at the initiative of three citizens who wanted to ‘raise awareness regarding the idea of community’ and started by organizing guided tours of the neighborhood in which they presented its history. Their subsequent actions were focused on green spaces, the protection of the urban environment, recycling campaigns, or beautifying the space through urban furniture or murals, etc. The interaction with authorities for this group was less conflictual, as M.N. recounted that she observed an improvement in the last years when the municipality was more open to communication. However, even in this case, the participation is not necessarily collaborative, and there is an agonistic characteristic to it. M.N. shared her opinion that ‘unfortunately, the legal mechanisms many times encumber us, instead of helping us (...). The administration is blocked by its own mechanisms.’ She further argued that they had a good interaction with the public administration, but one that took a long time, the dialogue was difficult, and it didn’t actually respond to their needs. O.P. (CG4 in Table 1), a member of a CG from the same category, cited a similar type of interaction with the authorities. Among the PP actors they connected with in their ‘urban assemblage’, there were also protests and petitions which indicate a similar form of participation, one that has mixed characteristics: more collaborative than in the case of the civic groups born out of a problem, but still marked by agonistic and adversarial tendencies.

5. Conclusion

The aim of this article was not necessarily to present a rigorous and exhaustive ANT analysis of ‘urban assemblages’ in which citizens and other human actors are connected in relational practices with diverse nonhuman actors. Much can be contested or further detailed in this study. However, what should be the main takeaway of this exploratory research is, as Brenner, Madden and Wachsmuth also considered pivotal for critical urban theory, rather ‘to create concepts and methods that open up new questions and horizons – for both thought and action’ (2011, p. 227). Hopefully, the value of this article is not so much in the finite results it presented, but rather an ontological and methodological exercise with a not so often used methodological toolkit to look at sociomateriality, citizens, and the urban space guided by a perspective that goes beyond a strict binarist view, by the principle of symmetry, and a sensibility towards empirical studies.

In line with what Brenner, Madden and Wachsmuth (2011) criticized about some assemblage thought works, in particular a susceptibility towards ‘conceptual quietude’, a future research direction, subsequent to this article, could further explore the ‘urban assemblages’ that emerged from PP from a geopolitical economy perspective. A future inquiry could also tackle how capitalism with its structural grip on the sociomaterial conditions shapes urban space, urbanization, and citizens’ interactions with them. The results of this paper already indicated the adversarial potential of public participation brought by the changes to the urban space that come from the ongoing privatization of the public space, dispossession, and continuous attempts at encroaching on citizens’ rights and access to the city. Because this article barely scratched the ‘urban surfaces’ for the effects of the structural forces on actor-networks, a future, more rigorous exploration is recommended.

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Public–Private Partnership, the Future for Development

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Abstract

The present article is made with the aim of understanding the need to develop services by creating public-private partnerships. The paper will look at how public-private partnerships have been achieved at European level and what has been achieved in Romania from this perspective. This article identifies the risks and obstacles that arise in the formation of collaborations of this kind and what could be improved to have eligible and innovative projects developed through public-private partnership.

Keywords: partnership, public sector, private sector, risks, development.

1. Introduction

The public-private partnership is seen as an association realized with the aim of solving certain problems at local level. It is most often established between local public authorities and the private or non-governmental sector in the form of collaboration with the aim of providing citizens with certain services or to develop projects. It is based on economic, political and social factors. The concept of public-private partnership is currently being discussed from financial, legal, economic and political perspectives (also see Mihalache, 2012). It is a topical issue that is attracting interest in various fields of activity, some of which are law firms, banks, investor associations, consultancy and audit firms.

At EU level, development through public-private partnership has an important role in economic stabilization. The most important partnerships between public authorities and the private sector have been organized at Member State level to achieve the standards set by the EU leadership. It was and is considered a system where the public and private or non-governmental sector, depending on the contractual parties, have organized plans for the development of infrastructure or services by pooling their resources and capacities to develop what is planned in a sustainable and organized way.

The concept is reflected at EU level as a revenue generator over time, both for public administration and other sectors. This is seen as a result of needs-driven development. Public-private partnerships have over time sought to address global warming issues by creating climate resilience plans, emphasis has been placed on developing alternative sources of electricity generation, the healthcare system has benefited from being equipped with state-of-the-art equipment and making the system accessible to citizens. Research and development has evolved through public-private partnerships but also in the area of technologies. The benefits of public-private partnerships include economic progress and the development of human resources.

The motivation of the present research is based on understanding the phenomenon of public-private partnership by tracing how this concept has developed over time, this information having a major importance in the realization of public-private partnerships at local and central level.

1.1. Methodology

For this article, two research methods will be used. The empirical method will be approached in the form of a qualitative research that involves the collection, analysis of data and theoretical concepts found in the specialized literature. The quantitative research will be carried out through observation in order to quantify the partnerships developed in the European states and in Romania.

The main purpose of the research is to follow the evolution of public-private partnerships in European countries and in Romania, by means of studies and analysis of the literature in order to form a vision of their positive fructification through the creation of goods, services and links between sectors of activity.

The objectives are to understand the concept in order to be able to intervene with innovative proposals for local development in Romania and to create links between authorities, the private, non-governmental system, through the use of public-private partnerships to increase the standard of living for citizens.

2. Understanding the concept of public-private partnership. Theoretical study

Partnership is described as an alliance between two partners who have a common idea and a common goal. The public sector is the organizational system that is directly governed by or subordinate to the state. The private sector is a private system that does not belong to the state (DEX). Public-private partnership is defined as a collaborative action carried out through public authorities and the private sector, either non-governmental organizations, associations created by investors, or firms, with the aim of carrying out certain programmes that make a positive contribution in terms of human resources and local economic development (Institute for Public Policy, 2004).

The public-private partnership is based on an alliance that distributes tasks from the local public administration to the private sector; in this relationship the public body maintains its political obligations, contributes in case of losses and benefits from profits (Ceparu and Irimia, 2010).

The fact that laws, interests and governing policies differ from state to state makes it easy to have no fixed plan or set course of action to follow when approaching the development of public-private partnerships. Thus, from country to country, depending on needs and possibilities, the phenomenon has developed in different directions.

Over time, as experience has been gained in the formation of public-private partnerships, several guidelines have been created as starting points and to support the concept. These are related to what negotiations entail, understanding between sectors, how they plan resources, ownership, management and risk-taking, and compliance with public procurement rules.

Some of the documents that have information about what public-private partnership means, how it is carried out and what are the conditions of public-private partnership are the Green Paper on Public-Private Partnership, Community Law in Public Procurement and Concessions Service, Rules applicable to Public-Private Partnership, Mobilizing Public-Private Partnership Investments for Economic Recovery and Long-Term Transformation (Commission of the European Communities, 2009).

In the studies carried out on the subject, public-private partnerships are described in two typologies. One model is where the action is carried out on the basis of a contract and each entity retains its status in the partnership. Another model is that of a joint-stock company, in which the public sector is the main shareholder, and this type of partnership can only be developed following a campaign to mobilize the project.

3. Public-private partnership in Europe

In the early days of the British regime, public-private partnership referred to an agreement between the public and private sectors to deliver services of public need. The characteristics of the British public-private partnership were to bring money into the project and to divide the risks, obligations and gains fairly. The French carried out the public-private partnership in the contractual form between the state system and the private sector, in this collaborative project the private sector came with the contribution of investment in the public sector, and this action caused the development of a fixed partnership that had to follow the rules.

In Europe, some countries have developed the public-private partnership branch very well and have evolved in terms of providing services to citizens, other countries started later but place themselves in the middle of the classification, but there is also the lower, referring to countries that are now at the first projects of this kind. Countries that are highly developed in terms of public-private partnerships are France, Germany, the United Kingdom and Italy. The middle classification of countries is occupied by

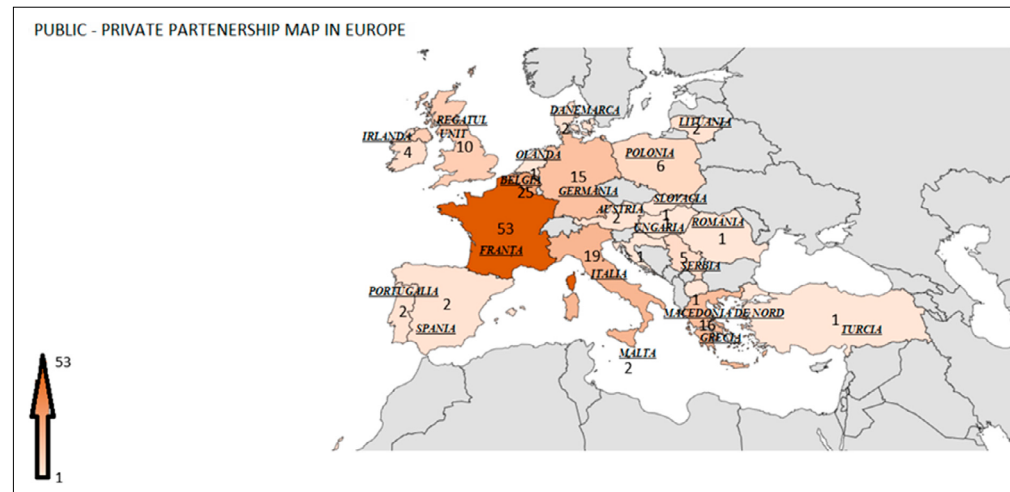


Figure 1: Public Private Partnership map in Europe

Poland, Spain and Austria. Countries such as Romania, Hungary and the Netherlands are at the beginning of development through public–private partnerships.

Advantages of PPP, identified after reviewing the specific literature, may be the following: elimination of delays in the completion of works, project categorization in terms of expenditure and revenue generated after the service is in use, reduction of execution costs, cost sharing on a contractual basis which can be beneficial over time in case of unforeseen expenses and can remove pressure on state or local budgets, risk analyses are clearly drawn up so that external costs are avoided and deepen the desire for research, innovation and sustainable development of projects.

There is a need to merge the qualities for collaboration between the two sectors forming the partnership. The public sector's individual work is focused on compliance with the rules, efficiency, effectiveness and prudence in allocating the budgets available to it according to the needs of the population and the priorities of the administration. The private sector is focused on making a profit, the service or end product to be achieved with the minimum of expenditure, in an ideal case. Thus, a quality public–private partnership is achieved by leveraging all resources, uniting the strength, finances and values of the two sectors in a middle plan that will bring competent and sustainable results for the local government and the citizens in the project area.

Some of the advantages of public sector engagement in public–private partnerships are the availability of funds for projects, the possibility of reducing costs through subsidy, the removal of risk through contractual clauses, the use of private management to create project efficiency, the provision and use of quality services, and the fact that in the end it remains the sole owner of the good or service.

The private sector benefits from opportunities for business development, promotion, experience building, but also from the fact that it can be helped with financing, co-financing or borrowing the funds from which the project is executed, and this is an advantage because the private partner does not intervene with all the resources (Khanom, 2010).

Disadvantages of the public–private partnership in terms of public sector involvement are the loss of control over the concessioned parts, obstacles in achieving control and increased budget expenditure on this issue, not being able to follow up the actions carried out by the private partner in full to respect the rights of the citizen and creating a dependency on the private sector. The private sector partner may encounter problems leading to insolvency or bankruptcy which automatically stops the works and brings losses to the public sector and citizens (Ceparu and Irimia, 2010).

In the following we will follow the evolution of public–private partnerships in Europe over the last 3 years, i.e. 2019, 2020, 2021, to form a view of the phenomena. The phenomenon is increasing in the EU: in 2019, 29 projects were carried out through PPP, in 2020, 34 projects and in 2021 it reached 40 projects.

From the perspective of the amounts invested in the 3 years we can see in the graph below a fluctuation, which is most likely present due to the pandemic and the fact that other purchases were prioritized, thus in 2019 € 9.8 billion were invested, this amount decreased considerably in 2020 reaching € 7.9 billion, followed by an increase in 2021 when € 8 billion were invested.

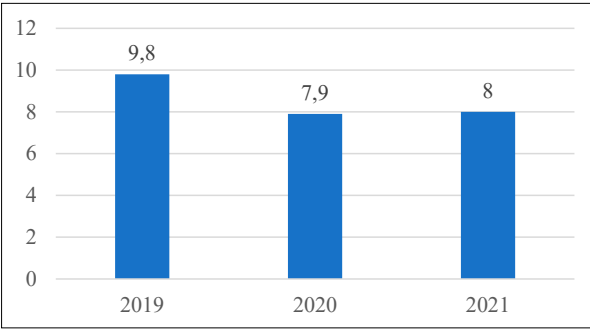


Figure 2: Public–Private Partnership in Europe (paid value 2019–2021, in billion Euro)

Source: Own processing of data from Eurostat

The financing scenarios used for the implementation of European projects through public–private partnership that were executed during the period under review are of several types. The projects were either financed by one of the partners, public or private, or funds from European Investment Bank (see EIB 2020, 2021, 2022) loans were used.

In 2019 the UK had 7 projects worth €3.3 billion, France 8 projects worth €1.8 billion, Germany 2 projects worth €1.4 billion, Belgium 4 projects worth €950 million, the Netherlands 1 project worth €800 million, Serbia 2 projects worth €770 million, Greece 2 projects worth €500 million, Ireland 2 projects worth €250 million, and Austria 1 project worth €100 million.

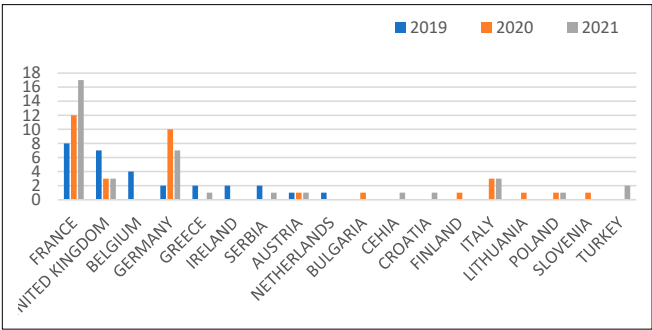


Figure 3: The breakdown of European countries of PPP (2019–2021, number of projects)

Source: Own processing of data from Eurostat

In 2020 Germany had 10 projects worth €2.8 billion, France 12 projects worth €2.8 billion, the UK 3 projects worth €1.1 billion, Bulgaria 1 project worth €900 million, Italy 3 projects worth €500 million, Finland 1 project worth €166 million, Poland 1 project worth €166 million, Austria 1 project worth €100 million, Lithuania 1 project worth €10 million, Slovenia 1 project worth €1 million.

In 2021 Italy had 3 projects worth €2.2 billion, France 17 projects worth €1.4 billion, Turkey 2 projects worth €1.35 billion, Germany 7 projects worth €900 million, Czech Republic 1 project worth €450 million, United Kingdom 3 projects worth €300 million, Croatia 1 project worth €280 million, Greece 1 project worth €100 million, Austria 1 project worth €70 million, Serbia 1 project worth €20 million, Poland 1 project worth €10 million.

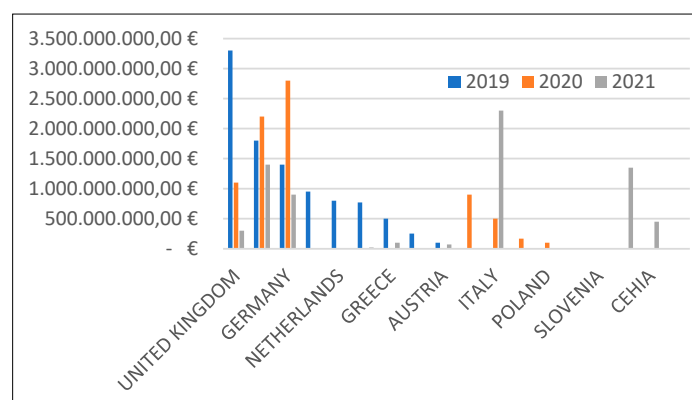


Figure 4: Breakdown of European countries of PPP (2019–2021, project value)

Source: Own processing of data from Eurostat

The following two graphs show the public–private partnership in the three years of analysis according to the number of projects and the value of the investment for implementation, according to development sectors /domains in which PPP were implemented.

In 2019 the development sectors were: Transport 10 projects worth €6 billion, Housing and Services 4 projects worth €1.5 billion, Education 7 projects worth €937 million, Technology, IT and Communications 2 projects worth €826 million, Environment 2 projects worth €388 million General Public Services 1 project worth €500 million, Defence 1 project worth €15 million and Recreation and Culture 1 project worth €15 million.

In 2020 development sectors were Transport 7 projects worth 4.9 billion, Technology, Informatics and Communications 4 projects worth 1.1 billion, Education 10 projects worth €846 million, Health 4 projects worth €500 million, Recreation and Culture 6 projects worth €410 million and Environment 3 projects worth €200 million.

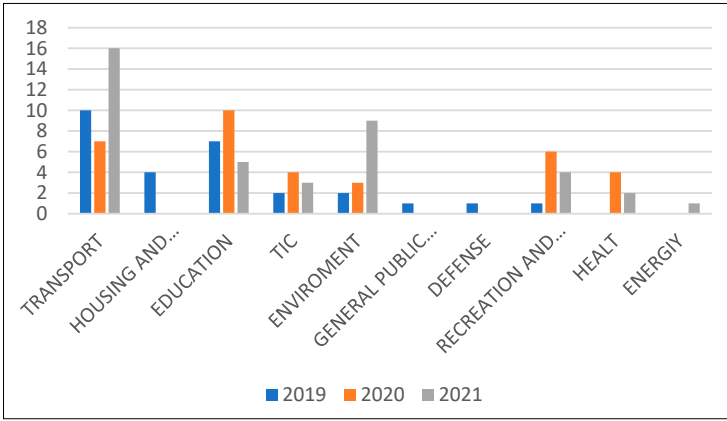


Figure 5: PPP development sectors (number of projects)

Source: Own processing of data from Eurostat

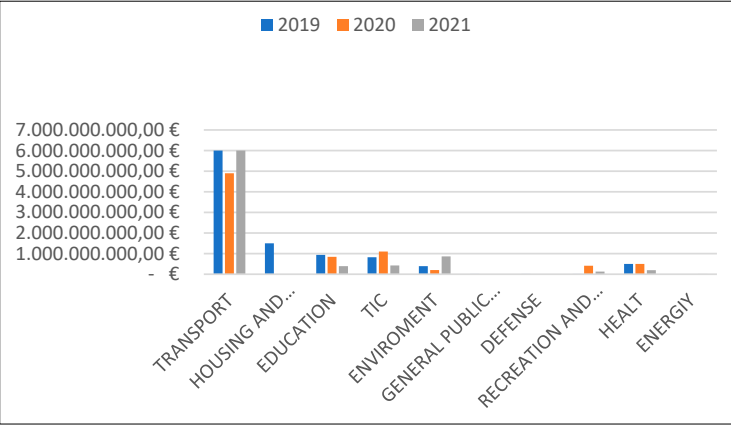


Figure 6: PPP development sectors (project value)

Source: Own processing of data from Eurostat

In 2021 the development sectors were Transport 6 projects worth €6 billion, Environment 9 projects worth €866 million, Technology, IT and Communications 3 projects worth €427 million, Education 5 projects worth €391 million, Health 2 projects worth €195 million, Recreation and Culture 4 projects worth €126 million and Energy 1 project worth €10 million.

Taking into account the public–private partnerships from 2019 to 2021 included in the statistical data analyzed, forecasts are made for the next three years, i.e. 2022, 2024, 2024. Thus, at European level, approximately 45 projects worth 6.67 billion Euros are presented for 2022 and 51 projects worth 6 billion Euros in 2023, and 57 projects in 2024. These data are represented in the graphs below.

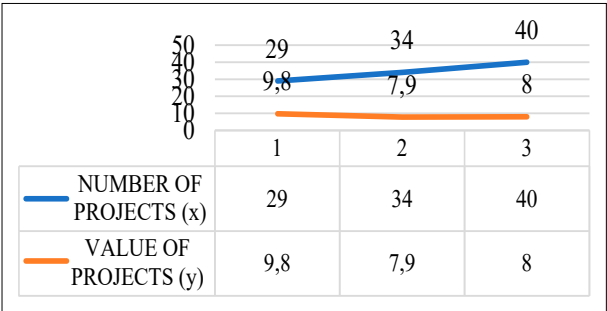


Figure 7: PPP links in Europe

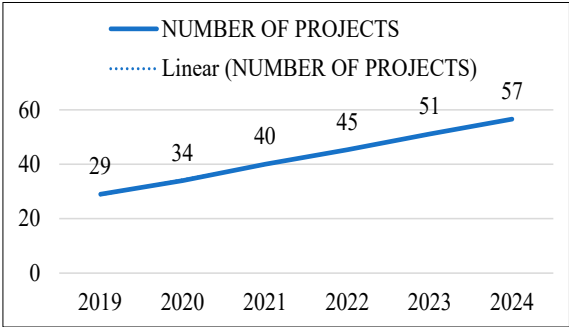


Figure 8: PPP forecast in Europe 2022–2024

The correlation coefficient is -0.81, thus showing a negative correlation indicating that as the number of public–private partnerships increases the amount of funding allocated to them decreases, and if the number of public–private partnerships decreases the amount of funding allocated to them increases.

The analysis carried out at European level shows that public–private partnerships have been developed, but that no standard procedure for project preparation has been established. Therefore, each country approached the best method considered to lead to what they wanted to implement, be it a public good or service. This phenomenon is encountered because the needs and the way of development differ from country to country, so it is not possible to match 100% the project developed by public–private partnership carried out in one country to another.

In Romania, the situation cannot be analyzed in the same way as the one at European level because the public–private partnership is almost impossible to organize because several obstacles are encountered. Public authorities are reluctant to get involved in investments and financial support after the project is completed. Another factor is excessive bureaucracy and lack of experience in preparing documentation, which makes investors reluctant to enter contracts. Corruption and long waiting time for works to

be carried out can be considered other obstacles in the implementation of certain services through public–private partnership (Hanganu, 2021).

4. Conclusions and proposals

Following the theoretical and practical analysis of the topic, the following conclusions can be drawn. It can be seen that in European countries the public–private partnership has been successful in terms of providing goods and services to citizens, but also that this phenomenon is not so popular in Romania, although attempts have been made to form partnerships in order to provide solutions for the development of services, the restructuring of the economy and the creation of new jobs. It was found that training the public and private sectors, identifying opportunities, assessing and taking risks are some of the most important actions to make a public–private partnership successful and generate profitable actions in the community.

Public administration must know the needs of citizens and be very well organized, and the private sector must pursue the common good, not its own gain, when it chooses to be part of such collaborations. The creation of services through public–private partnerships requires well thought-out and implemented legislation. Experience needs to be built up in the field, and this can be done by studying, implementing and following existing models. The development is the merit of both the public sector and the public services offered and the private sector thanks to the collaboration achieved through public–private partnership.

Proposals for actions to make the field more attractive and to appeal as much as possible to the authorities for the development of Public–Private Partnerships are:

- elaboration of a national database containing statistical and informational data on public–private partnerships, on completed projects, those in progress, and potential ideas that can become reality through public–private partnerships;
- legislative amendments in the field of public–private partnerships;
- investing in education programmes to create public–private partnerships, both for the public sector, with reference to the public officials involved in this activity, but also for companies that want to take part in development through partnership.

At the moment, innovation through public–private partnership can be discussed at European level. A process innovation that should be implemented in the way projects are conceived by reducing bureaucracy, making it accessible to all private sector entities, and if an entity has a good plan, but does not have the funds to implement the good or service for which the partnership is developed, there should be open channels to access funds through loans or financing. The innovation of goods or services is another way to introduce this concept into the achievements of public–private partnerships, and if

this process is put into practice the relationship with citizens who are direct beneficiaries of public goods or services would be improved and the main purpose for which a public-private partnership is developed is achieved.

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