
1st International Conference - Global Ethics - Key of Sustainability (GEKoS) | May 15th, 2020 | Bucharest, Romania

The Ethics of Public Administration in the Digital Economy

Andra-Nicoleta BORȚEA

<https://doi.org/10.18662/lumproc/gekos2020/26>

How to cite: Borțea, A.-N. (2020). The Ethics of Public Administration in the Digital Economy. In A. Grigorescu & V. Radu (vol. ed.), *Lumen Proceedings: Vol. 11. 1st International Conference Global Ethics - Key of Sustainability (GEKoS)* (pp. 254-263). Iasi, Romania: LUMEN Publishing House. <https://doi.org/10.18662/lumproc/gekos2020/26>



The Ethics of Public Administration in the Digital Economy

Andra-Nicoleta BORȚEA¹

Abstract

The process of digitizing the economy and all the related branches, implies changes in the behaviour of all actors in this field. Digitizing the daily life of society and governance is not just a matter of infrastructure, it is a matter of the human resource and the ethics of these persons that provide public services. The Regulation (EU) 2016/679 of the European Parliament and of the Council, known by the acronym "GDPR", regulates the protection of sensitive information of people, on the European Union territory. "GDPR" has important implications in the area of public administration, where it's purpose is to protect the dissemination of personal information regarding the citizens, while at the same time, to respect the legal norms of transparency, all of which happen simultaneously with the technologization of the administrative processes and the digitization of the services offered to the citizens, i.e. to provide efficient, effective and ethical public services. The transposition of European norms regarding personal data, within the national legislation, affects the digitization of the Romanian administrative system, which is already a slow and rigid process, and discourages the citizens to access information of public interest. In the present digital times for the public administration is identified the need for a modernized digital system used by the civil servants, which will facilitate the access of the applicants to the information and protect the sensitive character of certain information, in an ethical and professional way for all the parties involved.

Keywords: *ethics; digital administration; GDPR; demeanour; public servants.*

¹ Valahia University of Targoviste, Doctoral School, andraborcea@gmail.com



1. Introduction

The Governance is a moral and democratic effort. Therefore, the exercise of government power through its specialized apparatus must be carried out in accordance with ethical principles. In the exercise of their function, the civil servants must not only undertake technical actions correctly, but must act correctly from an ethical point of view [5].

Regarding the local administration, innovation and change have a very big impact. Here, administrative policies and procedures are not designed to produce results considered innovative [23]. It must be considered, however, that any innovation depends on human resources, on their vision and their flexibility [11].

Until now, the ethics of public administration has known different approaches, and has largely focused on the behaviour of the civil servant towards his relationship with citizens and his respect for the workplace. In our digital times, ethics in public systems is facing new challenges, as the online environment has become a necessity in provisioning online public services. Now, the ethical norms need to be adapted to the use of digital systems. The public servant-petitioner interaction takes place virtually, in an impalpable environment, where the circulation of sensitive information must be done in a secure and protected way, through the technology made available to them.

The anonymity, intimacy and comfort offered by the online environment encourage people to display a detached behaviour from the classic ethical norms [13].

Just as over time there have been rules for the demeanour of civil servants, internal regulations for the proper functioning of the institution and for an efficient interaction with the citizens, so must be made regulations for the use of the digital environment, digital public services. They come to the aid of both public servants and petitioners, who often do not know the rules of good behaviour in the online environment.

From a legislative point of view, the digital activity of civil servants falls under the scope of several European regulations on the personal data and their protection and processing, with the main purpose of respecting fundamental rights on the Internet.

2. State of the arts

The new regulation of personal data

The Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the

processing of personal data and on the free movement of such data and repealing Directive 95 / 46 / EC (General Data Protection Regulation-GDPR), has been the subject of numerous discussions. GDPR proclaims the protection of personal information of individuals in the EU. It helps citizens face off with giant companies such as Google or Facebook, which use this information to increase their profits.

The first article of GDPR presents several factors on which is based the implementation of this legislative package and the modernization of existing rules. These factors are:

- the free circulation of information is a fundamental right guaranteed by the Treaties of the Union, which contributes to “achieving an area of freedom, security and justice and economic union, economic and social progress, the consolidation and convergence of economies in the internal market and prosperity of natural persons” [20];

- after the integration, there was a large flow of personal data between individuals, businesses and associations;

- the collection of personal data has experienced a fabulous growth with the evolution of technology and globalization. Ordinary social life has been slowly transformed by the presence of the digital economy [20].

Infringements of the Regulation and complaints about its application are handled by independent public authorities-ADP. These authorities supervise, the application of GDPR, using investigative and corrective means. They should provide specialty advice on data protection issues. There is an ADP in every EU Member State [7].

The National Authority for the Supervision of Personal Data Processing (NASPDP) is the public authority with legal personality, autonomous and independent from any other public administration authority, which has supervision and investigation means and control in the field of data protection in Romania.

At the same time, it was adopted the "Police Directive" - Directive 2016/680 on the protection of individuals with regard to the processing of personal data by the competent authorities for the purpose of preventing, detecting, investigating or prosecuting criminal offenses or the execution of sentences and free movement of such data.

The main purpose of this Directive is to ensure protection of personal data for witnesses, victims and suspects. In other words, the regulation should help the protection of the citizens information when used by law enforcement authorities [8].

The purpose of these European regulations is to help strengthen the internal market and avoid market fragmentation. The protection of rightsholders creates a secure framework in which the exploitation of artworks, the stimulation of innovation, creativity, investment and the production of new content can take place, especially in the online environment [19].

It is imperative that there is a legal framework that does not limit the evolution of technology and the digital market, and that brings improvements to existing rules, resulting in progress and economic growth.

According to a communication from the European Parliament [9], the directive applies to those commercial platforms that store, organize and promote copyrighted material, thus excluding platforms such as Wikipedia, eBay or matrimonial websites.

These directives are therefore intended to strengthen existing rules and ensure that they are more strictly observed. Representatives of the European Parliament are also trying to clarify that they do not create new rights or obligations, and the content that can be shared at present will continue to circulate freely, the ultimate aim of the directive being to give fair monetary rights to artists, musicians, actors, and so on.

Although the GDPR ensures protection for personal data of citizens facing the tendency of large companies to use this data for unethical purposes, it also comes to the aid of public institutions, because Thus appears the obligation of the representatives of the institutions to adopt technical and organizational measures for the compliance with the legal norms. In most cases, the institutions would not have taken such measures on their own and would not have had the necessary means to do so. [3].

In parallel, Law no. 52/2003 on decision-making transparency in public administration, republished in the Official Gazette, Part I no. 749 of December 3, 2013 [21], has its main purpose in the increase of administrative transparency (art. 1, letter c), involvement of citizens in the elaboration phase of normative acts and in the administrative decision-making process. (art. 1, letter b); According to Article 6 of the present law, personal data are excluded from publication.

Theoretically, the provisions of Law 52/2003 do not affect the provisions of "GDPR".

Another regulation in public information is Law 544/2001 on free access to information of public interest [22]. This one is based on the fundamental principle of relations between public entities and individuals, in accordance with the Romanian Constitution and international documents ratified by the Romanian Parliament.

A special measure imposed by this law states that the institutions should make available to those interested in consulting a document of public interest, specially arranged spaces in the headquarters of that authority, for this action, which raises difficulties for many local institutions. The request of public interest information can also be made online, only if the necessary technical conditions are met. Information on personal data is not made public under this law. Therefore, theoretically, the provisions of Law 544/2001 do not affect the provisions of "GDPR" either.

After the transposition of "GDPR" in the national system, measures such as implementing new rules for the destruction, storage, archiving and transport of documents, became mandatory. At the same time, public consultation of documents or the display of certain information of public interest has become difficult, as access to such information is restricted due to the lack of a simplified procedure for carrying out these operations and specific means.

For example, at local level, according to Order no. 1,943 of December 19, 2001 for the approval of the Methodological Norms for the application of Law no. 50/1991 on the authorization of the execution of construction works, republished, with subsequent amendments and completions[15], the transparency of the authorization process - both at the level of the urbanism certificate and of the construction/demolition authorization - is achieved by ensuring its public character, respectively by making public the lists of documents issued by the administrative authorities, as well as ensuring the access of applicants to information on their issuance. The display is made in compliance with GDPR rules, i.e. by omitting personal information, such as the name of the beneficiary and other identification data, and adding technical information and plans underlying the document issued. This process is effective only if the institution has high-performance technological devices, which make it possible to process these plans. Otherwise, the whole process is difficult for the public servants.

On the other hand, citizens are hit by bureaucracy when it comes to consulting documents containing personal data. For example, access to the building permit documentation of a building in the vicinity of the petitioner interested in its legality, is made only on the basis of a request, whose journey in the internal circuit of the institution is slow, followed by processing the documentation by public servants, in order to exclude the personal information from the documents to be presented to the petitioner. This process takes time, does not remove at all the bureaucracy already contested, but even makes it difficult and discourages, in most cases, the access of citizens to this information. Also, also due to the poor technological endowment, the process of removing personal information is a

very long one, the response time for the applicant's request being unsatisfactory.

Certainly, the laws adopted protects personal data. The GDPR norms refers to the formal parts of data processing. It is not intended to outlaw certain types of data processing, but to ensure sufficient security [4].

However, compliance with these regulations depends on equipping institutions with modern technology capable of supporting and protecting data processing. Otherwise, legislative efforts only lead to the consolidation of bureaucracy, to the provision of low-quality public services, which damages the image of the public system. By extension, the ethics of civil servants also suffers, due to the lack of a digital education in line with the rules of the directives.

The human factor and personal data

The components of institutional dynamics are: its objectives (set by people), how these objectives are achieved (the process of institutional growth) and human resources, the factor that determines growth [1].

Therefore, human resources are a very important layer of this issue. Ethics in the activity of civil servants has been regulated according to the times, and the modernization of technological systems also involves the modernization of these regulations, which perpetuate a good demeanour and ethics of civil servants, especially in the conduct of online services.

Ethical skills go beyond technical skills. Professionalism is a skill that include ethical character of the civil servant, not only technical expertise [5].

It is equally important to form an integral personality of the civil servant, who is aware of the social importance of the set objectives, understands his role in the system and shows responsibility, initiative and creativity [24].

Regarding the ethical behaviour of civil servants in relation with new regulations on personal data, several related issues need to be highlighted: lack of awareness, outdated education system and the skills that future civil servants should have.

Data breaches, according to an ENISA study [6]., are growing with enormous quantities of user data invading the Internet [2].

One measure to address these shortcomings would be to update traditional teaching methods as well as course materials better fitted for the requirements of IT systems [2], [14] because students must be trained in an environment where they can acquire practical skills.

Also, the ongoing training of civil servants should focus more on educating them about the new realities of the digital society.

3. Research Methods

The article's hypothesis states: Ethics in public administration is closely related to the human factor and his education in the context of digital administration, but also to the means available to them to carry out activity in the digital environment.

In verifying this hypothesis, I used empirical methods, such as the presentation of legislation on public information and personal information, as well as a brief analysis of how they work together. We also analysed two vital components in the performance of duties in an ethical manner for civil servants, namely the technological component and the human component.

5. Findings, Conclusions

IT component is vital. Also, the consent of the individual before any processing of his personal data is extremely important.

From the IT perspective, there are some recommended measures [3], in order to ensure GDPR regulations, without limitation to them: measures related to physical access (like video surveillance systems, access based on cards, alarm systems); an updated inventory of all network hardware components, allowing prompt intervention in case of vulnerabilities of different equipment; data encryption or disaster recovery.

Regarding the human factor in consolidation of ethics in a digital public administration, and in the process of implementation of GDPR rules, there can be taken measures such as: establishing a code of demeanour and professional ethics, specific to each institution, including rules and principles of carrying out the activity of civil servants in accordance with the applicable legislation and with the efficient services offered to the citizens. This code could be regulated in a collaboration between the human resources department and the IT department, existing in each institution. Also, a representative of the institution can be appointed to ensure compliance with this code, in terms of: providing advice and assistance to civil servants regarding the rules of demeanour [10] giving advices on how to respect the technical rules imposed by the GDPR, or elaboration of quarterly reports on demeanour and ethics, which are sent to the National Agency of Civil Servants [8]², [16].

² The National Agency of Civil Servants implemented between 24.11.2017-24.05.2020 the project "ETHICS - Efficiency, Transparency and Interest for Demeanor in Administration", with the general objective: Developing the capacity of public authorities and institutions to promote values such as honesty and probity, in particular by increasing

Citizens' expectations regarding public services are numerous, and the main concern of the administration should be their wishes [12].

According to the "Study on citizens' expectations regarding ethics/demeanour in public administration in Romania"[17] and "Study on the perception among public administration staff on ethical conduct in administration"[18], most of the interviewed citizens appreciate the Romanian public administration as being efficient, the main problems identified being corruption, bureaucracy and low level of skills of civil servants. The citizen's evaluation regarding the demeanour in public administration is seen, first of all, through the overall picture of public administration, and secondly through the prism of individual experiences [10]. These reports also show that 50% of ethics advisers are dissatisfied with the conditions in which they carry out their activity, in terms of space, time, resources and conditions of confidentiality.

The efforts of the National Agency of Civil Servants in terms of civil servant's ethics and codes of demeanour do not, unfortunately, extend to the digital side of public services. Therefore, I believe that it is essential to develop a project in this regard as well, which strengthens the technological culture of civil servants, improves the image of the administration and maintains decision-making transparency.

As I have shown in the above paragraphs, the ethics of the civil servant in the context of a digital public administration, is conditioned by the two factors: the technological component and human resources. Of these two, human resources are the most sensitive and influential factor, perhaps the most flexible, without which, one cannot discuss ethics or demeanour in public administration. It goes without saying that an untrained person in the digital field can produce errors of demeanour or ethics, especially nowadays, when we have access to countless channels of processing information. Therefore, future investments must be made, in particular, in the education and training of civil servants.

References

- [1] Alecu I. The Importance of Human Resources, Considerations on challenges and future directions in cybersecurity, 2019, Romanian Association for Information Security Assurance (RAISA) with the support of the Romanian

transparency, the knowledge and understanding of ethical standards, the effectiveness of the application of specific tools and a culture of accountability. The target group of the project is the staff of public authorities and institutions, a total of 800 people. (<https://respectreciproc.ro/>).

- National Computer Security Incident Response Team (CERT-RO) and the National Cyberint Center. 2019, 342 p.
- [2] Badea-Mihalcea A. People and Machines: Dealing with Human Factor in Cyber Security, Considerations on challenges and future directions in cybersecurity, 2019, Romanian Association for Information Security Assurance (RAISA) with the support of the Romanian National Computer Security Incident Response Team (CERT-RO) and the National Cyberint Center; 2019. 342 p.
 - [3] Bărbieru R.. GDPR-Enemy or Friend in Considerations on challenges and future directions in cybersecurity. Romanian Association for Information Security Assurance (RAISA) with the support of the Romanian National Computer Security Incident Response Team (CERT-RO) and the National Cyberint Center; 2019, 342 p.
 - [4] Blume P. Impact of the EU General Data Protection Regulation on the public sector, 2017, Journal of Data Protection & Privacy, Volume 1, No. 1, Winter 2016, pp. 53-63
 - [5] Bowman JS & West JP. Public service ethics: Individual and institutional responsibilities. Routledge. 2018, 6 p.
 - [6] ENISA, The EU Cybersecurity Agency, “ENISA Programming document 2018-2020”, November 2017. 15 p. Available from: <https://www.enisa.europa.eu/publications/corporate-documents/enisa-programming-document-2018-2020>
 - [7] European Commission, Available from: https://ec.europa.eu/info/law/law-topic/data-protection/reform/what-are-data-protection-authorities-dpas_ro
 - [8] European Commission, Available from: https://ec.europa.eu/info/law/law-topic/data-protection/data-protection-eu_ro/
 - [9] European Parliament. Available from: <https://www.europarl.europa.eu/news/ro/press-room/20190111IPR23225/intrebari-si-raspunsuri-directiva-privind-drepturile-de-autor-in-mediul-digital>
 - [10] Giorgi L-D, Epure D. The project ethics - efficiency, transparency and interest for demeanor in public administration in Romania, 2019, Theory and practice of public administration, scientific-practical conference (2019; Chisinau), pp. 566-573
 - [11] Grigorescu, A. The importance of human capital in the strategic development of an organization. Studies And Scientific Researches, Economics Edition; 2016.
 - [12] Grigorescu A. Public Services between the Citizen’s Need and the Possibilities of the Administration. HOLISTICA–Journal of Business and Public Administration. 2018, 9(2): 23-34.
 - [13] Grigorescu A, Chitescu RI. Cyberspace–A Challenge, Strategica. Challenging the Status Quo in Management and Economics. 2018. 824 p.
 - [14] Martin, N., Woodward, B. Building a Cybersecurity Workforce with Remote Labs, Information Systems Education Journal (ISEDJ), no. 11 (2) April 2013, p. 58, Available from: <https://files.eric.ed.gov/fulltext/EJ1144996.pdf>

- [15] Ministry of Public Works, Transport and Housing, published in the Official Gazette no. 231 of April 8, 2002, Order no. 1,943 of December 19, 2001 for the approval of the Methodological Norms for the application of Law no. 50/1991 on the authorization of the execution of construction works, republished, with subsequent amendments and completions
- [16] National Agency of Civil Servants, ETHICS - Efficiency, Transparency and Interest in Administrative Conduct, SIPOCA Code 63 / MySMIS 119741, Available from: <https://respectreciproc.ro/>
- [17] National Agency of Civil Servants, Study on citizens' expectations regarding ethics/demeanour in public administration in Romania, 2018, Available from: <http://www.anfp.gov.ro/R/Doc/2019/Proiecte/Etica/Raport%20de%20cercetare%20la%20nivelul%20populatiei.pdf>
- [18] [National Agency of Civil Servants, Study on the perception among public administration staff regarding ethical conduct in administration, 2018, Available from:https://respectreciproc.ro/wp-content/uploads/2020/01/Raport-de-cercetare-functionari-publici.pdf](https://respectreciproc.ro/wp-content/uploads/2020/01/Raport-de-cercetare-functionari-publici.pdf)
- [19] Proposal for a Directive of the European Parliament and of the Council of 20.03.2019 on copyright and related rights in the digital single market and amending Directives 96/9 / EC and 2001/29 / EC, Art. 1, paragraph 2)
- [20] Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46 / EC (General Data Protection Regulation), Art. 1, paragraph (2)
- [21] The Romanian Parliament, applicable form since 03 December 2013, Law no. 52/2003 on decision-making transparency in public administration, republished in the Official Gazette, Part I no. 749 of December 3, 2013
- [22] The Romanian Parliament, published in the Official Gazette No. 663 of 23 October 2001, Law 544/2001 on free access to information of public interest
- [23] Tîrziu A-M. Social innovation - a beneficial vision of the public sector. Case study: social innovation in public universities in Italy, 2016, Scientific Communication Session "Smart City", Third Edition; 2016
- [24] Zelenschi A. Development of professional and ethical competence of civil servants, 2017, Public Administration Magazine. Chisinau; 2017, No. 3, pp. 125-131.