

ASPECTS OF DECISIONAL TRANSPARENCY WITHIN THE PREFECT'S INSTITUTION IN ROMANIA AS A CHALLENGE IN A EUROPEAN UNION GOVERNANCE

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Abstract. The analysis of the concept of "international transparency" will show that there is a major interest in making public the information related to public administration or public sector. These informations are part of a public international agenda just to make the decision known in the most possible transparent manner to demonstrate "good governance" in the administration. Specialty literature perceives transparency as a way of increasing efficiency.

Special thanks to the Ministry for Public Consultation and Civic Dialogue witch studied all Prefect's Institutions from Romania in compliance with Law no. 544/2001, on free access to public information and the law 52/2003 on decisional transparency. This paper tries to underline the notion of transparency of decision prefect institution in Romania. Given the experience as director of cabinet of Bihor County Prefecture and based on the nationwide survey conducted by the Ministry for Public Consultation and Civic Dialogue I tried to do a study on displaying reports on Law 544/2001 and Law No. 52 / 2003 the prefect Institution from Romania. For a long time, the public sphere has been a central theme for the studies which referred to the organizational building of a state of law. The decision transparency involves the means by which the public administration provides citizens with all the necessary elements of its work, in other words it is put at their disposal. Internationally, public institutions use the principle of transparency, namely social media technology in order to make effective, transparent decisions and come closer to citizens.

Keywords: decision, public administration, transparency, prefect institution, Ministry for Public Consultation and Civic Dialogue

JEL classification: K0, K3, M0, M1,Z

1. Generally Introduction. Presentation of the decision transparency and good governance notions.

Those who speak about democracy and efficiency in public administration note that the issue of transparency is actually taken into discussion. What is very interesting to note is that transparency can be viewed from multiple perspectives; if we look from the perspective of democracy, transparency highlights democracy, and if we look at it from an economic perspective, transparency attracts the increase of both performance and gains. Considering the two perspectives, we could say that transparency in public administration would effectively highlight its acts.

A careful analysis of the concept of "international transparency" will show that there

is a major interest in making public the information related to public administration or public sector. All these information are part of a public international agenda just to make the decision known in the most possible transparent manner to demonstrate a "good governance" in the administration.

In this analysis we should also bring into discussion the evolution of the rule of law, independent and sovereign state, which evolved organizationally because of its ability to collect and analyze information, especially in times of social conflicts, making public the agenda and discussing it with all the people involved. (Cf. Schulz - Forberg and Strath 2010; Habermas 1989; Arendt 1958; Tocqueville 1991; Emirbayer and Sheller 1999).

For a long time, the public sphere has been a central theme for the studies which referred to the organizational building of a state of law. Since the nineteenth century, because of a system of information and international communication, some countries have had to adopt legislation providing access to public information. Thus, some states have adopted a new model of governance with emphasis on transparency. As stated by Tero Erkillä, there are European countries that have a very old practice, through which the documents issued by the public administration are made public. In his book he presents Sweden as an example which in 1766 implemented a system to disseminate state affairs. Other example is Finland which in 1951 created a legal status to the principle of publicity of administrative acts. (Tero Erkillä, p 105)

Specialty literature perceives transparency as a way of increasing efficiency (Best 2005, p. 141; Wintrobe 2007). Other authors see transparency as an element belonging to the performance management, perhaps even an element of the new policy management (See Blomgren and Sahlin 2007; Blomgren 2007). On the other hand, there are political and economic theories that show that the principle of transparency, respectively low corruption are guarantees of an efficient administration.

We could say that decision transparency involves the means by which the public administration provides citizens with all the necessary elements of its work, in other words it is put at their disposal. On the other hand, citizens have the right to actively participate in the administrative decision making especially at a financial level, namely the management of resources coming from local taxes.

At a European level in 2000, Prodi Commission aimed at promoting new forms of "European governance", that is mechanisms of democratic organization and management of the Union to increase the legitimacy of the institutions to make Europe accessible to all. The result was the publication of the White Paper on European governance, a document which, unlike the Green Card, which gives guidance and guidelines to be observed in well-defined areas, was meant to stimulate a debate proposed by the European Commission to all the actors involved intended to release changes, political orientations for the democratization of the Union. (Zăpârțan, 2001)

The main ideas put forward in the White Paper refer to the principles of good governance in the EU and main recommendations that can be made.

According to the White Paper, the European governance "designates rules, processes and behavior that affect the exercise of powers at European level, particularly in terms of openness, participation, accountability, effectiveness and coherence". Each of these five principles is a prerequisite for the functioning of good governance within the EU in the future. Herein the

concept is used to talk about a Union goal to be achieved for it to be reformed, because the notion of governance designates a particular type of organization to be improved. This refers to the manner in which the European Union uses the powers conferred to it by the citizens, the way things could and should be made to open up policy-making processes towards increased participation and empowerment. The best use of powers is to get near the Union to the citizens and by increasing the effectiveness of its policies. The five principles of good governance set out in the White Paper are: *Openness, Participation, Accountability, Effectiveness and Coherence.* (Montagner, 2007)

2. A brief summary of legislation on decisional transparency and free access to public information in Romania

The legislative framework on decisional transparency in public administration is given by Law No. 544/2001 on free access to public information and Law No. 52/2003 on decisional transparency in public administration, with further amendments and modifications.

According to Law No. 544/2001, the public institutions are required to report certain information of public interest, submit an annual activity report to the institution as well as the communication deadlines and the persons responsible to inform the citizen. The law also establishes penalties for non-compliance and going further even to the situation in which the injured person to put to trial the public institution.

Law No. 52/2003 on decisional transparency brings an added value to law 544/2001, empowering the public institutions and stimulating the citizens to participate in administrative decision making. Law also creates conditions for organizing public debates and stresses that institutions can organize these debates.

The breaking of these judicial norms which regulate the process of the access to public information involves, usually, the responsibility form of administrative-contraventional and civil form. (Ardeleanu-Popa, Cîrmaciu, 2010)

3. Case study - Analysis of compliance with the provisions of Law 544/2001 and Law 52/2003 on the level of prefectures in Romania in 2015

Internationally, public institutions use the principle of transparency, namely social media technology in order to make effective, transparent decisions and come closer to citizens. Not coincidentally there are used these technologies being based on three functions: increased transparency, inter and intra organizational collaboration and public participation in decision-making.

In Romania, the Ministry for Public Consultation and Civic Dialogue conducted a monitoring of all Prefect's Institutions from Romania in compliance with Law no. 544/2001, on free access to public information and the law 52/2003 on decisional transparency. This monitoring had in view the compliance by the representative of the government in the territory of the 18 indicators, such as: normative operational and organizational documents of the structure, organizational structure, departments duties, schedule, audience program, name and surname of leadership persons and civil servants responsible for disseminating the public information, contact data of the institution, financial resources, budget for 2015, balance sheet for 2014, own programs and strategies (2015), list of documents of

public interest, list of documents produced / managed by law, ways to contest the decisions of the public authority , periodic report 544 for 2014, periodic report Law 52/2003 for 2014, public procurement 2015, salaries to date (on staff categories). All 18 indicators should be on the websites of the Prefectures from Romania. At the end of the monitoring carried out by the Ministry for Public Consultation and Civic Dialogue it was noted that out of the 41 Prefectures only two institutions met all 18 indicators and other two institutions met 16 indicators. Details on the number of met criteria by the Prefectures in Romania are shown in Fig 1.

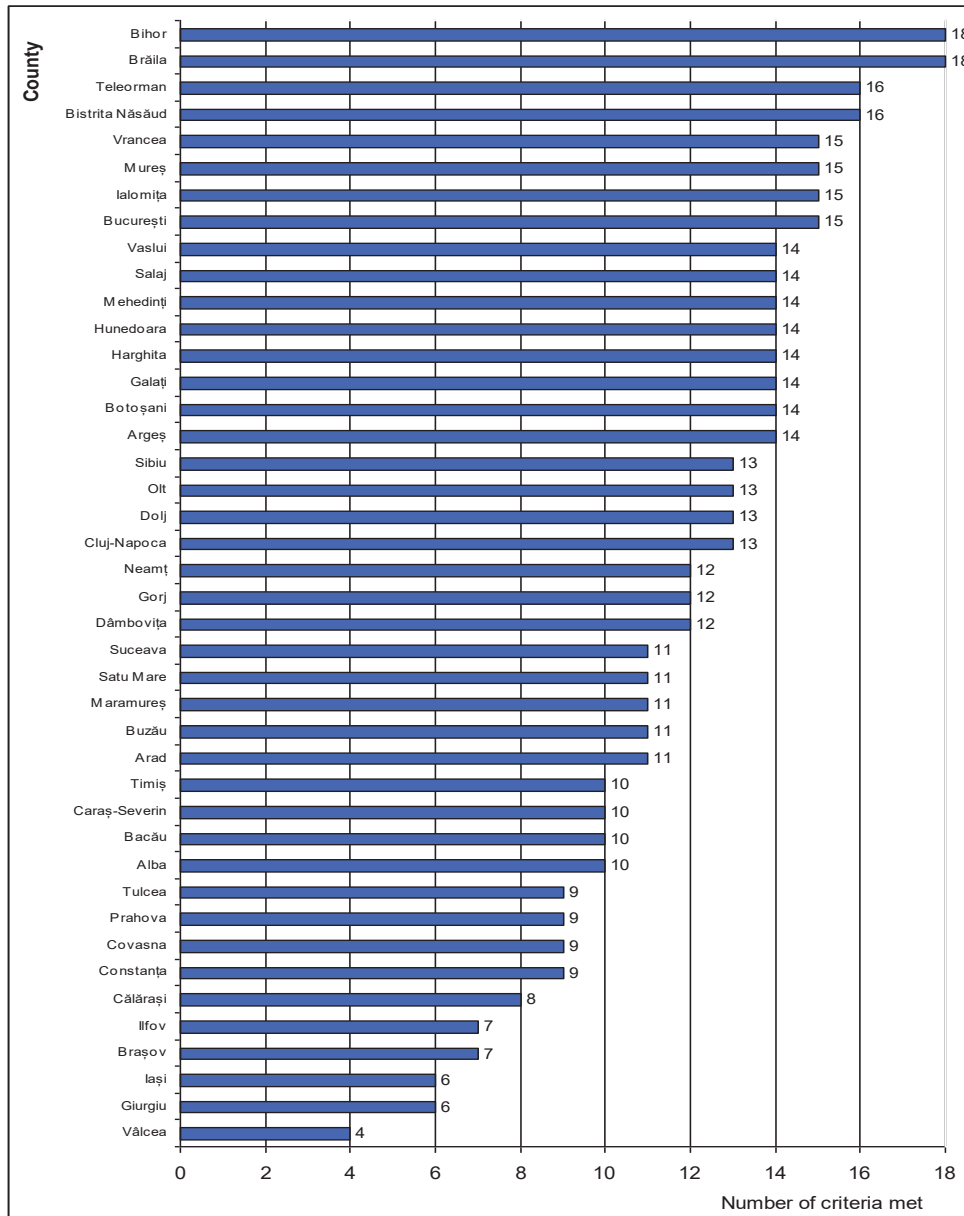


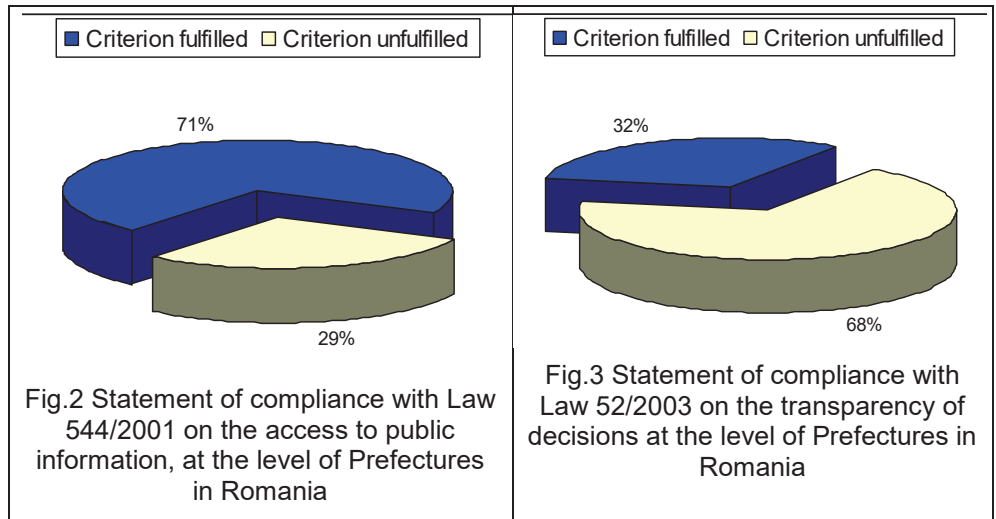
Fig.1 Representation of the number of criteria met by the Governors' institutions in

Romania

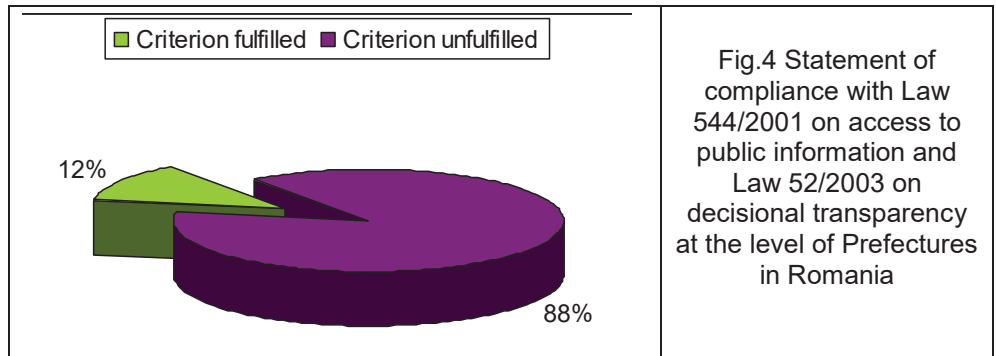
In the case study, out of the 18 indicators, we only refer to two indicators: the Law no. 544/2001 on free access to information of public interest and the provisions of Law 52/2003 on decisional transparency by prefectures in Romania in 2015.

Thus, at the end of 2015, the indicator Periodic Report on Law 544 for 2014 was met by only 29 prefectures out of 41. The situation is shown in percentages, in figure 2.

The indicator Periodic Report on Law No. 52 for 2014 was met by only 13 prefectures, and the situation in percents is presented in Figure 3.



Analyzing the situation of those two criteria in discussion, only five Prefectures out of 41 have fulfilled both criteria. The situation in percentages being shown in the figure below



From the list of observations, namely those indicators that were “NOT” respected in the interest of Law 544/2001, we underline that out of the 36 Prefectures, some were not posted on the website of the audience program. In this case, what would be way a citizen could find out the audience program? In other situations, the page

with "public information" wasn't updated since 2012. In other Prefectures, the decisions made at the meetings of the Prefect College, respectively of the Social Dialogue Commission, nor the governor orders which are normative administrative acts were not published. There were no public budgets, balance sheets or procurement plans.

The examples of good practice show that Bihor County Prefecture ranks among the first five prefectures in the country which have met all the eighteen indicators, making them public on the website: www.prefecturabihor.ro site. (See Figure 1)

It should be added that, Bihor Prefecture has a Facebook page. I can proudly point out that we were among the first Prefectures in the country in 2013 which had a Facebook page.

4. In conclusion.

We consider welcome the request made earlier this year by the Ministry for Public Consultation and Civic Dialogue. Not so much to prove that a certain Prefecture has failed to fulfill duties but to demonstrate that we live in an era of communications, therefore the citizen is related to the online environment, collects data and information from this environment. Thus, the representative of the government in the territory - Prefecture - must submit information to the citizen in a manner as quickly and transparently as possible. Decisions of public interest made by in the organizational framework of the Prefecture must be posted on the website of this institution or on its Facebook page. If at the beginning of this paper we presented countries like Sweden which made public their administrative documents in 1766, Romania passed a law on free access to public information only in 2001. But we are in 2016, when the world has evolved in terms of ensuring the transparency of decision-making; the public institution-citizen relationship must be a quick, transparent and efficient relationship. All these cannot be achieved only by means of online communication.

Given the fact that the Prefecture is the institution which represents the Government in the territory, we propose in a future amendment to the legislation of the public administration to consider means of strengthening the role of this institution by providing means of control and sanctioning of institutions that do not respect the principles of decisional transparency at a county level.

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Law no. 544 on 12 October 2001 (updated) on the free access to the information of public interest

Law n. 52/2003 on decisional transparency