CONSIDERATIONS REGARDING THE BIUNIVOCAL DETERMINATION BETWEEN ADMINISTRATIVE LAW AND FREEDOM OF CONSCIENCE AND ITS ROLE IN ACHIEVING GOOD GOVERNANCE

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ABSTRACT: Considerations Regarding the Biunivocal Determination between Administrative Law and Freedom of Conscience and its Role in Achieving Good Governance.

The purpose of this paper is to bring to the public's attention a new vision of the concepts of good administration and good governance in Romanian society and beyond. The essence of this vision is based on the idea of moving away from the perspective in which public authorities in general, and the structural elements of the public administration system in particular, are regarded as solely responsible for applying the principle of good administration and for achieving good governance—or, conversely, for defective administration—towards a perspective in which greater citizen involvement is required. This involvement concerns the activity of defining the social purpose, identifying the mechanisms for its materialization, and establishing a partnership between the elements of the public administration system and the structural forces of civil society, based on the idea of making civil society as a whole, and each citizen individually, responsible in relation to the social purpose to be achieved.

The first subdivision of the paper is a motivation regarding the choice of the topic. The choice was determined by the social reality of the year 2025, both globally and in Romania, a reality characterized by a restless, even agitated society, the cause of this unrest being only to a very small extent natural phenomena and to a very large extent human action dominated by violence and egocentrism. The second subdivision is devoted to the right to good administration as a starting point in defining good administrative conduct. The third subdivision analyzes in correlation the concepts of good administrative conduct and freedom of conscience, emphasizing that between the two there exists a relationship of biunivocal determination. The next to last subdivision presents several aspects concerning the biunivocal determination between ad-

ministrative law and freedom of conscience, with emphasis on the importance of this type of relationship for achieving the social purpose and good governance. The final part of the paper summarizes the defining ideas for the new perspective on the right to good administration, good administrative conduct, and good governance.

Keywords: *Administrative Law; Freedom of Conscience; Good Administration; Good Administrative Conduct; Public Authorities; Civil Society.*

1. Motivation

Simultaneously at the respective levels of the small administrative-territorial units amidst which we do spend our lives and worldwide the year 2025 in its perceptible reality does situate us within a rather unquiet – even agitated! – society. As a matter of fact it does empirically seem to us that the active causes of such an uneasiness are: - to a barely perceptible extent the naturally occurring phenomena like the earthquakes, floods, storms or droughts; - yet for both the individual and group-shaped respective hypostases the greatest sources of reasons to worry about are beyond any doubt the currently exerted human actions. Mass media do keep on feeding us with news about wars[1], about violent attempts, about all sorts of accidents – no matter should these have occurred on roads[2] or within chemistry-profiled and even nuclear[3] plants. Yet the most painful among

1 As an example let us mention: Sebastian Jucan,*«Înlume se poartăcelemaimulterăzboaie din ultimiiaproape 80 de ani: „Imaginea de ansamblu a devenit tot maicomplexă"»*, published on June 10-th iunie 2024 by HotNews.ro, https://hotnews.ro/n-lume-se-poarta-cele-mai-multe-razboaie-din-ultimii-aproape-80-de-ani-imaginea-de-ansamblu-a-devenit-tot-mai-complexa-913993, accessed on October 26-th 2025. The article does precise that *"*In 2023 worldwide the greatest number of armed conflicts has been recorded since 1946…*"- "* 59 conflicts"- according to a report presented by the Research Institute for Peace from Oslo (PRIO).

2 According to a statistical document published by the Romanian Police that concerned the: *"Dynamics of grave road aaccidents 2019-2024"*, in 2019 8642 grave road accidents have occurred due to which have resulted 1864 dead and 8125 injured people; the accidents' number has since decreased so that in 2024 it has been of 4235; however the number of dead people had kept up being of 1478 while the number of the injured had been 3247. https://politiaromana.ro/ro/structura-politiei-romane/unitati-centrale/directia-rutiera/statisticiaccessed on October 26-th 2025.

3 Sabina Șancu, *"35 de ani de la accidentul nuclear de la Cernobîl. Cronologia unei catastrofe"*, published on April 25-th 2021 in Europa Liberă România,https://romania.europalibera.org/a/de-ani-de-la-accidentul-nuclear-de-la-cernob%C3%AEl-cronolo-

such examples are the ones informing us about newly born babies willfully dropped into garbage cans – no matter should they be alive[4] or dead[5] - about women killed[6] by their husbands or by men with whom they had carried on relationships initially grounded upon affective, sentimental feelings; or it have precisely been the affective initial grounds of such relationships that had made these women vulnerable to the occurred aggression because they could in no way at all expect it in the wholeness of its exerted cruelty, about children then – no matter should they have been abandoned or really orphans – about seniors dropped away by their own families after having been deprived of their formerly owned goods or either about the by now generally extended social phenomenon of aggression perpetrated within schools which has been generically denominated as **bullying**.

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gia-unei-catastrofe/31219475.html accessed on 26 October 26-th 2025. The article does precise that: " …at 01:23 hours during the night of April 26-th 1986 a routine safety test performed at the Cernobâl nuclear power plant has run out of control therefore provoking the greatest civil nuclear catastrophy in human history."
Martin Fritz,*"Zece ani de la catastrofa nucleară de la Fukushima"*,published on March 11-th 2021 in dw.com, https://www.dw.com/ro/zece-ani-de-la-catastrofa-nuclear%C4%83-de-la-fukushima/a-56835263 accessed on October 26-th 2025.

4 Alina Toma,*"Primul nou-nascut care a fost gasit in "cutia pentru bebelusi" din Belgia, unde sunt abandonati copiii nedoriti"*, article published on June 18-th 2021 in Ziare.com, https://ziare.com/international/stiriinternationale/nou-nascut-cutie-bebelusi-belgia-copii-abandonati-1685599 accessed on October 26-th 2025. The text does bring to public knowledge a project of the MoedersvoorMoeders Association which had founded in Anvers the" special box for babies","a disposal facility whereinto abandon unwanted children" and into which from 2000 – its founding year – until the date of June 18-th 2021 around 19 babies had been left.

5 As an example: Cristina Stancu,*"Un bebeluș a fost găsit mort, într-un sac de gunoi, la marginea unui câmp din Bacău"*, article published on October 22-nd 2025 in adevarul.ro,*https://adevarul.ro/stiri-locale/bacau/un-bebelus-a-fost-gasit-mort-intr-un-sac-de-2481415.html*, accessed on October 26-th 2025; Doina Plăcintă, Teodora Suciu,*"Un bebeluș a fost găsit mort, aruncat la gunoi, în Cluj. Copilul era pus în doi saci menajeri"*, article published on February 15-th 2024 at the "Various news" section of PRO TV News, https://stirileprotv.ro/divers/un-bebelus-a-fost-gasit-mort-aruncat-la-gunoi-in-cluj-copilul-era-pus-in-doi-saci-menajeri.html accessed on October 26-th 2025.

6 Media have published a feminicide map in 2025. The precision is brought that: "Averagely every three days a man has attempted to kill a woman in Romania. 46 women killed, 43 attempts", https://snoop.ro/harta-feminicid accessed on October 26-th 2025. Alina Mitran, *"Profesoară din Craiova, ucisă de soț. După crimă, bărbatul s-a înjunghiat și s-a aruncat de la balcon"*, news published on August 21-st 2025 in adevarul.ro, https://adevarul.ro/stiri-locale/craiova/profesoara-din-craiova-ucisa-de-sot-dupa-crima-2466458.html, accessed on October 26-th 2025.

Through a stream that is parallel to this above evoked type of news for information purposes we are also spoken to about the kind of social uneasiness which does express itself under the assumed forms of street-situated protests or either of initiated strikes at work; or in regard to such actions plainly speaking everybody – from "simple" citizens to non-governmental organizations, specialized analysts or mass media – does exhibit his own performance in placing under an as hugely large as possible magnifying glass the actions consequently taken for the respective occasions by the public authorities. In most of such cases the uttered "verdicts" do of course invoke the existence of a necessarily defaulting administrative process.

It is therefore under the circumstances illustrated by such a social context that we have chosen to investigate the concepts of **administrative law** – taken into consideration as a branch of law – and of **conscience freedom** – taken into consideration as both a legally enforced right and a modality through which the human being could manifest itself. By focusing upon the bi-univocal determining relationship which does effectively exist between them our chosen goal is to find out insofar the above mentioned togetherness of these concepts could contribute to the effective material achievement of the right to a good administrative process as well as to the fulfillment of the essential objective of most of all preserving a status of socially understood peace – at both the **micro**- and **macro**- levels. While performing such a research the following question has naturally arisen: the above mentioned concepts of right to a good administrative process and respectively of good administrative conduct are them vowed to determine the one and only behavior to be adopted by the personnel active within the public sphere (should we understand by *public sphere* all of its structural elements starting by the public authorities and then ending by the local public services) or are they as well vowed to concomitantly oblige the individual citizen himself?

2. The right to a good administrative process understood as the starting point in defining good administrative conduct

Through its article 41 denominated "The right to a good administration" the European Union's *Chart of fundamental rights* does so rule[7]:

7 https://fra.europa.eu/ro/eu-charter/article/41-dreptul-la-buna-administrare, accessed on October 26-th 2025.

"(1) Whatever person has the right to benefit insofar its own problems could be concerned from an impartial and equitable treatment within a reasonable term provided by the Union's institutions, organs, offices and agencies. (2) This right does mainly include: (a) the right of whatever person to be listened to before the taking of whatever individual action which might bring her a prejudice; (b) the right of whatever person to have access to her own file with the due respect vowed to the legitimate interests pertaining to confidentiality as well as to the professional and trade secrets; (c) the administration's obligation to motivate its own decisions. (3) Whatever person has the right to be indemnified by the Union for the prejudices caused by its institutions or agents while exercising their prerogatives – in accordance with the general principles which are common to the legislations of member states. (4) Whatever person may address in a written form to the Union's institutions in one among the languages of its treatises and ought to receive an answer in the same language". As a matter of fact the form reached to by this text is also the concomitant result thereby created through the consequent jurisprudence issued by the European Union's Court of Justice[8] - which eventually has come to enforce: "the good administrative process as a general principle of law"[9]; or this fact does mean that through an one and only rule not only to the administrative authorities do come to be imposed some precisely delimited procedure prescriptions that do concern both its interaction with the citizens and its decision-making process – yet not creating for these latter's whatever clearly stated subjective rights – but furthermore through it do come to be effectively applied some legal

8 The European Union Agency for Fundamental Rights has offered explanations which do refer to the following jurisprudence: "the Court's Decisions from : October 15-th 1987, cause 222/86, Heylens, Rec. 1987, p. 4097, item 15; October 18-th 1989, cause 374/87, Orkem, Rec. 1989, p. 3283; November 21-st 1991, cause C-269/90, TU München, Rec. 1991, p. I-5469) as well as to the decisions of the Prime Court Tribunal from: December 6-th 1994, T-450/93, Lisrestal, Rec. 1994, p. II-1177; September 18-th 1995, T-167/94, Nöelle, Rec. 1995, p. II-2589)". https://fra.europa.eu/ro/eu-charter/article/41-dreptul-la-buna-administrare, accessed on October 26-th 2025.

9 The European Union Agency for Fundamental Rights does refer to the following jurisprudence: "the Court's Decision from March 31-st 1992, cause C-255/90 P, Burban, Rec. 1992, p. I-2253 as well as to the decisions of the Prime Court Tribunal from: September 18-th 1995, T-167/94, Nöelle, Rec. 1995, p. II-2589; July 9-th 1999, T-231/97, New Europe Consulting and others, Rec. 1999, p. II-2403".https://fra.europa.eu/ro/eu-charter/article/41-dreptul-la-buna-administrare, accessed on October 26-th 2025.

texts which do pertain to the *Treaty on the functioning of the European Union* itself[10] which means that the above mentioned rule is as well applicable in Romania; it is therefore able to influence upon the Romanian legislator and to eventually determine the conduct to be adopted by the public sphere's active personnel. We may also draw the duly grounded conclusion that good administrative conduct could be properly defined through the choice as another starting point to be accepted of the right to a good administrative process.

As by the way doctrine has already demonstrated[11] should we take into their due consideration the respective facts that on one side the above mentioned rule from the European Union's Chart of fundamental rights does taxonomize the principle of a good administrative process among the persons' fundamental rights while on the other side the European Union's courts of justice do spot effective differences that do exist among this principle's various subordinated components in order to search for a beyond whatever doubt unmistaken understanding of its features: "for practical purposes it should be useful to seize this principle from both these perspectives since their approaches are complementary ones." In accordance with this opinion: "its perception as a persons' fundamental right could establish for them through a more reasonably grounded modality a stronger

10 The article 296 of the ***Treaty on the functioning of the European Union*** does bring the precision that: "Juridical acts are to be motivated and to refer to the proposals, initiatives, recommendations, requests or intimations which are stated by the ***Treaties***" – therefore generating the obligation of motivating the administrative taken decisions. This juridical ground does as well have to be corroborated with the statements from the article 298 of the ***Treaty on the functioning of the European Union*** which does state upon: "An European administration being transparent, efficient and independent" which ought to be realized through an appropriate legislative process. The indemnifying right in regard to the suffered prejudices is ruled through the art. 41 in its paragraph (3) and does originate from the ***Treaty on the functioning of the European Union*** in its article 340. The petition right to be exerted in one among the ***Treaties'*** languages as well as the one to be answered to in the same respective language is ruled through the art.41 in its paragraph (4) and does originate from the ***Treaty on the functioning of the European Union*** through the statements of its article 20 paragraph (2) letter (d) corroborated with the ones of its article 25.

11 Areean Mustafa, *Comprehension of the Principle of Good Administration in the Framework of EU Administrative Law*, in Journal of University of Human Development 3(1), March 2017 p. 264, citing J. Reichel, "God förvaltningi EU ochi Sverige," pp. 258 and 561, 2006. https://www.researchgate.net/publication/315943979_Comprehension_of_the_Principle_of_Good_Administration_in_the_Framework_of_EU_Administrative_Law accessed on October 26-th 2025.

protective shield throughout their contact with the administrative institutions". However, it should be equally useful to approach it as an administrative procedure norm because it is precisely in this attributed quality that the principle concerned could enforce some quite strict legal obligations to be imparted to the personnel from the public sphere which does interact with the citizen. Such an approach could most adequately fulfill the assumed objectives of instituting – at both European and respective national extents – some public administrative processes which could effectively and simultaneously be transparent, efficient and independent.

3. Bi-univocal determining relationship between good administrative conduct and conscience freedom

3.1. Issues concerning good administrative conduct

3.1.1. Current sense held by the concept of good administrative conduct

Under academic expression[12] according to the *Explanatory Dictionary of Romanian Language* by "*conduct*" we should understand a: "behaving way"[13]. The above mentioned syntagm does therefore lead us towards a behavior pattern directed through conduct rules so that togetherness in the living process of the existing human collectivities (no matter what could be their diverse populations' dimensions) could be achieved in a way through which each individual's own expectations should be realized while contradicting in no way at all the corresponding aspirations of the other members of the concerned collectivity (should those involve material standard-related issues: - public services; - personal use goods; - adequate habitation or either spiritual vows: - the respective rights to the freedom of thought, expression or creation). In other words the good administrative conduct ought to allow the realization of the sought for social purpose – a concept by which we do estimate as correct to understand the: "common good ensured through the preservation of the social order and through the performing of

12 Academia Română, Institutul de Lingvistică "Iorgu Iordan", *Dicționarul explicativ al limbii române*, Editura UNIVERS ENCICLOPEDIC, București, 1998.

13 *Op. cit.* p.210. "CONDUITĂ, conduite, s.f. 1. Way of behaving, behavior; manner.2. Behavior. – From fr. conduite". According to the definition in the same dictionary on page 69, "attitude" is the noun synonymous with conduct, meaning "Way of being or behaving (often representing a certain conception); behavior".

justice" with the explanatory mentions that: - the common good does represent the good health status of society itself understood as a trans-individual entity; - common good ought to be at whatever moment taken into consideration as being simultaneously correlated to the individual good status"[14]. This agreed upon sense does as well lead us towards the respective conclusions that: - good administrative conduct as a concept should be taken into consideration as being vital for the effective existence of social cohesion, for performing justice and for preserving the current social order; - that good administrative conduct as a concept should be taken into consideration as being equally applicable to both the social agents entrusted with the mission of creating the most appropriate material conditions so that the citizens could respect and effectively apply the enforced legislation and the citizens themselves. This is the starting point of the approach that hereby we are sustaining. As it already stands as a fundamental concept for administrative law understood both as a law's branch and as a science in our opinion it should not be understood as being strictly specific to the active personnel from the public administration or the autonomous administrative authorities but instead as being also applicable to the citizens themselves insofar could be concerned their behavior in society. In order to consequently define the concept of good administrative conduct we should rely upon the European Union's *Chart of Fundamental Rights* through its art. 41 which does rule over the right to a good administrative process as well as upon the *European Code of Good Administrative Conduct*[15].

The European Union's *Chart of Fundamental Rights* through its art. 41 does precisely state that the right to a good administrative process ought to contain at least the following elements: 1) the European Union's citizen of the community has the right to benefit insofar its own problems could be concerned from an impartial and equitable treatment within a reasonable term provided by the Union's institutions, organs, offices and agencies; 2) The right of whatever citizen of the community to be listened to before the taking of whatever individual action which might affect his own legitimate rights or interests; 3) the right of whatever person to have access to her own file with the due respect vowed to the legitimate interests pertaining to confidentiality as well as to her professional and trade secrets;

14 Iulian Nedelcu, Alina Livia Nicu, *Drept administrativ*, Editura Themis–Fundația Europeană Titulescu Filiala Craiova, Craiova, 2002, p. 12.

15 https://www.ombudsman.europa.eu › pdf, accessed October 30, 2025.

4) The administration's assumed obligation to motivate its own decisions. 5) Whatever person has the right to be indemnified by the European Union's institutions for the prejudices caused by its institutions or agents while exercising their prerogatives in accordance with the general principles which are common to the legislations of member states. 6) Whatever person may address in a written form to the Union's institutions in one among the languages of its treatises and ought to receive an answer in the same language. The above mentioned *European Code of Good Administrative Conduct* does enforce among its *Public Office Principles which should guide the European public servants*: - integrity; - objectiveness; - respect vowed to other people; - transparency. Throughout their relationships with the public the European Union's public servants are as well due to obey some personal behavior rules namely to the: - lawfulness principle; - non-discrimination principle; - proportionality principle; correctness principle; - solicitude principle; - objectiveness and rectitude; - avoidance of power abuses.

Throughout the European Union's community pattern the good administrative conduct understood as being compulsory for its institutions' personnel should be able to eventually ensure the: - impartial and equitable treatment in avoidance of whatever discrimination; - reasonable time interval in resolving requests; - respect of the contradictory principle throughout administrative procedures; - access to the respective personal files with the due respect vowed to the legitimate interests pertaining to confidentiality as well as to professional and trade secrets; - administration's assumed obligation to motivate its own decisions; - petition right to address in a written form to the Union's institutions in one among the languages of its treaties and to receive an answer in the same language; - indemnifying right to be exerted towards the European Union for the prejudices caused by its institutions, public servants or other agents while exercising their prerogatives in accordance with the general principles which are common to the legislations of member states. All of the above-mentioned items are constitutive elements of the right to a good administrative process. As for the effective manifestations requested from the public servants as elements of a good administrative conduct these are the: - respect vowed to the law; - avoidance of discrimination; - applying of proportional actions in regard to the pursued goal; - rectitude; - solicitude; - objectiveness; - impartiality; - avoidance of power abuses; - independence in regard to whatever: " personal, familial or national interests or either to political pressures"[16].

16 European Code of Good Administrative Behaviour, art.8.

Should it be seized then to its national extent the right to a good administrative process ought to contain similar elements. The G.E.O. nr. 57/2019 of July 3-rd 2019 concerning the *Administrative Code* in its article 368 does rule over the citizen's right to benefit from the personnel active in the public sphere of an impartial and equitable treatment through some[17]: *"Principles applicable to the professional conduct of public servants and of contract-hired personnel active in the public administration sphere"* among which let us cite the following ones: "c) to ensure the citizens' treatment equality in regard to the public authorities and institutions – a principle in accordance with which the persons who do hold various categories of public offices are due to apply the same juridical regime towards some occurring identical or similar situations; (...) e) impartiality and independence – principles in accordance with which the persons who do hold various categories of public offices are due to observe a neutral, objectively grounded attitude while exerting their held offices in regard to whatever interests other than the public one". As for the compulsory motivation to be brought to administrative acts in spite of the fact that by now there is no enforced legal text through which this obligation would be materially stated the generally shared opinion is however the one that the *Constitution of Romania* in its art. 31 par. (2) – thereby uttering the right to information – is indeed such an appropriate juridical ground[18]. Doctrine has by the way stated that: "The obligation by which is held the issuing authority to motivate its released administrative act does constitute a warranty against the possible arbitrary conduct of the public administration and is particularly imperative in the respective cases of acts through which some individual and subjective juridical acts and situations do come to be modified or suppressed"[19] invoking as a legal argument sustaining this statement the above mentioned text of the *Constitution of Romania* in its art. 31 par. (2). As for the citizens' petition right its constitutional ground does indeed exist and is embodied through the *Con-*

17 Published in the Official Monitor of Romania, part I, no. 555 of July 5, 2019.

18 "**Art. 31 – Dreptul la informație/Art. 31 – Right to information**
(1) The right of the person to have access to any information of public interest may not be restricted.
(2) Public authorities, according to their competences, are obliged to ensure the correct information of citizens on public affairs and on matters of personal interest. (…)". The wording in paragraph (2) we consider to include both administrative acts of an intuitu personae nature and normative acts.

19 Gabriela Bogasiu, Legea contenciosului administrativ. Comentată și adnotată, cu legislație, jurisprudență și doctrină, Editura Universul Juridic, București, 2014, p. 460.

stitution of Romania in its art. 51[20]. As for its lower – legal – floor it is made of the Government's Ordinance nr. 27 of January 30-th 2002 concerning the regulation of the petitions' resolving activity[21] approved through the Law nr. 233 of April 23-rd 2002 for the approval of the Government's Ordinance nr. 27 of January 30-th 2002 concerning the regulation of the petitions' resolving activity[22]. The citizen's right to be indemnified in regard to the prejudices caused by the personnel active in the public sphere is guaranteed through both a constitutional text [23] – namely through its art. 52 – and an organic law – namely the Law nr. 554/2004 on contentious administrative matters from December 2-nd 2004. The right of whatever citizen of the community to be listened to before the taking of whatever individual action which might affect his own legitimate rights or interests is yet until now only ruled through decisions issued in respect to various specific situations[24].

In our opinion the elements able to define the concept of good administrative conduct are as well contained by the so-called larger concept of *"administrative phenomenon"* because the ultimate quality levels reached to by the administrative taken decisions and performed actions do depend upon the behavior adopted by the personnel active in the public admin-

20 "**Art. 51 – Dreptul de petiționare/ Art. 51 – Right to petition**
(1) Citizens have the right to address public authorities through petitions formulated only in the name of the signatories. (2) Legally established organizations have the right to address petitions exclusively in the name of the collectives they represent. (3) The exercise of the right to petition is exempt from tax. (4) Public authorities have the obligation to respond to petitions within the terms and conditions established by law".

21 Published in the Official Monitor of Romania, Part I, No. 84 of February 1, 2002.

22 Published in the Official Monitor of Romania, Part I, No. 296 of April 30, 2002.

23 "**Art. 52 – Dreptul persoanei vătămate de o autoritate publică/ Art. 52 – The right of the person injured by a public authority**
1) A person whose right or legitimate interest has been violated by a public authority, through an administrative act or by the failure to resolve a request within the legal term, is entitled to obtain recognition of the claimed right or legitimate interest, the annulment of the act and compensation for the damage. (2) The conditions and limits of the exercise of this right shall be established by organic law. (3) The State shall be liable patrimonially for damages caused by judicial errors. The liability of the State shall be established under the terms of the law and shall not remove the liability of magistrates who have exercised their office in bad faith or with gross negligence."

24 As an example, we mention Government Decision no. 1,344 of October 31, 2007 on the rules for the organization and functioning of disciplinary committees, published in the Official Monitor of Romania, Part I, no. 768 of November 13, 2007, in which Article 30 regulates the hearing of "the civil servant whose act has been reported as a disciplinary offense" as a mandatory procedural step.

istration' sphere[25]. By *"administrative phenomenon"* let us now understand the: "perceptible manifestation of the public administration's essence[26]". Under the hereby evoked perspective a possible definition of the good administrative conduct might be in our opinion formulated as it follows: *the good administrative conduct is the totality of the legal principles and enforced standards which have been ruled over in order to direct the behavior of the personnel active throughout the public sphere - no matter if its attributions should be dispositive or executional ones – so that through the practical embodiment of this legislative corpus could be realized as taken into consideration in its togetherness with the effective behavior of this personnel: - the preservation of the existing social order; - the performing of justice;- the achievement of the social cohesion; - a both efficient and transparent public administrative process.*

By way of example, we may mention as elements of good administrative conduct for a public servant: respect towards colleagues and citizens, so as to create an environment of cooperation and trust during any social interaction in which he or she participates; integrity, understood as honesty and fairness in actions and decisions; responsibility, understood as the attitude of assuming the consequences of one's actions or inactions; empathy, understood as the ability to understand and share the feelings and emotions of the person with whom one interacts in the social relationship; an attitude of respect not only towards legislation but also towards the social norms of the community in which one lives and carries out one's duties; active participation in community life; and professionalism.

In conclusion, we consider that the concept of good administrative conduct helps any individual working as a public servant, as contractual staff, or as a person holding a public office of dignity, to fulfill what has been defined in the specialized literature[27] as a self-imposed objective of each individual—the attainment of happiness—the professional activity being a means of achieving it.

De lege ferenda, we consider that the Code of Administrative Procedure should include a section dedicated to good administrative conduct as

25 Alina Livia Nicu, *Codul European de bună conduită administrativa și fenomenul administrativ românesc, EIRP Proceedings, Vol. I*, Universitatea Danubius Galați, 2006, p. 109. https://proceedings.univ-danubius.ro/index.php/eirp/article/download/1145/1062 accessed October 30, 2025.

26 Alina Livia Nicu, *Fenomenul administrativ în spațiul european - prezent și perspectivă*, Editura Universitaria, Craiova, 2006, p. 6.

27 Viorel Găină, *Etică și integritate academică*, Editura Universitaria, Craiova, 2020, p. 19.

a means of materializing the right to good administration, good administrative conduct having a natural determination, namely the necessity of an effective and responsible public administration.

3.1.2 Two necessary but often ignored components of good administrative conduct: standards regarding working conditions and the administrative conduct of the citizen

All the dissatisfaction and frustrations that any citizen experiences over time as a result of interactions with others in general, and with public sector staff in particular, often materialize at some point in unbalanced behavior—raised voices, verbal or even physical violence, but frequently in outbursts such as "The system is to blame!" or "We'll never get rid of incompetence, favoritism, corruption...", even if the incident in question has no connection whatsoever with a decision-maker, but is merely a daily occurrence resulting from a mere interaction with another person. If such unbalanced behavior manifests itself in relation to someone working within a public sector structure, no matter how minor that behavioral imbalance may be, it will certainly have consequences for the quality of service received by subsequent citizens. This is because the civil servant or contractual staff member is a human being, with feelings and with a limited reservoir of physical and psychological resources, so that the emotional burden of negative emotions will affect the quality of their work after the incident—since it is physically very difficult to achieve immediate and absolute detachment, as a human being is not a robot.

As we pointed out as early as 2007, good administrative conduct ensures a healthy and efficient working environment, where the rights and interests of citizens are respected and promoted. Moreover, through its decisions, the European Court of Justice establishes the general administrative principles applicable to all Member States, thereby setting standards that concern not only the organization of public administration but also the relationships between administration and citizens[28].

The activity of public administration should be developed efficiently and economically[29]; however, if effective administration is desired, opti-

28 Alina Livia Nicu, *Contribuția Curții europene de justiție la definirea Spațiului administrativ European ca standard al europenizării administrației publice, Volumul conferinței internaționale „Impactul europenizării asupra administrației publice"*, București, 25-26 mai 2007, Editura Economică, București, 2008, pp. 431-438.

29 Ani Matei, Răzvan Băieșiu, *Good Administration and Performance of Local Public*

mal working conditions must be ensured. These conditions refer equally to the size of workspaces, lighting, ambient temperature, ventilation, as well as working hours and, above all, the workload assigned to each position. In other words, good administrative conduct must include not only legal standards regarding the behavior required of public sector staff, but also legal standards regarding the conditions under which that behavior must be carried out. For public administration, the concept of *effectiveness* is more applicable than that of *efficiency*, since there are many administrative actions for which only the costs can be known, but not economically quantifiable results. This statement aims to underline that the good management of resources in administration, as a principle governing public administration, should not be taken to extremes, so as not to diminish the quality of public administration.

The concept of good administrative conduct must also include a component consisting of mechanisms for involving citizens in the decision-making process. Moreover, in specialized literature, it has been argued that openness and transparency, as principles of public administration, suggest that public administration must be willing to accept external points of view, by ensuring citizens' participation in the decision-making process, in its debates, and through access to administrative documents[30].

Therefore, a possible definition of good administrative conduct, in this new approach, could be formulated as follows: *good administrative conduct is the concept that brings together the entirety of legal standards and legal principles established to guide the behavior of public sector staff; the entirety of legal standards relating to working conditions and the entirety of rules concerning the drafting of job descriptions, regardless of whether the staff has decision-making or executive responsibilities; the entirety of legal standards relating to the conditions and means by which citizens may participate in the decision-making process or merely interact with public sector staff. All of these, when put into practice through legislation, aim to ensure the preservation of social order, the administration of justice, and the achievement of social cohesion, resulting in an effective and transparent public administration (the very social purpose), with standards and principles considered together with the concrete behavior of both staff and citizens.*

Administration, in Procedia- Social and Behavioral Sciences, Vol. 109, 2014, p. 684.

30 Emil Bălan, Dragoș Teodor Troanță Rebeleș, *General principles of the administrative procedure. The Romanian perspective*, in Transylvanian Review of Administrative Sciences, p. 23. https://rtsa.ro/tras/index.php/tras/article/view/362/352 accesat la 30 octombrie 2025.

3.2 Freedom of Conscience

At dictionary level[31], conscience is defined as "the feeling, intuition that the human being has about their own existence," while freedom of conscience is defined as "the right recognized to citizens to hold any religious, philosophical, etc. conception". From a legal perspective, freedom of conscience is established both at the European Community level, in Article 10 of the Charter of Fundamental Rights of the European Union[32], and at the national level, in Article 29 of the Constitution of Romania[33].

3.3. The Biunivocal Determination between Good Administrative Conduct and Freedom of Conscience

Between the concept of good administrative conduct and freedom of conscience there is a relationship of biunivocal determination. Thus, public sector staff must act in such a way as to ensure the material conditions for every citizen to enjoy the exercise of freedom of conscience. At the same time, any citizen can assist public sector staff in achieving the preservation of social order, the administration of justice, and the achievement of social

31 Academia Română, Intitutul de Lingvistică "Iorgu Iordan", *Dicționarul explicativ al limbii române*, Editura UNIVERS ENCICLOPEDIC, București, 1998, p.217.

32 Article 10 - Freedom of thought, conscience and religion
(1) Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in worship, teaching, practice and observance.
(2) The right to conscientious objection shall be recognized in accordance with the domestic laws governing the exercise of this right."

33 Art. 29 – Freedom of conscience
(1) Freedom of thought and opinion, as well as freedom of religious beliefs, may not be restricted in any way. No one may be compelled to adopt an opinion or adhere to a religious belief contrary to his or her convictions.
(2) Freedom of conscience is guaranteed; it must be manifested in a spirit of tolerance and mutual respect.
(3) Religious denominations are free and are organized according to their own statutes, under the conditions of the law.
(4) In relations between denominations, any forms, means, acts or actions of religious enmity are prohibited.
(5) Religious denominations are autonomous from the state and enjoy its support, including by facilitating religious assistance in the army, in hospitals, in prisons, in asylums and in orphanages.
(6) Parents or guardians have the right to ensure, according to their own convictions, the education of minor children for whom they are responsible.

cohesion, thereby contributing to an effective and transparent public administration, with the help of freedom of conscience.

More precisely, the citizens must show a desire for self-improvement in the field of legal and administrative culture, so as to know exactly the competence of each entity responsible for implementing legislation, and not to burden those structures with requests that fall under the competence of other entities. The citizens must behave in a civilized manner, not abusing the time of staff by requesting information that is not relevant to their problem. The citizens must be willing to formulate realistic proposals, to report defective or improvable aspects through the communication channels made known to the public by public sector staff, becoming directly involved and collaborating whenever they can contribute to solving the issues raised. The citizen must also use all of his or her fundamental values to collaborate with public sector personnel in achieving social peace. Citizens must contribute, by exercising their right to create freely, to the preservation of the environment and the valorization of the national cultural treasure.

4. The Biunivocal Determination between Administrative Law and Freedom of Conscience

4.1 The Concept of Administrative Law[34]

In order to regulate the activity of establishing social structures entrusted with the mission of creating the organizational framework for the implementation of legal norms, of directly applying these norms, and of ensuring the enforcement of legislation, if necessary, with the aid of coercive force, as well as to regulate their functioning, it is necessary to formulate legal norms. Given the multitude of aspects requiring regulation, the number of normative acts is so large that from public law a distinct branch has emerged, as a special law, called administrative law.

Thus, in its meaning as a branch of law, in our opinion, *administrative law represents the body of legal norms that regulate social relations (including those of a conflictual nature) arising in the activity of organizing the execution, executing, and guaranteeing the execution of the law, in connection with the organization and exercise of the competence of the social structures that*

34 The citizen must also use all of his or her fundamental values to collaborate with public sector personnel in achieving social peace.

form public administration–under the regime of administrative law—and in connection with conflictual situations, on the one hand, between public institutions (which do not belong to public administration) or private structures vested with public authority, and, on the other hand, those harmed in their rights or legitimate interests[35] *by the administrative acts issued by these structures in the activity of applying the law.*

The special feature of this branch of law is determined by several aspects. First, as a result of creating the conditions for legislation to be known, respected, and applied, the individual receives not only a material and legal framework but also the responsibility to respect legal provisions and the obligation to act within the limits of the legal framework provided. In other words, the social structure that has the role of acting for the implementation of the law holds a legal position of superiority in relation to the citizen, the foreigner, or the stateless person residing in Romania, imposing upon them the obligation not to step outside the legal framework.

Another aspect is that these structures are composed of persons who, on the basis of the law and under its protection, carry out professional activity within the limits of the competence with which they have been vested, using movable and immovable property or financial means that do not belong to them personally, but to the community that has empowered them to carry out that activity. Thus, it becomes an objective necessity to regulate, through special legal norms, the social relations between persons working in public administration and the relations between public administration and members of the community—norms distinct from those regulating patrimonial and non-patrimonial relations between private individuals (natural or legal persons).

Furthermore, the specific manner in which the will of persons forming the staff of public administration is expressed requires the existence of specific legal norms. The main reason for constituting a special branch of law, distinct from civil law, is that social relations regulated by private law arise from the manifestation of the agreement of will of the participating subjects, whereas relations within public administration and between it and members of the community are relations of univocal determination, the decision being within the competence of the administration, which may act *ex officio*, not only on the basis of a request.

35 Art. 52, Constituția României/ The Constitution of Romania, 2003.

This definition allows us to highlight the characteristics of administrative law[36]. The first important characteristic is that it regulates a special category of social relations and operates with specific legal instruments, which express two aspects of its autonomous character. To understand this feature, one must start from the fact that, both through the activity of private individuals and through that of public officials, the aim is to achieve a goal by using certain means. As for the goal pursued, beyond the individual needs that human beings can satisfy through their own activity or through the actions of other members of the community in accordance with the principles of the division of labor, society has a multitude of needs which, by their scope, exceed the possibilities of any individual. These needs, which are vital for a given community and, at the same time, for each of its members, and to which private initiative cannot respond, constitute the public interest and form the object in relation to which public administration acts. The means of action that can be used and are used to achieve the objective naturally differ from one another, just as the objective to be achieved differs. In connection with this characteristic, several aspects of specificity can be identified.

The first aspect of specificity is that while relations between private individuals—natural persons or private legal entities—are based on the legal equality of the participants in the social relationship regulated by private law, in the field of public law in general, and administrative law in particular, the specific instrument used is public authority, which results in the legal inequality of the subjects of law involved in the legal relationship. In the specialized literature, although this expression is criticized from the point of view of its formulation, it is accepted as being imposed by tradition in legal practice and is defined as "the set of prerogatives granted to the administration to enable it to make the general interest prevail if it is in conflict with private interests"[37].

The necessity of this instrument arises from the fact that if the legal equality of subjects had been used in public law—including administrative law—with its form of expression being the agreement of will of the subjects of law (the contract), then whenever the interest of a private party

36 Alina Livia Nicu, *Instituția publică în dreptul administrativ,* Editura Universitaria, Craiova, 2003, pp. 152-159; Alina Livia Nicu, *Drept adminisrativ,* Editura Didactică și Pedagogică, București, 2007, pp. 142-147.

37 Jean Rivero, Jean Waline, *Droit administratif*, 14e édition, Dalloz, Paris, 1992, p. 11

conflicted with the public interest, by expressing disagreement, the private party could have paralyzed the activity of public administration. The consequence of the existence of prerogatives that define public authority is the primacy of unilateral decision-making among the means of action of public administration, this being its characteristic method of action. Of course, when there is agreement between the general interest and the private interest, it is possible to use the contract as a legal instrument, but alongside the civil contract an interesting hybrid has emerged: the administrative contract.

The second specific aspect refers to the fact that while in civil law—as the main branch of private law—*the concept of legal capacity is used, in administrative law the equivalent concept is competence*. Competence is the capacity "of an authority, of an official, etc., to exercise certain duties"[38], or, in other words, "competence represents the legal quality that allows administrative persons to act as public authorities or to provide services of general interest," being "the set of duties conferred by law on administrative persons and, sometimes, on their structures, to act for the organization of the execution and the concrete execution of the law[39]". In order to act on the basis of and in execution of the law, social structures within public administration in particular, and public institutions in general, require competence.

The fundamental difference between civil capacity and competence is that while civil capacity is defined in relation to the existence of particular rights and obligations of the subjects of law—natural or legal persons—competence refers to the establishment, through legal norms, of the permission and, where appropriate, the obligation of a public law legal person or of a structural component of a public law legal person to act in a certain way in order to fulfill one or more duties. Thus, competence is defined in relation to public interest and the duties established, on the basis of and in application of the law, for the service of the public interest.

Competence is acquired only through a normative legal act, whether it is a law or another legal act, including internal regulations. Competence is not only legal but also inalienable and intangible, but it is not general, being attributed in connection with specific objectives and duties. It is acquired from the moment the normative act regulating it enters into force, or at a later date, if so provided by the normative act. Moreover, while in

38 Dicționarul explicativ al limbii române/ Explanatory Dictionary of the Romanian Language, *op. cit.*, p. 177.

39 Emil Bălan, *Procedura administrativă*, Editura Universitară, București, 2005, p. 59.

the case of capacity one speaks of capacity to exercise and capacity to enjoy, competence is unitary, without such subdivisions.

The third specific aspect refers to the relationship between private property and the public domain. In civil law, one deals with goods that are the object of the right of ownership and with which various legal operations are carried out (sales, purchases, donations, loans for use or for consumption, exchanges, etc.), whereas in administrative law, movable and immovable goods belonging to the community form the public domain or the private domain of the community. The special legal regime of the public domain is observable through the simple enumeration of the characteristics of the goods that compose it: inalienability, imprescriptibility, and immunity from seizure. Legal operations can also be carried out with goods belonging to the public domain, but these operations are marked by the legal inequality of the subjects participating in the legal relationship, a fact that results, among other things, from the enumeration of the methods of operation: expropriation for reasons of public utility, assignment for administration, concession, and transfer from the public domain to the private domain of the state or of administrative-territorial units by decision of the Government or of local authorities, as the case may be.

The second important characteristic of administrative law is that the legal norms composing it change relatively quickly. The dynamics of administrative law is determined by social dynamics. Since the content of the notions of public good and public interest change over time depending on socio-historical evolution, it is necessary to amend the content of the legal norms that regulate the social relations formed in the activity of serving the public interest through the implementation of laws.

Administrative law is characterized, thirdly, by the fact that it regulates in particular the field of administrative public services, though not exclusively. Administrative law regulates social relations in which at least one subject is necessarily a social structure from public administration or an institution assimilated to such an entity, regardless of the role played by that subject in the given social relationship.

Another characteristic is that in administrative law the predominant share is held by imperative norms, and the non-patrimonial relations prevail[40]. In its scientific meaning, administrative law must be understood as

40 Iulian Nedelcu, *Elemente de drept administrativ*, Editura Oltenia, Craiova, 1994, p. 19.

that legal science intended to study the administrative phenomenon, studying both the content of concepts and the corresponding regulations. In other words, the object of study of the science of Administrative Law includes administrative law in its meaning as a branch of law.

4.2. The Relationship between Administrative Law and Freedom of Conscience

The biunivocal determination between administrative law as a branch of law and freedom of conscience is evident. Starting from the concept of social purpose, which, as we have previously shown[41], we consider to be "the common good ensured through the preservation of social order and the administration of justice, with the mention that the common good represents the good of society as a transindividual entity and that the common good must always be considered in simultaneous correlation with the individual good", and it follows that, in its meaning as a branch of law, the administrative law must contain the legal norms regarding the creation of material conditions so that every citizen may benefit from the real possibility of exercising their freedom of conscience, which is a component of the social purpose, the public sector staff being only a catalyst in the social relations that have this freedom as their object[42]. Consequently, administrative law as a branch of law does in fact contain these legal norms.

In its scientific meaning, administrative law is also concerned with the study of the social relations created in the exercise by citizens of freedom of conscience, researchers being able to identify aspects requiring regulation, new elements of the social purpose, or new approaches to such elements, in the sense of amending legislation or creating legal norms where a legislative gap exists.

Reciprocally, from the exercise of freedom of conscience by citizens signals arise regarding the positive and negative aspects existing in the social practice of public sector staff, which in turn determine regulation in the field.

Good governance, in the sense of the efficient and responsible management of public affairs, with the aim of improving the quality of social

41 See footnote 14.

42 Alina Livia Nicu, *Administrația publică centrală -catalizator al relațiilor sociale care au ca obiect libertatea religioasă, în Jurnalul libertății de conștiință*, 2015, pp. 311-320.

relations and the existence of citizens, is also influenced by administrative law and freedom of conscience. Thus, the efficient and responsible management of public affairs requires clear legal norms harmonized with the reality of social relations, and is therefore determined by administrative law as a branch of law. Likewise, researchers in the field of administrative law can contribute to identifying or reshaping mechanisms for achieving efficient and responsible management of public affairs. The involvement of citizens in the decision-making process, through the exercise of freedom of conscience, can also contribute to the achievement of good governance. The reciprocal and simultaneous influence between administrative law and freedom of conscience also justifies the new approach to good administrative conduct.

5. Defining Elements for the New Perspective on the Right to Good Administration, Good Governance, and Good Administrative Conduct

From the above, it follows that the right to good administration and good administrative conduct must be approached from a new perspective. The defining elements of this perspective are:

1. The right to good administration must be expressly regulated at the national level, in a unitary manner, within the Code of Administrative Procedure, with at least the following elements:

- the right of the citizen to benefit from impartial and fair treatment by public sector staff and to have their problems solved within a reasonable time;
- the right of any person to be heard before an individual measure is taken that could affect their rights or legitimate interests;
- the right of any person to know the content of their personal file, with the obligation to respect legitimate interests related to confidentiality and professional and commercial secrecy;
- the obligation to provide reasons for administrative decisions;
- the right to compensation for damages caused by public sector staff;
- the right to petition.

2. Good administrative conduct must also include a component consisting of mechanisms for involving citizens in the decision-making

process and legal standards regarding the conditions under which such conduct must be carried out. Thus, the components of good administrative conduct must be:

- the entirety of legal standards and legal principles established to guide the behavior of public sector staff;
- the entirety of legal standards regarding working conditions and the entirety of rules concerning the drafting of job descriptions, regardless of whether the staff has decision-making or executive responsibilities;
- the entirety of legal standards and methods through which citizens may responsibly participate in the decision-making process or merely interact with public sector staff, so that through the implementation of legislation the preservation of social order, the administration of justice, and the achievement of social cohesion may be achieved, resulting in an effective and transparent public administration—standards and principles considered together with the concrete behavior of both staff and citizens.

3. Good governance, in the sense of the efficient and responsible management of public affairs, with the aim of improving the quality of social relations and the existence of citizens, can only be achieved under the conditions in which good administrative conduct includes as a component the entirety of legal standards and methods through which citizens may responsibly participate in the decision-making process or merely interact with public sector staff.

Conclusions

The presented paper aimed to bring to the attention of the public a new vision on the concepts of good administration and good governance in Romanian society and beyond. The essence of this vision is based on the idea of moving from the perspective in which public authorities in general, the structural elements of the public administration system, in particular, are considered to be solely responsible for applying the principle of good administration and achieving good governance or poor administration, to the perspective in which greater citizen involvement must be achieved in the activity of defining the social purpose, identifying mechanisms for the materialization of this purpose, partnership between the elements of the

public administration system and the structural forces of civil society, on the idea of making civil society as a whole and each citizen accountable in relation to the social purpose to be achieved.

Such an approach may, of course, generate criticism both from those who govern and from those who are governed, as it implies major changes in mentality and behavior. On the one hand, those who govern must accept the involvement of civil society and regulate the concrete mechanisms through which its structural forces are engaged in the decision-making process. On the other hand, citizens, organized in structures that define the structural forces of civil society, must acknowledge the necessity and usefulness of administrative legal culture, as well as the need for self-control and self-mobilization in order to participate in the decision-making process—a participation that is something entirely different from the mere exercise of the right to free expression or freedom of conscience. Both those who govern and those who are governed must accept the relegation of the ego to the background and the affirmation, in the foreground, of the common interest, correlated with one's own individual interest and the individual interests of others. In such a perspective, altruism and civic spirit are fundamental values, but in order for them to be used to the necessary extent, due importance must be given to the education system, the only one capable of transforming them from theoretical values into practical skills. The role of the family also becomes essential, since, in general, children consciously or unconsciously imitate what they see in family relationships.

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