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EUROPEAN INTEGRATION
REALITIES AND PERSPECTIVES

The European Citizen and Public Administration

European Citizenship between Past and Future

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Abstract: The European Union, an organization built on the ruins of the Second World War the desire to curb the war on the continent once and for all, was doomed from the beginning to end in one day political contours, so Europe is now united policy at the core of the future of Europe. This aspiration has become increasingly manifest in the adoption in 1992 of the Treaty of Maastricht, culminating today with the debate on the European Constitution. "Europe" today was forged from the beginning of the ruling political elites and not the citizens. Is it possible to continue this course today? Talking about European citizenship is part of the broader theory and political philosophy, legal and sociological. East European citizenship a recent concept (established by the Treaty of Maastricht in 1992) born of an old idea (dating approximately from the 40s) that refers to a reality uncertain and inconsistent. Holders of European citizenship are nationals of Member States of the European Union. Citizenship as a concept has a content both political (the right of citizenship Fortress defining an individual's personal status) and legal (on the set of subjective rights that an individual may invoke). Existential condition of citizenship is the ability to have rights (individual rights as positive theory of law) and be able to implement them. As a consequence, European citizenship exists to the extent that its holders can enjoy rights derived from this status.

Keywords: citizens; European; European society

Although the scientific use of the notion of" European identity" has made progress since 2000, the term continues to pose problems. Much of the literature on

This topic deals with the general philosophy in historical terms or common values and lifestyle of Europe, either as a continent bringing together a set of states, either as a civilization that distinguish it from the rest of the world, to some extent legitimate integration economic and politica1. Another part of the literature deals with European identity as a process of psycho- sociological or socio -political attachment of citizens to the European space policy and community achieved through integration.

European identity will gradually raise a number of sociological debates bearing on the validity of the concept of identity. Rogers Brubaker and Frederick Cooper highlights the drawbacks of the concept that frequent reformulations made him less operational; In this sense, identity is, as Sophie says Duchesne, caught in a series of tensions: between similarity and difference, objectivity and subjectivity; individually and collectively; permanent contextually and transformation.

In a sociological book, Charles Tilly treats identities (always plural) via responses that individuals / groups give individuals question the: who are we?, Claiming that these responses exert an undeniable influence on the ability and inclination to social actors negotiate and act as one.

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It remains to apply this notion of Europe. Identity implies the existence of a form of history negotiated by groups transmitted through institutions such as targeted individuals to recognize in it. History is always less than unequivocal consensus or intimates use identity politics" national imaginary" is that any collective representation, always multiple and conflicting object of negotiation and confrontation permanent.

Europe today is the bearer of such stories? We believe that there is now a European imaginary, even controversial, varying from state to state so far built enough to exert an influence on how Europeans negotiated, some acts in relation with others and with the world? The answer to this question was sought, demonstrated and removed by many authors.

Numerous studies have shown that self- identify as European sentiment comes directly from national affiliation; In this respect, we support the thesis that drew converging views: national identity is not inconsistent with the sense of belonging to the European Union on the contrary; all that can be seen by analyzing the relationship with the European project builds against nation, either by "extension" - are European because they are French, Belgian, German, etc., or by" compensation" - are European because I do not feel Spanish or British but almost never recital: I do not feel European because they are very nationalistic.

Even in its current form, European identity does not wake up feeling like those raised by national identity, with a more pronounced emotional affirm that it is still difficult to find causes and common interests that unite Europeans and urge them to an awareness of belonging to the European Union.

From some points of view, the EU is both a supranational system of governance, a unique form of political community but also a fragile construction emerging with ambiguous sense of identity. But even more important to the ultimate fate of the EU is how ordinary citizens perceive the EU's role in their lives especially because ultimately, politicians in democratic societies generally follow voters' preferences.

These preferences determine to a large extent political elites will lead governments to develop state capacity in Europe. So the degree to which people from Europe or refuse to accept European identity will be the most profound effect on the future of Europe.

In fact, European integration seems to occur through its legal construction; setting up "an area without internal frontiers in which the free movement of goods, persons and capital is ensured" introduces a legislative procedure de facto influencing the decisions resulting from cooperation between states.

Based on speculation napoleoniana28 an important thesis on European Union was formulated: unified law, especially social and economic branch interaction between people is a significant contribution to the evolution of European Union.

Proceeding from the next step, the natural and necessary process of deepening European transnational civil society and hence the European identity is the adoption of common law principles and basic legal harmonization; Napoleon as what already provided an integrated body of legal principles which govern the various relationships established by citizens in a civil society, support the hypothesis of a future European Civil Code as a tool for building the identity European companies.

Regarding the relationship between European integration be noted first that the process of creating a formal constitution can not be dissociated from the overall integration process because of increased democratic legitimacy of the Union or by the Court's commitment towards a jurisprudence human rights, either by coding what was institutionalized over time.

The formation of a European identity will not be achieved at the expense of existing national identities and will not cause a replacement. Supporting the possibility that the two identities, we see that European cultural identity is built using the same form of rhetoric as if the nation-state, in other words, has its own myths, memories and symbols and attempts thereby creating a sense of continuity the claims of a common past, the present and the future shared similar national identity discourses.

The European Union is currently facing a multitude of new tasks such as remedying the consequences of aging European population; administration of both political as well as legal foreign migration flows; counter the growing inequality as a direct consequence of migration but also to the economic crisis; peacekeeping in a globalize.

Given these challenges, common interests generated by economic integration and the reasons that stimulated European unification in the past (external threats or economic growth) are not sufficient to raise a genuine cohesion policy; consequent strong cohesion must seek new European political unity even common European culture. As these old factors lose their power integration, the role of European cultural identity, spiritual factor of European integration becomes important as a source of unity and cohesion but also as a vital element in strengthening democracy and legitimacy of the EU as a democratic polis.

Cultural identity is the version that gives substantial support as well as emotional attachment, something especially true in comparison to neo -liberal European identity, which apply suggestive rhetorical question formulated by Jean Monnet who would fall in love with a single European market? Moreover, we believe that European cultural identity is a necessity, acting as a foundation and as a justification for neo -liberal and civic versions of European identity.

But European culture, this open space to be constantly redefined by it does not create European unity; this unit requires equally a political dimension. Common European culture is actually allowing the policy to make the EU a unified political entity. The Union unit is not just a political mission; politics can only create basic requirement of European unification. Europe itself is more than a political construction is a whole culture of institutions, ideas and expectations, the habits and feelings, memories and projects forming a "cement" that binds Europeans among its constituents while foundation which is high political construction.

And this ensemble often called European civil society are at the center of political identity, defining conditions of European success but limits état and political intervention.

The general concept of "citizenship" has a political aspect in that the fixing and establishing the legal framework is nothing but the expression of the sovereign will of a people.

Moreover, every person in society can only realize that participating, as a citizen, in the exercise of power, so it can be said that any of us lays a very small part of the sovereign power of the people. Present an example in this respect may be given the right of citizens to vote and to be elected parliamentary institutions.

Another aspect of citizenship is civilian, referring, for example, the rights to individual freedom. Finally, the third aspect of citizenship is social; it includes, for example, citizens' rights to a decent standard of living, right to health, right to education right house etc.

Citizenship is a status equal force (legal and also a role, a social role. Thus, from the perspective of the state, citizenship is both all rights and freedoms on which a state grants its citizens, and the obligations that they have to the state. Role of your social, citizenship is one of the individual and involves developing certain or a civic culture that enable effective citizen status.

Everything I mentioned in the previous rows applies to European citizenship, which means all the rights and freedoms granted to citizens that the European Union of 27 Member States. As a state of rights, European citizenship composite nature observation helps European Union, which is itself a community of law, socio-economic system, increasingly more political entity (remember in this context that since December 1, 2009, the date it came into force the new Reform Treaty of Lisbon, the European Union has acquired legal personality).

Definition nationality remains the exclusive prerogative of Member States. EU has no competence in this area. Sovereign states remain so through legislation on nationality of each, in deciding who is and who is not European. The European passport, which allows EU citizens travel abroad, it is still issued by national authorities. In political terms, European citizenship is an expression of all political processes of intergovernmental negotiation, interpretations, community and social mobilization impulses.
Just at this level we find dynamic citizenship, while its novelty and its most controversial aspects. However, it should be recalled, as we all know, that from the beginning of the construction community, the European Union has asked questions about the purpose or end. Is it simply a common market which only state borders disappear? Or European Union is moving step by step towards the formation of a political federation, succeeding as state and it has succeeded cities and feudal states?

Europeans have their citizenship rights guaranteed by the Treaties (Articles 17-22 of the Treaty establishing the European Community):

- Right of movement and residence, the right to work and study in other Member States, as recognized both active people and those "inactive" (students, pensioners, etc.).
- Civil and political rights: the right to vote and eligibility (to be elected) municipal elections and European Parliament elections in the Member State of residence, the right to petition the European Parliament;
- Some legal guarantees: consular protection from another Member State in the territory of a third country which is not member of European Union (EU) if their state has no diplomatic representation, the right to complain to the European Ombudsman against an act maladministration committed by a European institution.

Exercise of these rights is subject to certain limitations and conditions. Thus: EU citizens can be elected as municipal councilors, but can not handle executive functions (eg, mayor) may be officials in the State of residence, but only in jobs that do not employ its sovereignty, must provide proof that they have sufficient resources to install in another state. Europeans, whether or not citizens of the EU, and fundamental rights (civil, political, economic and social) that the EU is committed to respect (art. 6 of the EU Treaty).

However, their protection legally is not perfect, as no treaty specifically enumerates these rights. It is known that the European Union in the form in which it finds itself, there arose suddenly, but in several historical stages, each occupying a special place and well worth the completion of the world economic and political power. Furthermore, it is important to remember that the origin of the idea of "United Europe" is lost in the shadows of history, expressions of this kind existing in the works of great philosophers, writers, history, lawyers, politicians and scientists on the old continent since even antiquity. as an example we mention here that in Dante Alighieri 1306, in his "De Monarchia", calling for a universal European monarchies under Roman Emperors; A year later, in 1307, French lawyer Pierre Dubois in his "The recuperation Terra Sancta" proposed the creation of a Europe united politically, as a condition for keeping the peace on the European continent.

Such proposals have become more numerous since sec. XVI - XVII.

In 1693, for example, in his "Essay on the present and future peace of Europe," William Penn made a proposal to the modern era: bringing together European representatives in a "Diet".

A similar proposal was made in 1712 by the abbot of Saint- Pierre, in the famous" Project eternal peace" sketched image of a European Senate would have legislative powers and even the judiciary.

European citizenship is directly related to the possession of nationality of a state of the Union. The fact of being a German, Czech, Polish, French or Romanian automatically confer Germans, Czechs, Poles, French or Romanian Union citizenship and the rights and duties attached to it.

The conferring of nationality of a person is not for the European Union, but only states that have their own criteria and conditions for the award. European Commission initiates many actions and programs that tend to develop European civic approach to strengthen the sense of European identity of citizens. The program "Europe for citizens" even invites citizens, civil society actors and national policymakers, the teachers and researchers, to organize meetings, events, debates, forums, about Europe.

In a more general way and that European citizenship is as much a reality, the Commission wants to strengthen dimension "nationality" in Community programs on youth, culture, Audiovisual and civic participation. European citizenship is additional to national citizenship and shall not replace it. European citizenship is acquired automatically for all citizens of EU Member States. European citizenship is the relationship between an individual and official EU membership relation that defines his / Union. As citizens, individuals have certain rights; for example, can take part in the decision electing representatives. The introduction of common rights for European citizens and EU identity reinforces the idea of European solidarity. Discrimination on grounds of nationality is not permitted in the EU.

European citizenship was defined by the Treaty on European Union, signed in 1992, in Maastricht, which entered into force in 1993. Including rights, obligations and participation in political life, European citizenship and identity aimed at enhancing the image of the European Union and a greater involvement of citizens in the European integration process.

In addition, citizenship European the principles common to the Member States: the principle of freedom, democratic principles, the principle of respect for human rights and fundamental freedoms and the rule of law contained in the Treaty of Amsterdam, and results from fundamental human rights and specific rights granted to European citizens (rights of free movement and civil rights), described in the Treaty.

Treaty of Amsterdam, which entered into force on May 1, 1999, to strengthen the protection of fundamental rights, condemning any discrimination formations, and recognized the right to information and protection of consumers. Fundamental rights and democratic values are respected in the European Union Member States, which are signatories to the Convention European texts and Human Rights (in 1950 Rome, under the Council of Europe) Universal Declaration of Human Rights (signed under UN auspices in 1948), the European social Charter (signed in 1961, under the aegis of the Council of Europe) or communitarian Charter of fundamental Social Rights of Workers (1989 by all Member States of the European Communities, with the exception of Great Britain, who signed in 1998).

Respect for human rights has been confirmed in the preamble to the Single European Act, signed in 1986 and entered into force in 1987 and then incorporated in Article 6 of the Treaty on European Union.

Guarantee fundamental rights has been strengthened by the Treaty of Amsterdam, which extended the jurisdiction of the Court of Justice, including rights derived from Article 6, concerning the activities of the European institutions. Meanwhile, the suspension clause was introduced, which can be taken for repeated serious abuse by a Member State of the principles underlying the Union. Union commitment was reiterated formally in December 2000, when it was Charta Fundamental Rights of the European Union.

In 1998, the European Commission launched the Europe Direct information in order to inform citizens on their rights and opportunities offered by European citizenship.

Charter of Fundamental Rights of the European Union (EU) was proclaimed at the Nice European Council on 7 December 2000. However, the Lisbon Treaty is that, since the entry into force on 1 December 2009, conferred the same legal value as the Treaties. Since then it is mandatory for Member States and any citizen can invoke if these rights are violated by a European text.

Charter contains 54 articles that define the fundamental rights of persons within the EU. These are divided between six individual and universal values that form the basis of the European construction: dignity, freedom, equality, solidarity, citizenship and justice. However, the rights associated with citizenship values relate only EU citizens.

Writing primarily to meet two objectives:

- To provide a reference text to be clear and strong, understandable for every European citizen and bringing together existing rights, but which have now been divided between several texts;
- To improve the protection of fundamental rights. Total adherence to European integration involves citizens so to get even more out of their values, their common history and culture as key elements of belonging to a society based on the principles of liberty, democracy and respect for human rights, cultural diversity, the tolerance and solidarity under the Charter of fundamental Rights of the European Union (Article 4-Decision of the European Parliament and the Council-The program "Europe for citizens"-December 2006).

Promoting active citizenship is a key element for enhancing both the fight against racism, xenophobia and intolerance, as well as cohesion and democracy (Article 5 - Decision of the European Parliament and the Council - The program "Europe for Citizens"- December 2006.)

In order to bring Europe closer to its citizens and to enable them to participate fully in building a Europe increasingly closer, it is necessary to address all citizens participating states and persons legally residing in those states and lead them to participate exchanges and transnational cooperation activities, contributing to a sense of adherence to common European ideals (Article 7 - Decision of the European Parliament and the Council - The program "Europe for citizens"-December 2006)

The European Council noted on several occasions the need European Union and its institutions closer to the citizens of the Member States. He encouraged the EU institutions to maintain and foster an open, transparent and regular dialogue with organized civil society, thus promoting citizen participation in public life and decision-making, emphasizing the essential values that are shared by European citizens (Article 9 - Decision of the European Parliament and Council - The program "Europe for citizens"- December 2006).

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THE 9TH EDITION OF THE INTERNATIONAL CONFERENCE
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The Search of a New Logic of Public Administration Reforms: The Case of Metropolitan Areas in Italy

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Abstract: The aim of this paper is to formulate some recommendations for the currently undergoing reform of Italian metropolitan areas. This case is particularly relevant since it clearly represents how, even if expected by law, reforms might not happen on the implementation side. We draw the recommendations from some basic assumptions of the collaborative governance model. Recommendations deal with the development of a systemic, collaborative and leadership oriented view of reforms. Indeed, reforms should be intended not only as a legislative process, but also as a complex change management process characterized by the decisive role of the human factor.

Keywords: local government; metropolitan areas; collaborative governance; public administration reforms; Italy

1. Introduction

From London to Bucharest and from Washington to Rome via Brussels, local governments around the globe are facing new challenges and they are experiencing several kinds of reforms. In this paper we adopt a managerial perspective and we discuss the collaborative governance model as a new logic for public administration reforms; in particular, we focus on the undergoing reform of Italian metropolitan areas.

The metropolitan areas in Italy were introduced with the law no. 142/1990 to be the new second tier of local government. They would have been created after the elimination of the Provinces in the correspondent areas. However, until now, actually they have never been created. For current times, law no. 54/2014 has been recently approved by the Italian Parliament that imposes the substitution of ten areas of the Provinces with the new Italian metropolitan areas as of 1st July 2014.

Accordingly, the aim of this paper is to formulate a series of recommendations on this specific reform using theoretical constructs of the collaborative governance model as a potential new logic of public administration reforms. This case study is particularly relevant since it clearly represents how, even if

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expected by law, reforms might not happen on the implementation side: some Authors have labeled this situation as the implementation gap in the Italian public sector reforms (Ongaro & Valotti, 2008).

2. In Search of a (New) Logic for Public Administration Reforms: The Collaborative Governance Model

The complex reality created by the crises and the crash of old patterns and models of governance is pushing scholars and practitioners to search for new logic of public administration reforms. Indeed, as highlighted by Alasdair (2010), the logic of discipline that inspired public administration reforms was" a reform philosophy built on the criticism that standard democratic processes for producing public policies are myopic, unstable, and skewed towards special interests and not the public good. It seeks to make improvements in governance through changes in law that imposes constraints on elected officials and citizens, often by shifting power to technocratic-guardians who are shielded from political influence" Alasdair (2010: 135).

However, more recently, the literature has proposed a new model for looking at the working function of public administration, under the affiliation with public governance: the "collaborative governance". According to Emerson et al. (2012), "collaborative governance" can be defined as "the processes and structures of public policy decision making and management that engage people constructively across the boundaries of public agencies, levels of government, and/or the public, private and civic spheres in order to carry out a public purpose that could not otherwise be accomplished" (Emerson et.al., 2012:3).

The collaborative governance model assumes a conception of citizens and stakeholders not only as clients of public services, but also as co-producers of public policies and public services. Indeed, if on the one hand they claim greater accountability, on the other hand citizens and stakeholders are seeking additional avenues for engaging in public governance, which can result in new and different forms of collaborative problem solving and decision-making (O'Leary et al., 2012). Thus, the model of collaborative governance recasts the perspective for implementing reforms, because it challenges traditional models of reforms in several points.

Firstly, collaborative governance model overcomes the previous ideal of the State based on New Public Management ideas (e.g. Barzelay, 2001; Hood, 1991). Indeed, in collaborative governance model, the role of the State is related to increasing and to improvement of the 'citizen-capabilities' (Sen, 1993) in order to enable people to exert an effective role in pursuing outcomes of public interest. Under this point of view, the State is subsidiary to civil society.

Secondly, collaborative governance model is embedded in a typical context of social systems where is explicitly recognized that different kind of organizations can contribute to the same public purposes by providing different set of resources (e.g. power and authority, financial resources, skills and competencies, information, etc.).

Thirdly, this model is based on the idea that public organizations should implement their strategy and decision making processes by involving citizens and stakeholders and the wider civil society and engaging them in collaborative processes aimed at producing better outcomes at lower cost. Thus, collaborative governance is pursued by politicians and managers together with citizens and stakeholders trough networks, characterized by inter-organizational and inter-institutional arrangements. To this regards, some Authors (e.g. Castells, 2000; Klijn, 2005) have emphasized how

public networks might be more effective than bureaucracy and marked-based settings for solving wicked issues, namely in uncertain and competitive environments.

Fourthly, the collaborative governance model explicitly recognizes the need for inter-organizational structures and processes for connecting the different organizations and managing the resulting complexity of their interactions. More specifically, it implies the development of organizational structures tailored to policy issues and the development of cross-functional project teams, alliances and hybrid organizations in order to overcome the jurisdictional boundaries.

Finally, according to the collaborative governance model, public managers are asked to play new roles: for example, they are called to handle social mediation and to govern interdependencies; to be social entrepreneurs by building relations with different actors; to reading the needs and the potentiality of a community; to mobilize collective resources and the local knowledge in order to address outcomes of public interest (Sancino, 2010).

3. The Creation of Metropolitan Areas in Italy and the Collaborative Governance Model: Some Recommendations

As above anticipated, Italian metropolitan areas have been defined by the law no. 142/1990 but they have failed to be implemented. The reasons for this delay are varied. However, the reform of the Italian metropolitan areas has been reintroduced in the agenda since the crisis has reinvigorated the search for optimizing the systems of local government in Italy. Here below, we formulate some recommendations for the implementation of the Italian metropolitan areas drawing them out from the principles of the collaborative governance model.

Firstly, the creation of the Italian metropolitan areas should be based more on co-operation between local authorities and on a complex adaptive process of learning and sharing objectives, strategies, policies rather than as the establishment of laws and of rigid procedures and rules. In other words, the different local authorities' part of the future Italian metropolitan areas should evolve from a classic idea of inter-institutional relations to a collaborative model of relations between them (see table 1).

Table 1. Logic of relation

	Classical inter-institutional relation	**Collaborative relation**
Organization	Organisations as hierarchies	Organisations as networks, partnerships
Authority	Authority top down, centralised	Authority earned peer to peer, distributed
Value creating relation	Value created by transaction and exchange	Value created through interaction
Value creating lever	meeting unmet need/deficits	Generating capabilities/building on assets
Knowledge	Knowledge and learning from experts to people	Knowledge and learning co-created

Source: own adaptation from Leadbeater (2004).

Secondly, reforms cannot be restricted to the definition, although necessary, of issues related to electoral representation and decision making in political assemblies, but they must be accompanied by the empowerment of the people and of the systems of local authorities involved in the metropolitan areas.

Thirdly, Italian metropolitan areas should be designed with innovative and functional boundaries in order to build a modern institutional architecture able to incorporate and to manage new categories, like city regions and city users.

Fourthly, since each metropolitan area has its own geography and its social history, it is important that this reform provides the tools to the different metropolitan areas for creating autonomous and accountable institutions able to fit with the peculiar needs and vocation of each territory.

The fifth recommendation is based on the idea that we should shift our reforms models' from a culture of designing reforms to a culture of monitoring reforms. To this regard, the design and the implementation of the Italian metropolitan areas should take the opportunity to give a higher degree of freedom in the designing of autonomous and decentralized institutions, and to focus more on monitoring the reform outcomes. The last recommendation concerns the idea of reforms by leadership. Indeed, as Barzelay and Gallego (2006) explained, reforms, even if they might be defined by laws, are implemented by people and require a complex process of change in administration and management.

Summing up, after twenty years of failure in the reforms of the Italian metropolitan areas, the Italian case clearly represents the need of new logic for public administration reforms. Accordingly, this paper aimed to point out the importance of understanding reforms not only as a juridical or managerial process, but also as a process characterized by a collaborative, systemic and leadership dimension where the human factor plays a decisive role for determining the success or the failure.

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The Reform in the Administrative System, Aspects of Progress or Form of Discrimination of the Public Officer?

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Abstract: The current social, economic and political status determined the issue of O.U.G 74/13 which regards some measures for improvement and re-organization of the activity of National Agency of Fiscal Administration, also for modification and completion of some legal acts and of H.G 520/2013 regarding organization and operation of National Agency of Fiscal Administration, legal acts which even if they are suppose to reform the administrative system, they reflect some problems regarding the legality of the release from the office of the public clerks, this measure being applied arbitrarily and discretionary, violating at the same time the right to work of the public clerks. The present work analyses some aspects regarding the legality of applying two legal acts issued by the Government, which are O.U.G 74/2013 and H.G. 520/2013, which were considered by the issuer as being necessary in relation to the process of re-organization of activity of National Agency of Fiscal Administration. We are analyzing at the same time all the irregularities found in practice, because applying the O.U.G 74/2013 and H.G. 520/2013 generated discriminations, on one hand caused by the confusion determinate by the writing of the legal acts, and on the other hand, by the enforcement of some legal provision which generated an conflict with other legal acts. Even though the main purpose of these legal initiatives was to reform, restructure and reorganize the activity of National Agency of Fiscal Administration, enforcing these legal acts led to a series of illegal acts even abusive, which violates the fundamental rights ensured by the Constitution, referring to the right to work, and also the guarantees offered by the law 188/1999R regarding the Status of Public Clerks.

Keywords: reorganization; absorption; public administration

1 Introduction

The legislator has considered necessary to adopt the order O.U.G. 74/2013(Official Monitor, Part I no. 389 / 2013) and the decision H.G. 520/2013(Official Monitor, Part I no. 473 /2013), on taking into account certain weak points of the National Agency of Fiscal Administration (ANAF), such as the low level of voluntary conformity, hence the need acutely felt of action to combat fiscal evasion[2] as well as the administration of a portfolio of risks by the fiscal administration regarding the conformity of the contributors with the fiscal legislation[3], to improve the services offered to the contributors and the diminishing of conformity costs.

Other weak points taken into account by the legislator were represented by the organisational structure, especially that of the territorial system, implying high costs of administration, reaching the

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[2] Note of substantiating the Ordinance of emergency of Government no. 74/2013 regarding some measures to improve and reorganize the activity of the National Agency of Fiscal Administration, as well as to modify and complete some normative acts.

[3] The note of substantiation to the Government Decision no. 520/2013 regarding the organization and functioning of the National Agency of Fiscal Administration.

creation of a large number of fiscal organs, as well as the inefficient distribution of staff among the different activities of the fiscal administration[1].

At the same time, there were taken into account the creation of a regional level in order to reduce the number of reports to the office of the National Agency of Fiscal Administration, the improvement of planning and control, the creation of an anti-fraud structure by reorganizing the operative control, the implementation of a new strategy of human resources and the simplification of the decisional process.

2. Related Work

The literature in the field is unanimously appreciating the fact that the unique power in the state (constituted based on sovereignty) needs, in order to exert itself, a (state) apparatus that, in view of a coherent functioning, uses articulated structures organized based on the criterion of the function (Zaharia, Budeanu-Zaharia, Chiuariu, 2000).

By applying some normative acts described by us, it was disposed the reorganization of the General Direction of Public Finances following the fusion by absorption according to art. 10 paragraph 2 in O.U.G. 74/2013 and taking over the activity by the General Regional Direction of Public Finances.

To accomplish the legal dispositions, the president of the National Agency of Fiscal Administration issued Order no. 1104/2013 and Order 1107/2013, disposing by the latter to take some measures in order to apply the valid legal dispositions regarding the public officers in the organizational structures in reorganization.

This order issued by the president of the National Agency of Fiscal Administration has into account to eliminate from the public functions of execution of the public officers.

In this respect, on 05.08.2013, following the application of the specifications E.G.D. no. 74/2013, Order no. 1104/2013 as well as Order no. 1107/2013, there were issued the decisions regarding the removal from the public functions of execution held by the public officers of certain sectors of activity.

To motivate in fact the decisions, there were mentioned the specifications of art. 10, paragraph 4 in E.G.D. no. 74/2013 where it is mentioned that: "*The general directions of the public finances formed according to the specifications of paragraph (3) overtake the activity and competences of all the general directions in the county of the public finances absorbed in the area of competence, as well as all the territorial structures subordinated to them."*, as well as the dispositions of annex no. 2 to the government decision G.D. no. 520/2013. The actual reason indicated for issuing these decisions was art. 99 paragraph 3 in Law no. 188/1999r (Official Monitor, Part I no. 365 / 2007) regarding the Status of the public officers mentioning that: "*In case of removal from the public function, the public authority or institution is forced to offer the public officers a note 30 calendar days before*."

3. Problem Statement

Reported to the normative acts indicated by us, we appreciate that they were applied in an arbitrary way, at discretion, favouring in fact some officers, since it was disposed by decisions to eliminate from their function some counsellors in certain services.

[1] Note of substantiation to the emergency Ordinance of the Government no. 74/2013.

According to the specifications of art.117 in Law no. 188/1999 "*Dispositions of the current law is completed with the specifications of labour legislation, as well as the regulations of the civil, administrative or penal common law, according to case, as long as they do not contradict the legislation specific to the public function*."

Thus, by the decisions of removing from their function mentioned above it was disposed to remove from the public functions of execution held by the public officers and to grant a note 30 calendar days before until the moment when the work reports stop, these decisions being actually decisions of work termination in the sense of the specifications of art.65 in the Code of labour.

We appreciate the decisions regarding the removal from functions as null, motivated by the fact that there are not observed the conditions of form required by the work legislation in respect of this type of decisions, since it is not mentioned the deadline when the decision can be contested or the competent court.

As mentioned also in the doctrine (Iorgovan, 2005), the administrative acts obey some rules of form and founding, a certain juridical regime in order to assure their legality, the principle of legality in the current constitutional system being one of the main principles of the public administration.

The decisions issued comprised also aspects regarding the note, and in this context we consider that they were issued by violating the law since, by definition, the note supposes the previous information of the other party about the work termination.

The purpose is to avoid the negative consequences produced by the one-sided termination of the contract, for the employee, the regulation of the note represents a warranty of the right to work and stability in work.

Thus, the note regarding the termination of work represents to inform the employee by the employer about the latter's intention to terminate their work contract in the near future.

Thus, the notification must be done before issuing the firing decision and not upon its issue because, according to the dispositions of art. 77 Code of labour, the decision to terminate the contract produces effects from the date of communication, which means that from that date the work relations stop. So that the deadline to contest it starts in the moment of communication based on the law, and the employer is not the one to settle since when the termination takes place in the conditions when the termination note was not respected.

According to art.76 letter b) in the Code of labour, the decision to terminate the contract must contain, obligatorily, the duration of the note, and by that we mean both the duration (number of days of note offered) as well as mentioning the date when the termination note started and its expiry.

We appreciate as being also important the obligation to inform the employee before issuing some decisions of termination about the termination of work, as well as about the duration of the note and the actual date when the note starts being valid, so that by not respecting these aspects it is violated in an arbitrary way the public officer's right.

In this sense, the Court of Appeal Bucharest, section VII civil, and for reasons regarding the work conflicts and social insurances, based on civil decision no. 6660/R on 18.11.2009 settled the fact that, "*The employer cannot dispose at the same time the termination and the realization of the note period. Thus, the employer has the obligation to communicate in written form to the employee that note period, before issuing the decision of termination because its issue and communication to the employee mean the termination of the individual work contract, so that a concomitant communication*

means not offering in fact the note. And, as its name states, the note is previous to the termination and has as purpose to inform the person whose position will be terminated about the decision to terminate their individual work contract on the date of the note deadline expiry."

In the literature in the field (Zaharia, Budeanu-Zaharia, Chiuariu, 2000), it is appreciated that to be an administrative act, this one must have all the characteristics of the juridical document, according to the general theory of law, so that the public administration authorities should respect the legal specifications imposed, as well as the work legislation.

The decisions stating the termination, were issued based on some inexistent administrative document, Order no. 1107/2013, as long as, contrary to the dispositions of art. 11 paragraph 1 in Law no. 24/2000r (Official Monitor, Part I no. 260 / 2010) regarding the norms of legislative technique to issue the normative acts, the order mentioned was not published in the Official Monitor. Consequently, being unpublished, it cannot produce juridical effects, since it was never valid

In the literature in the field (Iorgovan, 2005) it is considered that it cannot be imposed the obligation to respect some normative act as long as it is not published. The law rule *nemo censetur ignorare legem* imposes also the conclusion according to which it cannot be imposed to some subject some behaviour before informing them about the content of the document.

Moreover, the decisions of termination were issued also with the violation of the specifications of art. 13 paragraph 4 in HG 520/2013 regarding the organization and functioning of the National Agency of Fiscal Administration, disposing that: "*Organization and functioning of the regional general directions of the public finances, as well as the structures mentioned under paragraph (3) are settled by the order of the Agency president with the agreement of the Ministry of Public Finances in the case of the structures coordinated methodologically by the structures of specialty in the own system of the ministry",* as well as the specifications of art. 10 paragraph 6 of E.G.D. no. 74/2013 where it is specified*: "The way to organize and function the regional general directions of the public finances, as well as the subordinated structures of them are settled by order of the Agency president, with the agreement of the Ministry of Public Finances in the case of the structures coordinated methodologically by the structures in the field in the own system of the ministry".* Thus, issuing some decision of termination for the execution staff can be done legally only with the previous approval and according to the Ministry of Finances, for these orders of termination not being such a note. As underlined also in the doctrine (Zaharia, Budeanu-Zaharia, Chiuariu, 2000), the note represents an important formality in view of issuing some administrative documents, representing a procedural condition previous to issuing the administrative document.

Moreover, the decisions contested were issued by the Regional General Direction of the Public Finances in the conditions where part of the work contracts signed with the public officers is the General Direction of the Public Finances and these contracts were signed after organized contexts, also of hiring in the position of counselor in the Service of Fiscal Inspection Juridical Persons.

Also, the discriminated officers were not informed about the reorganization after the fusion by absorption and overtaking the activity, about the overtaking of the whole service by the Regional General Direction of Public Finances Iasi, but were only requested to come in view of receiving the decisions of termination.

According to Law no. 67 on 22/03/2006 (Official Monitor, Part I no. 276 /2006), regarding the protection of the employees' rights in case of transferring the company, the unit or some of their parts, law which completes the normative frame, are mentioned under art. 5 paragraph 1 the rights and obligations of the transferor, deriving from the individual work contracts and the collective work

contract applicable, existent on the date of the transfer and that will be completely transferred to the assignee. In this sense, the dispositions of art.7 in the same law specifies that the transfer of the company, unit or some of their parts cannot represent a reason to individual or collective work termination for the employees by the transferor or assignee.

We also underline the fact that the reorganization of the General Direction of the Public Finances was done by violating the specifications of Law no. 188/1999 so that, according to the dispositions of art. 100 paragraph 4 "*the reduction of some position is justified if the attributions related to it are modified in proportion of over 50% or if there are modified the conditions specific to occupy that position respectively, regarding the studies*", and according to paragraph 5 of the same article" *in case of reorganizing the activity by reducing the positions, the public authority or institution cannot form positions similar to those eliminated for a period of one year from the date of the reorganization."*

In the literature in the field it is underlined the fact that the irremovability represents, same as the stability, a warranty that the state grants their officer that they will not be suspended or revoked but for disciplinary causes. It is different from the stability by the fact that the immovable officer will not be able to be moved with work, not even by promotion (Zaharia, Budeanu-Zaharia, Chiuariu, 2000).

Thus, in the judiciary practice (Court of Appeal Iasi, 2006) it was showed that the "*reorganization, efficiency do not suppose removing from positions the officers so that on the vacant positions other persons could be hired, especially since it is proved that the plaintiff made the object of a professional evaluation. The principal of stability in exerting the public function is a fundamental principle on which it is built the system of the state administration, independent from the statuses based on which the public institutions work, partially in the work reports and thus the administrative practice to dispose the termination by reducing some positions with partially changed names and the sphere of attributions is abusive, actually being a masked formula to remove the public officers in the position to make possible the hiring of other persons*".

Relevant in this sense is the sentence (Court Brasov, 2012) pronounced by the Court of Brasov, where the instance admitted the action, motivated by the fact that "*the accused made no proof that the reduction of the position was determined by the modification of the specific attributions in proportion of more than 50% or the modification of the conditions regarding the studies being absolutely obvious that this reduction was not done according to art. 100 paragraph 4. Because G.D. 566/2011 is a normative act less important than the dispositions of Law no. 188/1999, the accused cannot defend herself only by invoking the fact that the plaintiff did not request and obtained the cancelling of G.D. 566/2011."*

4. Solution Approach

We consider the decisions issued at obviously illegal because they were issued by violating the legal specifications, respectively E.G.D. no. 74/2013, G.D. no. 520/2013 and in fragrant contradiction with the note of founding on which it is based the order OUG no. 74/2013 regarding improving and reorganizing the activity of the National Agency of Fiscal Administration.

We appreciate that by the note of founding it is attracted the attention by the international organisms (The International Monetary Fund, International Bank), as well as by the international experts on the necessity to reduce the positions occupied by the staff employed on the support functions and the necessity of increase the number of employees in some fields of activity, such as: fiscal inspection, juridical, IT.

This recommendation is based on the increase of efficiency of collecting and the efficiency in combating the phenomena of fraud and fiscal evasion, the measures being of priority for the near future.

The service of fiscal inspection juridical persons also has as main objective the control of tax payers juridical persons, the reduction of the phenomenon of fiscal evasion, the improvement of collecting taxes by the state budget.

On taking into account the recommendations previously mentioned, the natural measure to be adopted by the Regional General Direction of the Public Finances was that of increasing the number of staff within the service of fiscal inspection.

By terminating the contracts of some officers in a discriminatory way it is reached the situation of an illegal administrative act, issued in contradiction with the note of founding and the normative acts issued based on it.

Also from the note of founding it is noticed that before issuing the order OUG no. 74/2013 the number of employees allotted for the different structures at territorial level is not proportional with some indicators such as the number of tax payers administered or income realized.

For this reason, there are counties with high economic potential and a large number of tax payers having relatively reduced structures of fiscal administration.

The number of employees in the Regional General Direction of Public Finances is insufficient to support fields of activity such as fiscal inspection and the measure to termination some position can only be an obstacle in the functioning at optimum parameters of some service considered important by the international organisms.

From the organization point of view it is important to mention the fact that the structure of fiscal administration existent in Iasi County is not modified significantly, since the administration of public finances in the main city of the county will take over all the attributions of the old general direction of the county public finances.

Terminating a whole service such as the fiscal inspection does not represent a measure to redistribute the employees by the departments involved by normative acts, but an illegal measure with disastrous effects on the whole activity of the Regional General Direction of the Public Finances in Iasi in the field of fiscal inspection.

Even though the total number of employees at the National Agency of Fiscal Administration compared with the number of tax payers fits the average of the fiscal administrations in other European countries, it was not noticed the necessity to redistribute the employees both among the county structures and among the administration functions, in the sense of staff migration from the massive processes with reduced added value towards the more complex functions, such as the fiscal inspection.

As an example, we want to show that at the level of Iasi county for a service having 69 counsellors at the moment and 58 in the new staff organisation it was imposed a plan to receive 224,000,000 lei/month, each inspector having a plan to receive 3,862,069 lei.

On the other hand, the situation in Iasi area is as follows:

Table 1. Situation in Iasi area

County	No. Positions before reorganisation	No. positions after reorganisation	Plan to receive / month	Plan to receive / inspector
Bacau	78	78	121.000.000	1.551.283
Suceava	46	46	102.000.000	2.217.392
Botosani	38	38	65.000.000	1.710.527
Vaslui	42	42	62.000.000	1.476.191
Neamt	44	44	99.000.000	2.250.000

As obvious from the table above in Iasi county there is a very high degree of charge/inspector, the natural measure according to the normative acts issued and the founding note was to increase the number of inspectors in the service of fiscal inspection juridical persons.

Even though the reason that caused the issue of these normative acts aimed at the line to follow in order to eliminate these dysfunction, to strengthen the fiscal system and use the resources at maximum capacity and in conditions of efficiency[1], we consider that the measure disposed by the decisions regarding the termination for public officers is illegal and leads to blocking the activity of that service.

The point of view of the President of the National Agency of Fiscal Administration[2] informed the Regional General Direction of the Public Finances, was expressed in the sense that all the measures necessary for the process of reorganization must respect the principles mentioned by Law no. 188/1999 without affecting the good functioning of the institution.

By terminating a whole service and reducing the number of fiscal inspectors, it was adopted an abusive measure that does not assure the coherence of the process of reorganization but only the creation of the premises to apply some discretionary measures.

At the same time, the contested decisions touch the right to work regulated by art. 41 paragraph 1 in the Constitution, infringing at the same time the dispositions of Directive 2000/78/CE regarding the equality at the work place, on taking into account the fact that terminating the individual work contracts is not based on any reason of professional nature.

Directive 78/2000/CE represents a general frame that guarantees the respect of equality of treatment among the persons in the European Union, regardless of their origin and beliefs, age and sexual orientation, when it comes to access to some work place or a profession, promotion, professional formation, conditions of employment and employing the labour.

In the doctrine(Iancu, 2007) it is underlined the opinion that the right to work cannot be limited, being in the light of science accepted, the right of any human being to assure their resources necessary to live by their work. This characterization led to expressing the opinion that the right to work is inherent to the human being, natural and imprescriptible.

Also, the right to work supposed actual actions of the state, being governed by the principle formulated in art. 22 in the international declaration of the human rights, stating: "*Any person, as member of society, has the right to social security. They have the right, by national effort and international collaboration, on taking into account of the organization and resources of each country,*

[1] Founding note to the Emergency Ordinance of Government no. 74 /2013.
[2] Address no. 801986/07.08.2013.

to obtain the realization the economic, social and cultural rights necessary for their dignity and free development of their personality."

5. Conclusions

Thus, assuring these rights – economic, cultural, social – means efforts of the state, actual actions and measures, in general an active policy (Vrabie, 1999), representing at the same time the social and material conditions of life, education and the possibility of their protection (Vieriu, Vieriu, 2005).

Contrary to the facts in the literature in the field, because of the termination of the whole service, were adopted a series of measures with strong economic and social impact, so we consider that when issuing the decisions the Regional General Direction of the Public Finances must also respect the specifications of Law no. 62/2011 regarding the social dialogue.

In this sense, before issuing the decisions, the Regional General Direction of Public Finances Iasi was obliged to consult to commission of social dialogue formed at county level.

Thus, we appreciate that the decisions regarding the termination of public functions for the public officers issued by the Regional General Direction of the Public Finances Iasi without respecting the specifications of Law no. 62/2011, as being null.

In conclusion, terminating the position of the public officers at discretion leads to the impossibility of increasing the efficiency of collecting and combating the phenomena of fraud and fiscal evasion.

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