

# PERSONAL DATA PROTECTION IN PUBLIC ADMINISTRATION – FROM DIGITALIZATION TO LEGAL LIABILITY

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## Abstract

*Analyzing the issue of personal data protection, it is impossible not to notice many of the features that belong to it and that we also encounter in other fields, but also the characteristics that are specific to it, particularizing it when we relate it to other matters. Among those features that belong to it, but that we also encounter in other fields, we note the vastness of this issue, the dynamics (domestic, European and international), but also the complexity determined, among other things, by numerous interdisciplinary interferences. The digitalization of administration and the governance process involves a series of advantages that we cannot ignore, but these advantages are accompanied by a series of disadvantageous possibilities and unforeseen situations, which greatly slow down the digitalization process.*

**Keywords:** data protection, public administration, European law, fundamental rights.

## 1. Introductory considerations. Conceptual delimitations

The establishment of the democratic regime played a crucial role in the development of public administration in Romania, and if we analyze this aspect from the perspective of citizens' access to public information, the path was fluid in terms of streamlining the decision-making process. Citizens can request information of public interest at any time from any of the state institutions, especially from public administration institutions, and the common principles that govern these decisions constitute the legislative framework on which any citizen can rely when requesting information of public interest.<sup>1</sup>

Access to public information is a cornerstone in building and maintaining a democratic and transparent society. This accessibility is essential for responsible governance and for ensuring the balance between government power and the active participation of citizens. Public data and information can be used to identify social and economic problems and to formulate effective policies and solutions. Free access to this information can stimulate innovation, economic growth and improve the quality of life for the entire community. Citizens need to be able to access relevant information in order to form a clear understanding of government actions and their impact on society.<sup>2</sup> Through transparency and accessibility of public information, accountability of authorities can be promoted and abuses of power can be prevented. Thus, access to public information is a fundamental pillar of a democratic and progressive society.

Public administration institutions, as well as any other entity that collects personal data, must comply with the rules imposed by the legislation on the protection of personal data. Thus, they are obliged to inform the data subjects about the purpose of data collection, to obtain their consent clearly and to ensure the security and confidentiality of the information collected.<sup>3</sup> The collection and storage of personal data are essential processes in today's digital world, and compliance with the rules and norms imposed by the legislation is crucial for the protection of individual rights and privacy. It is important that the entities involved are transparent about how they manage personal data and to ensure that they are used responsibly and in accordance with legal provisions.

At the same time, when a person wishes to withdraw their personal data from the database of the institution with which they have collaborated, or to verify what data is in its possession, the latter is obliged by law to meet the request of the applicant.

Transparency in the publication of public information is an essential element in a democratic society, as it contributes to increasing citizens' trust in public institutions and ensuring adequate control over the decisions

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<sup>1</sup> C. Manda, *Digitalizarea administrației publice din România—între nevoile și aspirațiile unei societăți moderne a secolului XXI*, Smart Cities International Conference (SCIC) Proceedings, 2021, pp. 41-48.

<sup>2</sup> S.D. Șchiopu, *Considerații asupra informării persoanei vizate cu privire la perioada de stocare a datelor cu caracter personal*, Universul Juridic via ceeol.com, no. 04/2019, 2019, pp. 97-106.

<sup>3</sup> A. Watson, *Biometrics: easy to steal, hard to regain identity*, Nature, Cambridge, UK, 2007.

taken by them. By providing accurate, complete and easily accessible information, public administration institutions demonstrate responsibility and openness towards citizens.

The digitalization of public administrations in the EU is an ongoing process, driven by EU policies and initiatives as well as national efforts. Collaboration, standardization and the exchange of experiences contribute to promoting digitalization within public administrations and improving the delivery of public services across the EU.

The transparency of public institutions and their openness in their relationship with citizens are essential for a functional society. Consequently, the strategic objective of the digitalization of public administration is to transform the relationship between public administration and society so that citizens perceive the administrative act as responsive, accessible, transparent, responsible, participatory, efficient, effective and adapted to the digital paradigm in which we find ourselves. The digital transformation of public administration also proposes other secondary strategic objectives. On the one hand, information technology represents the support for public and administrative decisions and for the direct promotion of participatory e-democracy.

This perspective has the role of revitalizing trust in the administrative process through transparency, responsibility and co-creation of contexts in which citizens will find themselves.

On the other hand, from the perspective of public service innovation, digital administration is closely linked to the digitalization and modernization of public services.

The digital transformation process should be an integrated one, with the interconnection of digital tools and the exchange of open data being the framework within which the entire process should unfold. Digital transformation should not be limited to the digitalization of administrative bureaucracy, but requires a context conducive to the revision and simplification of administrative procedures. The transparency, speed, de-bureaucratization that the digital transformation process implies, but also the ease of use of digital tools by citizens leads to increased trust in public institutions, acceptance and better legitimization of public decisions.

## 2. Legal protection of personal data in the provision of public services

The computerization of public administration is a primary condition for economic and social development at the level of the entire society. The promotion and implementation of information technologies at the level of public institutions will align the national economy with international standards. The international economy is based on knowledge and electronic means, and their non-use is a brake on the progress and development of a nation. The application of digital technologies has become a vital factor in growth and job creation in the new economy. Although Europe is a technological leader in many areas (e.g., mobile communications, digital television, etc.), in others – especially in the use of the Internet – it has lagged behind compared to the U.S. and Canada (70.5% of the European population uses the Internet, while in North America, 87.7%). Consequently, the Commission's priority is to put Europe in a position to fully benefit from the advantages of the digital economy, to make the most of its technological priorities, to increase its necessary educational and entrepreneurial potential.<sup>4</sup>

In the context of digitalization in public administration in Romania, strategies and policies have been adopted to modernize and streamline the services offered to citizens and economic agents. These strategies mainly target three categories of actions: 1. Informatization - increasing operational efficiency in central and local administration through the use of information and communication technology.

Digitalization of services – providing digital services to citizens and economic agents, with the aim of reducing physical presence at public institutions and reducing the volume of physical documents generated. 2. Ensuring access to information through information and communication technology for end users of central administration services. These strategies aim to strengthen public administration and improve the quality of services offered to citizens. The digitalization and automation of administrative processes have become priorities, and the objectives include identifying problems raised by citizens and the business environment,

<sup>4</sup> Ce sunt datele cu caracter personal?, European Commission, [Interactive], [https://commission.europa.eu/law/law-topic/data-protection/reform/what-personal-data\\_ro#:~:text=Datele%20cu%20caracter%20personal%20sunt%20orice%20informa%C8%9Bii%20care,persoane%20constituie%20%C8%99i%20ele%20date%20cu%20caracter%20personal](https://commission.europa.eu/law/law-topic/data-protection/reform/what-personal-data_ro#:~:text=Datele%20cu%20caracter%20personal%20sunt%20orice%20informa%C8%9Bii%20care,persoane%20constituie%20%C8%99i%20ele%20date%20cu%20caracter%20personal).

treating procedures in a uniform manner in accordance with the legislation, establishing operational requirements and identifying IT&C solutions to support these processes.<sup>5</sup>

Effective management of personal information involves not only accuracy in its entry, but also careful monitoring of access to this sensitive data. It is important that only authorized persons have access to the information, as there are robust security mechanisms to protect this data against unauthorized access. Therefore, implementing clear data security policies and regular employee training on these policies are essential steps to prevent human errors in the management of personal data, as we know that technology is advancing at a very fast pace. In addition, the use of specialized IT systems can help automate administrative processes, thus reducing the dependence on manual data entry and, implicitly, the risk of errors. These systems can include data validation functions, information consistency checks and automatic report generation, which increases efficiency and reduces the workload. Thus, the management of documents containing personal information remains particularly important for maintaining data security and confidentiality.

Limiting the right of access of the data subject is one of the most delicate issues, because the data subject tends to believe that he is entitled to any information held by the controller, and, on the other hand, the controller, for fear of any possible sanction, will do everything possible to communicate any kind of data to him, although the spirit of the GDPR is not to have either prisoners or losers. The rule of the right of access is established in art. 15 of the GDPR, but, obviously, this access can be limited.

Regarding this real conflict between data protection and free access to information of public interest, I would recommend that the conclusions of the Court of Justice of the European Union in the Bavarian Lager case be taken into account. I believe that many of the issues raised by this conflict were clarified there. The processing of personal data and, rather, the protection of personal data implies assuming some responsibilities<sup>6</sup>. To a large extent, when you receive a request, regardless of whether Law no. 554/2004 is invoked or a possible right of access to your own data is invoked, the operator, in fact, the management of the operator, must be prepared to assume some responsibilities. In any situation, it has a margin of appreciation including limiting access to information even for the data subject, if we look at the restrictions regulated by art. 23 of the GDPR.

Some of the cases considered useful that I will bring to your attention are those relating to the existence of a legal privilege, the transmission of data to third parties, opinions given in confidence, criminal or disciplinary investigation, commercially sensitive data, health data that are prejudiced, disproportionate effort, repeated requests that are manifestly unfounded or excessive, in particular because of their repetitive nature, or requests made by third parties on behalf of another person. I listed them precisely to observe how many situations, in reality, we can restrict a person's access.<sup>7</sup>

The need to implement digital services is based on both the benefits that such a change entails, and the adaptation to technological, socio-economic and political realities. Such services are assumed to be permanently available, any day of the week, which allows the citizen to have personalized access, in relation to his or her own schedule. Moreover, transparency increases, bureaucracy and corruption are reduced, and citizen access no longer involves confronting complex public administration structures and eliminating the time allotted for travel, standing in line, etc. The easier the citizen's access to public services, the greater the trust and satisfaction with the administration will increase.<sup>8</sup>

A public administration is subject to the GDPR when it processes personal data relating to an individual. It is the responsibility of national administrations to support regional and local administrations in preparing for the application of the GDPR.

Most personal data held by public administrations are typically processed on the basis of a legal obligation or to the extent that this is necessary for the performance of tasks carried out in the public interest or in the exercise of official authority vested in the body.<sup>9</sup>

<sup>5</sup> C. Juguistru, *Tradiție și inovație în materia protecției datelor cu caracter personal*, vol. II, Universul Juridic Publishing House, Bucharest, 2017, pp. 74-84.

<sup>6</sup> European Union Agency for Fundamental Rights, Council of Europe, Handbook on European data protection law, Luxembourg: Publications Office of the European Union, 2018, pp. 145 and 146.

<sup>7</sup> F.G. Filip, I. Cojocaru, *Economia culturii în societatea informațională bazată pe cunoaștere*, International Conference for the Central and Eastern Europe, Balkans, Caucasus and Baltic States on „Science & Education Policies Akademos”, no. 4(11).

<sup>8</sup> *Articolul 4 UE Regulamentul general privind protecția datelor, „Definiții”*, European Commission, [Interactive], <https://www.privacy-regulation.eu/ro/4.htm>.

<sup>9</sup> M.M. Xavier de Carné de Carnavalet, *From Very Weak to Very Strong: Analyzing Password-Strength Meters*, Concordia Institute for Information Systems Engineering, 2014, pp. 1-19.

When processing personal data, a public administration must comply with key principles such as:

- Fair and lawful processing;
- Purpose limitation;
- Data minimization and data retention.

In the case of processing based on law, this law should already ensure compliance with these principles (for example, types of data, storage period and appropriate safeguards).<sup>10</sup>

Before processing personal data, individuals must be informed about the processing, such as its purposes, the types of data collected, the recipients and their rights in terms of data protection.

In an era where technology has become ubiquitous in administrative activities, the protection of personal data is a critical issue in the Romanian public administration.<sup>11</sup> This protection is not only a legal necessity imposed by European and national regulations, such as the General Data Protection Regulation (GDPR), but also a moral and social imperative. Focusing on the importance of protecting personal data in the context of the Romanian public administration, highlighting the positive and negative consequences of an adequate or deficient approach in this regard, reflects a better overview of the beliefs that Romanian citizens have.

Personal data protection is a pillar of respect for individual rights and citizens' privacy. In a democratic society, every individual has the right to confidentiality and control over their personal information. Public administrations must ensure that collected data are used lawfully and transparently and that individuals are able to exercise their rights regarding personal data, such as the right to access, rectify or delete them<sup>12</sup>. Data protection is essential for maintaining citizens' trust in public institutions, which again refers to decision-making transparency. When citizens trust that their data is managed responsibly and in accordance with security and confidentiality standards, they are more likely to interact with public institutions and participate in government processes. A loss of trust can seriously affect the relationship between government and citizens, undermining the legitimacy of public institutions.<sup>13</sup>

In public administration, digitalization generates a multitude of advantages that should be found in the institutional strategic approach and promoted by its leaders. On the one hand, digitalization streamlines institutional activity, leading to the efficient use of resources, cost reduction and the institution's contribution to technological and socio-economic progress. On the other hand, digitalization generates new opportunities by activating institutional capacities and capabilities that can deliver innovative services and products to citizens and public administration stakeholders. The emergence of new forms of interaction based on information technology highlights the opportunity to establish a direct and dynamic relationship between public administration and its stakeholders, especially citizens. Digital technologies allow the administration to offer a more adequate and adapted response to the expectations that citizens have regarding public services, policies, trust, co-participation, consequently a new perception of the administrative process and new experiences for citizens.

Similarly, public authorities and bodies, even when processing personal data in the context of employment, for the majority of personal data processing operations „the legal basis cannot and should not be the consent of employees [...], given the nature of the employer-employee relationship”, namely the imbalance between the public authority or body and its employees.<sup>14</sup> Only for a small part of the processing activities will the operator be able to resort to consent as the legal basis for the processing, but only to the extent that the public authority or body can demonstrate that the data subject (employee) has freely given his or her consent to the processing operation, which happens only in exceptional situations, *i.e.*, when the negative consequences are completely absent regardless of whether the data subject consents to the processing of his or her data or not.

<sup>10</sup> F.M. Buhociu, *Economia digitală: Trăsături și principii de funcționare*, International Scientific Conference, ASEM 25 years from its foundation, Chișinău, 2016.

<sup>11</sup> I. Alecu, *The Importance of Human Resources, Considerations on challenges and future directions in cybersecurity*, Romanian Association for Information Security Assurance (RAISA) with the support of the Romanian National Computer Security Incident Response Team (CERT-RO) and the National Cyberint Center, 2019.

<sup>12</sup> *Securitatea cibernetică a rețelelor și a sistemelor informatice*, EUR-Lex, 2022, E. Comission, [Interactiv], <https://eur-lex.europa.eu/RO/legal-content/summary/cybersecurity-of-network-and-information-systems2022.html#:~:text=Directiva%2C%20cunoscute%20sub%20numele%20de%20NIS%20%2C%20stabile%20%99te,cooperarea%2C%20schimbul%20de%20informa%C8%9Bii%2C%20sup.>

<sup>13</sup> European Innovation Scoreboard, [https://ec.europa.eu/info/research-and-innovation/statistics/performance-indicators/european-innovation-scoreboard\\_ro](https://ec.europa.eu/info/research-and-innovation/statistics/performance-indicators/european-innovation-scoreboard_ro).

<sup>14</sup> Article 29 Data Protection Working Party, Guidelines on consent under Regulation 2016/679, WP259 rev. 01, as last revised and adopted on 10.04.2018, p. 6.

As a key element in ensuring the efficiency and quality of public services, the behavior and awareness of civil servants regarding the management of a large volume of confidential data is the basis that citizens take into account when deciding to collaborate with any of the public administration institutions.<sup>15</sup> Personal data are often used in administrative processes, from population registration and social services, to the management of tax files or the granting of state aid. Proper management of this data contributes to improving the efficiency of administrative processes and the provision of more efficient and personalized public services.<sup>16</sup>

### 3. Conclusions

Personal data protection should not be seen as an obstacle to innovation and technological development, but on the contrary, it can stimulate responsible innovation. When public institutions invest in technological solutions that respect data protection principles, they demonstrate a commitment to respecting individual rights and build citizens' trust in the use of technology to improve public services<sup>17</sup>. Therefore, the protection of personal data in public administration in Romania is essential for respecting citizens' rights, maintaining trust in public institutions, making public services more efficient, complying with legal regulations and promoting responsible innovation. An appropriate approach in this regard not only respects the fundamental principles of democracy and individual rights, but can also contribute to building a safer, more transparent and more progressive digital society in Romania.

A strategic objective of the European Commission, which significantly influences the degree of adoption and use of digital public services, is to facilitate citizens' access to digital environments and services. The European Commission is taking steps to increase the number of citizens with access to digital environments, to develop digitalization skills, but also to better capitalize on the strategic potential of institutions in view of digital transformation. To be successfully implemented, the process of change and transformation must be accompanied by a broad process of developing digital skills and abilities in public sector institutions. The European Commission promotes various initiatives whose main aim is to develop digital skills and abilities for the workforce, citizens and the modernization of education at the European Union level.

The digitalization of public services and their migration exclusively to digital environments presupposes, as a precondition, the development of digital skills so that citizens and stakeholders of public institutions can access and use these services.

Cyber-secure communications networks and broadband can ensure a higher rate of adoption of digital public services by citizens. Strategic intentions to innovate public services and their digitalization require an enabling context, a flexible infrastructure and a protected framework for investments in digital networks, as well as a certain competitive context. Digital public services are delivered to citizens through digital platforms, and the European Commission pays particular attention to the central role that digital platforms play in the digital transformation process. The current strategic orientation of the European Commission is based on the dynamics of socio-economic contexts and on the focus of activities, regardless of their specificity, on data. Therefore, the role of digital technologies and solutions in the evolution of systems, institutions and society as a whole is evident. Institutions need to become strategically „smart”, not only to understand the dynamics of change, but also to harness their institutional potential through digitalization.

Consequently, the strategic objective of the digitalization of public administration is to transform the relationship between public administration and society so that citizens perceive the administrative act as responsive, accessible, transparent, responsible, participatory, efficient, effective and adapted to the digital paradigm in which we find ourselves. The digital transformation of public administration also proposes other secondary strategic objectives. On the one hand, information technology represents the support for public and administrative decisions and for the direct promotion of participatory e-democracy. This perspective has the role of revitalizing trust in the administrative process through transparency, accountability and co-creation of contexts in which citizens and stakeholders will find themselves. On the other hand, from the perspective of

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<sup>15</sup> S. Makridakis, *The forthcoming Artificial Intelligence (AI) revolution: Its impact on society and firms*. *Futures*, 2017, 90, 46-60, doi: 10.1016/j.futures.

<sup>16</sup> *Securitate cibernetică: principalele amenințări*, UE Agency for cyber-security (Enisa), 2022, European Parliament [Interactiv], <https://www.europarl.europa.eu/topics/ro/article/20220120STO21428/securitate-cibernetica-principalele-amenintari>.

<sup>17</sup> European Commission, Digital Economy and Society Index (DESI) 2022, Thematic chapters.

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## References

- Alecu, I., *The Importance of Human Resources, Considerations on challenges and future directions in cybersecurity*, Romanian Association for Information Security Assurance (RAISA) with the support of the Romanian National Computer Security Incident Response Team (CERT-RO) and the National Cyberint Center, 2019;
- Article 29 Data Protection Working Party, Guidelines on consent under Regulation 2016/679, WP259 rev. 01, as last revised and adopted on 10.04.2018;
- Buhociu, F.M., *Economia digitală: Trăsături și principii de funcționare*, International Scientific Conference, ASEM 25 years from its foundation, Chișinău, 2016;
- *Ce sunt datele cu caracter personal?*, European Commission, [Interactiv], available at: [https://commission.europa.eu/law/law-topic/data-protection/reform/what-personal-data\\_ro#:~:text=Datele%20cu%20caracter%20personal%20sunt%20orice%20informa%C8%9Bii%20care,persoane%20constituie%20%C8%99i%20ele%20date%20cu%20caracter%20personal](https://commission.europa.eu/law/law-topic/data-protection/reform/what-personal-data_ro#:~:text=Datele%20cu%20caracter%20personal%20sunt%20orice%20informa%C8%9Bii%20care,persoane%20constituie%20%C8%99i%20ele%20date%20cu%20caracter%20personal;);
- European Commission, *Articolul 4 UE Regulamentul general privind protecția datelor, „Definiții”*, [Interactiv], available at: <https://www.privacy-regulation.eu/ro/4.htm>
- European Commission, *Securitatea cibernetică a rețelelor și a sistemelor informatice*, [Interactiv], available at: [https://ec.europa.eu/info/research-and-innovation/statistics/performance-indicators/european-innovation-scoreboard\\_ro](https://eur-lex.europa.eu/RO/legal-content/summary/cybersecurity-of-network-and-information-systems2022.html#:~:text=Directiva%2C%20cunoscut%C4%83%20sub%20numele%20de%20NIS%202%2C%20stabile%C8%99te,cooperarea%2C%20schimbul%20de%20informa%C8%9Bii%2C%20sup, EUR-Lex, 2022</a>;</li>
<li>▪ European Commission, <i>Digital Economy and Society Index (DESI) 2022</i>, Thematic chapters, file:///C:/Users/ANDRA/Downloads/0_DESI_Full_European_Analysis_2022_2_C01IlgPAatnNf0qL2LL103tHSw_88764.pdf;</li>
<li>▪ European Innovation Scoreboard, <a href=);
- European Parliament, *Securitate cibernetică: principalele amenințări*, Agenția UE pentru securitate cibernetică (Enisa), [Interactiv], <https://www.europarl.europa.eu/topics/ro/article/20220120STO21428/securitate-cibernetica-principalele-amenintari, 2022>;
- European Union Agency for Fundamental Rights, Council of Europe, Handbook on European data protection law, Luxembourg: Publications Office of the European Union, 2018;
- Filip, F.G., Cojocaru I., *Economia culturii în societatea informațională bazată pe cunoaștere*, International Conference for the Central and Eastern Europe, Balkans, Caucasus and Baltic States on „Science & Education Policies Akademos”, nr. 4(11);
- Jugastru, C., *Tradiție și inovație în materia protecției datelor cu caracter personal*, vol. II, Universul Juridic Publishing House, Bucharest, 2017;
- Makridakis, S., *The forthcoming Artificial Intelligence (AI) revolution: Its impact on society and firms*. Futures, 2017, doi: 10.1016/j.futures;
- Manda, C., *Digitalizarea administrației publice din România – între nevoile și aspirațiile unei societăți moderne a secolului XXI*, Smart Cities International Conference (SCIC) Proceedings, 2021;
- Șchiopu, S.D., *Considerații asupra informării persoanei vizate cu privire la perioada de stocare a datelor cu caracter personal*, Universul Juridic via ceeol.com, no. 04/2019;
- Watson, *Biometrics: easy to steal, hard to regain identity*, Nature, Cambridge, UK, 2007;
- Xavier de Carné de Carnavalet, M.M., *From Very Weak to Very Strong: Analyzing Password-Strength Meters*, Concordia Institute for Information Systems Engineering, 2014.