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GOVERNANCE THROUGH CONFORMATION: CASE STUDY REGARDING THE MODE OF THE REFORMATION OF THE CENTRAL PUBLIC ADMINISTRATION FROM THE REPUBLIC OF MOLDOVA

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Abstract

The article offers a case study regarding the conformation of the central authorities from Moldova to the provisions/conditions of the EU- Republic of Moldova Action Plan – EUMAP regarding the improvement of the administrative capacity. The study case enlightens the aspect that, giving the fact that the Action Plan does not impose a judicial conditioning, but guides itself after a set of voluntary conformations, the central public authorities from Moldova are constrained to produce systemic and structural reforms with a view to the governance's principles. The case study demonstrates that the fault of the political volition, identifies through a viable path dependence in the domain of the adhesion to the EU, facilitates a context of elusion from the utilization of the principles of governance in the consolidation of the internal administrative capacity and in the realization of the central public administration (CPA) reform.

Key words: governance, Moldova, central public authorities, reform, EUMAP

Introduction

The institutions and organizations have the capacity to transform during their historical route of accomplishing the objectives for which realization they have been created. These transformations take place through a process of conformation to the requirements that come as a result to the pressures exerted by the actors interested in the evolution of these institutions and organizations. In this way, the institutions (the practices, the stipulations and the agencies) can generate at the same time stagnation, if this is to be wished according to the pressures exerted, and also development.¹²² In the case of the states that find themselves in a transitional process from the socialist system to a capitalist one, are visible the institutional modifications with a hybridized aspect: reminiscences specific to the older institutions – elements that are un/partially modified, with new elements, totally opposed and out of the area of the anterior practices and stipulations. In this case, such a superposition generates profound confusions and considerable hesitations regarding the continuation of the reformation process. This is why, in their evolution process, the governmental authorities and agencies, as public organizations, demonstrate the tendency to maintain or to create practices and procedures that might generate stability and security in the domain that they administrate.

Taking all this into account, this article describes the evolution of the transformations suffered by the institutions specific to the central public administration (CPA) from the Republic of Moldova with

¹²² Douglas North, *Institutions, Institutional Change and Economic Performance*, Cambridge University Press, 1990.

regard to a voluntary but conditioned conformation to the principles and acceptations of the governance. At the same time, eloquently speaking, the conditionings of the reformation of the central and local public administration can be identified also in the external pressures. For example, beginning with 2004 could be remarked the requirements, regarding the improvement of the internal public administration capacity, that EU imposed on the Republic of Moldova, which supposes the defining and consolidation of a specific area for the principles of governance. Throughout this article there are treated only certain aspects that are inherent to the process of creation of a horizontal cadre of governance, placing the accent mainly of the way of transforming the CPA from the Republic of Moldova. In this way, the analysis of the transformation process of the CPA is carried out from the new institutionalism perspective of a historical type and is followed by processes that regard transparency, public communication, citizen's involvement and the way in which the interested factors are implied. Therefore, in the first part it is followed a detailed conceptual development, and in the second part it is analyzed the voluntary conformation to the requirements specific to the improvements of the administrative capacity through the reformation of the central public administration. The case study demonstrates the fact that under the direct or indirect pressures of some internal actors or structures the reforms inherent to the creation of a cadre of governance can be implemented, in the beginning, in an aleatory, differentiated, diffuse and very difficult way.

Conceptual delimitations

For many European states, the governance acceptance signifies the totality of the potential mechanism and processes of relating the individuals and public institutions (central and local) in order to satisfy some necessities of the society¹²³. Still, the method of creating these mechanisms and processes, takes place in different manners. For example, through the governance concept the Anglo-Saxons states conceive the insurance of efficiency, efficacy and of the quality –price relation, making a full use of the institutions of trust and of the partnership between the participating actors. To define the concept of governance the *napoleonian* states (like France or Italy) place the accent on a bureaucratic – legalist approach. To ensure the coherence and efficiency of the making of policies, the attributions and interests of the entities that implement the policies are dependent on the central entities, the ones that have the power of decision. On the other hand, for the *Germanic* states, the concept of governance is equal to applying the rule of law, which is based on the subsidiary mechanism of inter-sectorial cooperation. In this way, in the case of the *Germanic* states, the attributions and interests of the entities that implement the policies are more important in comparison with the central entities. On the other hand, the *Nordic* states use the governance concept through favorising the negotiations between the governmental entities, regardless of roles and attributions, with the organizations that represent the citizens. In this final case, governance represents an inter-active framework of cooperation, consultation and social cohesion. Getting out of the typology synthesized above, it is clear the fact that it is difficult to adapt the notion to the administrative cultures specific to the ex-socialist systems, in which it is integrated also the case of the administrative system from the Republic of Moldova. In such a framework of administrative and political cultures, that find themselves in a transitional process, it is obvious why the concept of governance becomes so diffuse, with vague understandings, not only when it comes to the ideological and conceptual nuance, but also in the sense of bringing together the public areas. In a certain way, as Paul Stubbs underlines, in the ex-socialist administrative systems, from the Central and Eastern Europe,

¹²³ Robert Lovan, W.; Michael Murray; Ron Shaffer, (2004) (eds.) *Participatory governance: planning, conflict mediation and public decision-making in civil society*, Ashgate Publishing Company, pp. XV.

the understanding of the principles and practices of governance produces in a different and diffuse manner, arousing at the same time diverse anomalies regarding the west-European and American approaches over governance.¹²⁴ Still, the administrative systems from this ex-socialist area offer ‘*an extraordinary laboratory*’ in order to analyse the processes of transformation and adaptation to the new contexts of the realization of the public management and of the creation of the public policies. The study care demonstrates that putting into practice the principles of governance presupposes a radical transformation of the local and central public authorities that starts in the first place, from their democratization, continuing then with the process of conformation to the communitarian meanings in the domain of the improvement of the administrative capacity.

There are many ways in which can be analyzed the process of choosing a governance cadre, under all his meanings. If we analyze governance in an axial manner we will obtain two dimensions. The first dimension refers itself to the vertical governance: some types of public competencies pass from the central authorities’ level to the one of the local ones – process identified as deconcentration, decentralization, and devolution. Some authors, preoccupied for the study of governance did not hesitate to characterize this process as one of a jurisdictional transformation of the state. Therefore, Hooghe and Marks consider that such a jurisdictional transformation of the state produces itself in a fractured and contrasting manner but extends finally to diverse international systems, states and regions.¹²⁵ The authors identify two types of such a jurisdictional transformation that identifies itself through processes specific to the principles of governance that is to the participation and implication of the citizens. The first type refers to *general – purpose jurisdictions*, which are characterized by a small number of jurisdictions in which the tasks are diversified so as to respond to the necessities of making the administrative policies and undertakings. The second type refers itself to *task – specific jurisdictions*, which are proliferated in number and are specialized on the functional accomplishment of certain undertakings. Both types of governance guide themselves on *functional specificity, and also on flexible and policy specific architecture*. In the analyzed study case it is showed in which way produces the jurisdictional transformation based on the specificity of tasks with a view to the principles of governance and to the pressures of conformation to the obligations assumed in front of the EU.

The second dimension refers itself to the horizontal governance: yielding certain competencies to certain actors specialized and competent in certain public sectors and domains. In a certain manner, the authors from this area consider that this form of governance identifies itself with a profound reformation of the notions from the public management domain, a process that is identified through the paradigm known as New Public Management.¹²⁶ Metaphorically speaking, this form of governance determines a gradual minimization and disintegration of the state and places the accent on the improvement of the quality of services and public management. The dimension of horizontal governance encourages the apparition and development of nongovernmental entities identified as profitable organizations but also as non-profit ones specialized initially on diverse thematic areas and domains of policies that RAW Rhodes named firstly *policy networks*.¹²⁷ This is why, in order to generate a coherent, transparent and efficient framework of connectivity it must be developed an adequate legislation. Still, this presupposes an improvement of the administrative capacity in order to develop the aptitudes to identify clear objectives,

¹²⁴ Paul Stubbs, „Stretching Concepts Too Far? Multi-Level Governance, Policy Transfer and the Politics of Scale in South East Europe”, in *Southeast European Politics*, Vol. VI, No. 2, November 2005, pp.78.

¹²⁵ Liesbet Hooghe, Gary Marks, „Unraveling the Central State, but How? Types of Multi-Level Governance”, in *American Political Science Review*, Vol. 97, No. 2, May 2003.

¹²⁶ Mark Bevir, M., R.A.W. Rhodes, , Patrik Weller, „Traditions of Governance: Interpreting the Changing Role of the Public Sector”, *Public Administration*, Vol. 81, No.1, 2003, pp. 1-3.

¹²⁷ R.A.W. Rhodes, „The New Governance: Governing without Government”, *Political Studies*, Vol. XLIV, 1996.

to establish exact priorities, which are focused on the elucidation of the causes, and to make, in a pertinent and efficient manner, public policies. Taking all this into consideration, the transformation of the administrations through the principles of governance presupposes: reliability and predictability (the principle of legal certainty); openness and transparency; financial accountability (public justification of expenditures); efficiency and effectiveness; technical and managerial competence; and citizen participation.¹²⁸ Mostly, these principles are of reference also in the process of conformation to the EU requirements in the public administration domain. This is way these principles are incorporated in the conditions regarding democracy and human rights and only after these in the ones of economic nature. In the case study we will notice that the Republic of Moldova focalized mostly on the economic conformation and less on the one regarding the improvement of the administrative capacity, and naturally on the one regarding the democratization of the central and local public administration.

The particularities of the central public administration from the Republic of Moldova

From the declaration of independence on August 27, 1991, the organization of the Republic of Moldova was originally based on new marxist functionalist models, which gives the possibility of developing a liberal democracy.¹²⁹ Still, during the transition from the planned economy the market economy and also under the pressure of the desiderates to intensify the relations of cooperation with the EU and therefore to adhere to this polity, the system of organization of Moldova has known important modifications that correspond to the new pluralist models. Therefore, like other states from the region, there have been created contexts of hybridization of the models, superposed at the same time with institutions and processes that remained from the socialist period such as: systemic hipercentralism, sectorial organization, docility and bureaucratic politization, decisional opacity etc. this is way, once the processes of administrative reform were initiated, there were approached several measures that regard the systemic functionality, the way in which the normative acts are elaborated, the public policies are created and the competencies of the central and local public administration are established etc.

Because in the economic specific of the old Moldavian RSS didn't exist considerable sectors and industrial platforms, and the departments of production from the industrial and agricultural domain were of medium and small dimensions, these could be passed to a foreign entity rather easily. Consequently, this aspect acted as an impulse for passing from an approach of sectorial governance to a functional one that realized itself quite easily in comparison with other ex-soviet states.¹³⁰ Therefore, through this premise of reforming the CPA could be modified a few requirements regarding the way to implement the public policies and to realize the public management. Still, because the internal public area is of a patriarchal civic culture, and the effects of the democratic centralism are still actively present, the reforms were implemented rather on paper than in reality. This in way, at the moment, the administrative system of Moldova characterizes itself with a weak administrative capacity. Moreover, the perpetuation of a dominant political party that, in the first days of his governance, in the years 2001 – 2003, wasn't co-interested in the complete reformation of the central public administration. Initially, the dominant party created some counter-reforms regarding the administrative decentralization and deconcentration. For example, in 2003 was created the territorial - administrative counter-reform which meant passing from territorial – administrative unities of county-type (adjusted to the reference system NUTS that was implemented in 1998) to the reference soviet system – departments. Practically, this counter reform

¹²⁸ *European Principles for Public Administration*, SIGMA papers: No. 27, Paris, 1998, pp. 8.

¹²⁹ Ion Sandu, „The functionalist approach in the Republic of Moldova state”, in *Moldoscopia*, Nr. 3 (XLII), 2008, pp. 127.

¹³⁰ Sergiu, Palihovici, „Europeanization the Central Public Administration in the Republic of Moldova”, in *Moldoscopia*, Nr. 3 (XXXVII), 2007, pp. 33.

cancelled all the reforms implemented in the sense of democratization and improvement of the internal administrative system.

From the perspective of adapting the legal framework to the new tendencies in public administration and of creating public policies it is confirmed a diffuse finalization of the normative and legislative architecture. For example, even though one part of the legislation through which they create the reform of the central and local public administration is adopted and implemented according to the new premises specific to the intensification of the relations with the EU, its base is represented by a law dating from the soviet period - Law no 64 – XII regarding the Government, which was adopted in May 31, 1990. During the last two decades there have been added amendments to this law regarding the functioning of the new cabinets of ministers. Still, the principles, the competencies of the Govern, the way in which the Govern should act and manage his activity, remained mostly particular to the soviet system of administration. Therefore, the reformation of the central public administration took place mostly through the implementation of a series of incoherent measures that created the premises for incomplete and inconsequent transfers and adaptations of principles and requirements that have the purpose to generate mechanism specific to governance. This is way, even the best practices transferred and adapted are likely to fail even from the beginning because of the fact that the legislative architecture is not reformed but it is dominated by practices and mechanisms specific to an ultra centralist and in transparent acceptance that, at the same time, doesn't support the idea of the participation of the interested actors in the decisional process of creating the public policies. For example, transparency, as fundamental principle of assuring governance, is not a basic principle of the Govern's activities, being mentioned only as an activity practice at the organization of the Govern's activity section. Moreover, it may be ascertained that, during the last 8 years it has been remarked the predominant role of the President's of the Republic of Moldova Apparatus, which, through his own activity assumed competencies that belong to the one of the Govern and also of some Ministers of Line. Therefore, it has been created a sort of verticality of the power, with a limited number of decisional actors and a quite larger number of actors that transmit information to the executive agencies. In this way, the legislative and administrative propositions implemented more on the top-down principle, rather that on the bottom-up or the horizontal principle. Consequently, this pathologic way of functioning of the CPA made difficult the implementation of the strategies of structural and systemic reformation and those of improvement of the administrative capacity.

In the same context, it must be specified that the process of creation and consolidation of a viable community of public policies was realized rather late. The first expertise groups appear only to the end of the 90's, being developed mainly by the Soros Foundation. During the last decade the internal community of public policies has known important transformations, regarding both quality and quantity. These structures are more and more present in the activities of partnership with the central and local public authorities. They assume the responsibility to improve the normative and legislative framework, intensively control the evolutions from the domain of the central and local public administration reform. Therefore, with the help of these structures, the internal public administration capacity improves. Nevertheless, the central authorities, but mainly the local ones still show a sort of resistance to openness and avoid considering them equal partners in the processes of the realization of the public management and in those of improving the public administration.

To conclude this paragraph it may be specified that the administrative system from Moldova lacks a path dependency through which the CPA might follow a certain strategic objective – that of thorough closeness to the EU and, finally of adhesion to the European Union. In its first decade of independent existence, the Republic of Moldova didn't manage to democratize its central and local public administration and this is way it couldn't function according to the modern principles of the public

administration. In conclusion, neither the principles of governance can have the same meaning as in the west-European states.

Change through conformation: the role of the EU in the edification of a governance status in the Republic of Moldova

As we underlined in the anterior paragraphs the transformation of the government in Moldova occurs through the accomplishment of a declared desiderate: the thorough closeness to the EU, economically, politically and socially speaking. Therefore, for this to happen, Moldova voluntarily assumed a desiderate of internal structural and systemic reformation, inclusively in what concerns the improvement of the administrative capacity to assimilate and implement the *acquis communautaire* in diverse public domains and sectors.

The historic of the relations of cooperation between the Republic of Moldova and the EU have started in 1994 when it was signed the EC-Moldova Partnership and Cooperation Agreement. The agreement became operative only in January 1st 1998 and didn't mentioned political conditionalities through which Moldova could be directly constrained to reform and to adapt its internal policies to the *acquis communautaire*. The document was rather enunciating the necessity to create a corresponding framework of political dialogue between the actors than presuppose the interiorization of a series of principles and ideas of reformation of the internal public administration for the improvement of the administrative capacity. From 1998 to 2003 the relations between EU and Moldova functioned mostly on the basis of this Agreement and this is way the pressures of conformation in the process of reforming the internal public administration came from other parts rather than from the EU. Therefore, an eminent role in the initiation and continuation of the public administration reform through the principle of governance was represented by the Council of Europe, UNDP, the World Bank, and some other donor organizations like the SOROS Foundation, EuroAsia Foundation etc. Evidently, the EU role in the improvement of the administrative capacity evidenced through the implementation of projects financed by Technical Aid to the Commonwealth of Independent States –TACIS.

If in the first phase of the cooperation between EU and Moldova it wasn't find the express conditionality for the improvement of the administrative capacity through the implementation of the principles of governance, we can find it stipulated in the second phase, that starts in 2004, when began the negotiations for signing the EU-Republic of Moldova Action Plan. EUMAP was signed by both parts in January 22, 2005 for a period of 3 years. This document signifies a first instrument of relation of the EU with Moldova through the European Neighborhood Policy (ENP). Although ENP doesn't offer the possibility of the EU's extension, still allows an open cadre of creating relations with the EU in domains like the economic integration, the technical assistance in the implementation of the structural reforms, the improvement and consolidation of the political dialogue etc. in the short evolution of the ENP it has already been distinguished a flank of the EU's neighbor states that might have a potential to adhere to the EU and states that don't have this potential, especially the North-African states. This is why, for the Republic of Moldova, ENP signified a first opportunity to demonstrate its capacity of internal transformation so that to further aspire to the status of candidate to adhesion. In this sense, the first document of bilateral relations was EUMAP and the constraint of respecting its stipulations is of a voluntary type.

Since it is not a juridical document, the constraints are rather internal, for the durable economic and political development of the Republic of Moldova. Metaphorically speaking, in the case of this constraint it can be applied the saying "stick and carrot". Still, procedurally speaking, and taking into account Moldova's particularities this voluntary constraint was engaging the EU into a thorough

closeness of the relations, in a progressive and conditioned way, with the reforms and also the quality and pertinence of the implemented reforms. From a strategic perspective, this context could offer the perspective of creating a genuine dependence of path in the adherence to the EU, even though at that moment the official position of the EU was focalizing only on a relation of cooperation and partnership. Therefore, on one part, such an approach was offering the possibility of Europeanization of the internal administrative and public area so that this could be genuinely prepared to bring closer the relations with the EU and even to access the status of a candidate state in a relatively short time. On the other hand, having the experience of the 2004 and 2007 extensions, EU presented itself as being rather fatigued when it came to initiating new processes of bringing closer the Eastern states with a view to new adhesions. Therefore, the Neighborhood Policy proved to be a convenient instrument for both parts, EU and the Republic of Moldova, even though the initial burden fell over the beneficiary of the instrument. At the moment of the negotiation and signature of the EUMAP it was hoped that through the internalization and implementation of the stipulated requirements, the internal reforms will be created in a clear view to the principles of governance. The hope was fed also by the regional context from that time and by the availability of the political power to accept the respective constraints. Rejecting the Kozak Plan of solving the transnistrian conflict through the federalization of the Republic of Moldova, proposed by the Russian Federation in 2003, brought significantly the internal debate closer to the EU and to the establishment of the adherence aspirations to this polity. This option guaranteed in a certain manner the territorial integrity of Moldova. In this context, it must be specified that the authorities from the Republic of Moldova accepted the EUMAP provisions also due to the economic blocking that was created in 2004 and amplified in 2005 and 2006 by the Russian Federation.

EUMAP contained more than 300 actions framed in 80 objectives and qualified in 7 chapters that tackle diverse sectorial and transversal areas like: Political dialogue and reform; Co-operation for the settlement of the Transnistria conflict; Economic and social reform and development; Trade-related issues, market and regulatory reform; Cooperation in Justice and Home Affairs; Transport, energy, telecommunications, environment, and Research, development and innovation; People-to-people contacts¹³¹.

Undoubtedly, all the actions stipulated in the EUMAP are viewed by the EU through the principles of governance. In this way, starting from the premise that the European Neighborhood Policy is an instrument to relate with the tertiary states from its immediate neighborhood, it guides itself after the logic that for a coherent and efficient dialogue it is needed firstly to create the premises for the setting up of a context specific to the principles of governance. This logic is confirmed also by paragraph 3 of the Commission Communication on Governance and Development that stipulates the fact that „*governance is a key component of policies and reforms for poverty reduction, democratization and global security. This is why institutional capacity-building, particularly in the area of good governance and the rule of law is one of the six priority areas for EC development policy that is being addressed in the framework of EC programmes in developing countries*”¹³². Therefore, the principles of governance find themselves in a transversal manner in all the 80 objectives of the EUMAP. In his essence, this document might be considered a fundament to consolidate the capacities of the public institutions from the Republic of Moldova through the interiorization of the practices specific to governance and Europeanization.

Differentiated and mimed conformation

¹³¹ European Commission, EU/Moldova Action Plan for 2006 – 2008.

¹³² European Commission Communication on Governance and Development, COM(2003)615 final, paragraph 3.

Just like in the other Action Plans signed by the EU with the states included in the ENP, the specific of the EU-Republic of Moldova Action Plan stays in assuming the task to create ample structural reforms in all the public sectors, but without EU offering a certain remuneration that would mean according the status of a candidate state to the adhesion. In a certain way, this aspect proved not to be understood by the governmental authorities from Chisinau. This is way the central public authorities weren't motivated to guide their politic volition to the adequate assuming of the previsions of this document. Certainly, the governance of Moldova from that time waited much more from the EU. On the other hand, the public speeches of the moldavian officials for the public citizens really offered even deadlines for the adhesion to the EU, creating in this way the sensation of the existence of a path dependency. Nevertheless, it is obvious the fact that the political power from that moment was conscious of the fact that an eventual internal structural and systemic reformation would lead to the erosion of the power that it had in his hands. Therefore, after only a few months from signing the document, it has been noticed that applicably speaking, the acceptance started from the premise that the internal structural reformation can be mimed, especially because the principles of governance were and are still totally opposed to the practices and acceptations of the political power. In this sense, the political volition axed on the miming of the of the internal reformation process, especially since EU was guaranteeing the allocation of some financial stimulants through diverse communitarian programmes and initiatives. This is way, the reforms assumed through EUMAP were slowed down and fulfilled in a partial and differentiate manner, in dependence of sectors and areas of interest. For example, after the expiration of the Plan's previsions and of the supervising effectuated by the Govern of the Republic of Moldova, by the internal civil society and by the European Commission it can be affirmed the fact that the dimension of the economic reforms registered bigger progresses in comparison with other dimensions of the structural reforms.¹³³ This can be explained through the fact that the authorities were co-interested in bringing closer the relations with the EU more on the economic path. For example, one of the economic desiderates consisted in obtaining some Autonomous Commercial Preferences from the part of the EU and this is why was impelled the process of adequate implementation of some economic reforms of conformation to the conditions scheduled by this status. In 2007 the Moldavian authorities managed to obtain the Autonomous Commercial Preferences from the EU, these becoming applicable starting with March 2008. For example, in 2008 the percentage of the exports made by Moldova in the EU-27 was 51%, and the economic analysts foresee a growth and a diversification of the exports inside the EU-27.¹³⁴ Therefore, it has been demonstrated that in the context of a certain of external economic pressures (the commercial embargo of the Russian Federation during the years 2005 - 2007) it was generated a premise for the establishment of a dependency of path, in the sense of making stronger the relations of economic integration. In this way, the governmental authorities demonstrated that they dispose of a political volition in the economical dimension and therefore focalized on the realization of a series of conformation reforms in the domain of making stronger the commercial relations with the EU. Nevertheless, this aspect indicates the fact that on the other dimensions, the political power preferred not

¹³³ Segiu Bușcăneanu (edit), *Moldova and EU in the framework of European Neighbourhood Policy. Implementation of the EU-Moldova Action Plan (February 2005 – January 2008)*, Arc, Chișinău, 2008, pp. 88.

¹³⁴ For example, in 2007 the percentage of the exports made by Moldova in the EU-27 was 50,7%, that represent: a quota of 26,5% to UE-15, a quota of 17,8% to Romania and Bulgaria and a quota of 6,4% to a rest CEE states. From total exports made by Moldova in the EU-27 they effectuate in the next five states: Romania, Italia, Germany, Poland and United Kingdom. To see: Valeriu Prohnițchi, Alex Oprunenco, Ana Popa, Matthias Luecke, Mahmut Tekce, Eugen Hristev, Georgeta Mincu, and Victoria Vasilescu, *A Free Trade Area between the Republic of Moldova and the European Union: Feasibility, Perspectives and Potential Impact*, Expert Grup, Chișinău, 2009, pp. 42-43.

to focalize only because of the erosion of its own political power and stability. This demonstrates undoubtedly a fault of a democratic culture regarding the governance alternation.

Conformations in the administrative capacities improvement

As regards the improvement of the administrative capacity through the reformation of the CPA and the interiorization of the requirements that regard the governance of the public policies and institutions, EUMAP stipulated the two following priorities: „*further strengthening the stability and effectiveness of institutions guaranteeing democracy and the rule of law*” and „*further reinforcing administrative and judicial capacity*”. In this way it can be noticed that EU desires to observe the conformation of the Republic of Moldova firstly through the democratization of the CPA, utilizing therefore in a fully manner the principles of governance. In this way, from the EUMAP content can be enounced a few actions afferent to the improvement of the administrative capacity through the reformation of the public administration:

- *Continue administrative reform and strengthening of local self government in line with European standards, notably those contained in the European Charter on Local Self government and drawing in particular on the expertise and recommendations of the Congress of Local and Regional Authorities in Europe, including with regard to management of local budgets by local administrations and attribution of budgetary competence (resources to match responsibilities);*
- *Take concrete steps to improve public expenditure effectiveness, transparency and accountability in consultation with IFIs/EU experts;*
- *Promote the development of appropriate administrative capacity to prevent and fight effectively against fraud and other irregularities affecting national and international funds, including the establishment of well-functioning co-operation structures involving all relevant national entities.*

Due to the fact that EUMAP didn't stipulate certain consequences, identified as penalties or stimulants, the application of the document's requirements as regards the reform of the CPA for the improvement of the administrative capacity was made in a diffuse and hardy manner. There could be remarked three categories of attitudes regarding the way of accomplishing the reforms that regard the improvement of the administrative capacity. The first category refers to the attitude that manifested the governments and the central public authorities that took this process more like a general action integrated in other strategic documents of internal programming. A second category refers to the attitude manifested by the civil society and by the internal community of public policies that expected that the process of reformation would be implemented adequately, efficiently and pertinently. According to this category of actors, the effects of the CPA reform would have been perceptible, quantifiable, and at the same time that they would create an ample internal structural and systemic reform. The third category of attitudes was manifested by the international organizations and institutions, especially by the EU that, during the last few years appreciated the evolutions of the central and local public administration reform. Still, on the other hand, these didn't hesitate to underline the fact that the results obtained are still insufficient, especially that the putting into practice of the adopted normative and legislative acts represents a permanent concern, and this is way it is needed a continuous and assiduous consolidation of the internal administration's capacities.¹³⁵ Mostly, the attitudes of the governmental authorities prevailed in comparison with the other two categories of attitudes, so that the reform process was tergiversated and

¹³⁵ Segiu Bușcăneanu (edit), *Moldova and EU in the framework of European Neighbourhood Policy. Implementation of the EU-Moldova Action Plan (February 2005 – January 2008)*, Arc, Chișinău, 2008, pp. 40.

implemented through tactics that avoid the principles of governance: transparency, implication of the civil society and information of the citizens.

Analyzing the accomplishment of the activities specific to the objectives that regard the consolidation of the administrative capacity stipulated in the EUMAP it can be affirmed that the authorities firstly demonstrated mettle of reformation, elaborating and adopting a few documents in this sense. For example, on December 25th 2005, the Government approved through Governmental Decision no 1402 the Strategy of Reforming the CPA. This strategic document was meant to realize a reform of the CPA through the adjustment to the modern principles in the public management domain. Therefore, the strategic document stipulates the reformation of the CPA through the reorganization of the central public administration's authorities; the optimization of the decisional process; the improvement of the human resources management; the improvement of the financial resources management. Still, the reformative mettle diminished in intensity so that the implementation of the reforms that regard the improvement of the administrative capacity stagnated or have even known antagonist evolutions with a view to what stipulated the EUMAP. For example, the detailed Plan of implementation of the Strategy of reforming the CPA was approved only in January 18th 2007, through the Governmental Decision no. 54. Moreover, during the implementation period of the EUMAP was remarked the fact that the reform of the CPA was decoupled from the process of conformation with the EUMAP requirements.¹³⁶ Even though the activities were similar, the specialized authorities didn't perceive this aspect, which give birth to two parallel processes and contributed to making difficult the reformation process and to an adequate understanding of the reformation tasks.

A first evaluation of the manner of implementation of the Strategy place into evidence the maintenance of two problematic aspects: the reform plans are not included into a strategic framework; some functions and roles of certain ministries and central authorities superpose and are not clearly defined; the tergiversation of the elaboration and defining of a methodological framework of the documents of public policies; the system of reporting in the CPA remains quite inefficient and hardy, there are not elaborated and applied evaluation criteria of the performance of the civil servants and of the stimulants afferent to these performances. On the other hand, the synthetic Report for the implementation of the CPA reforms for the years 2006-2008, reveals the following problematic aspects:

- *Resistance on the part of some civil servants and central specialized bodies because no positive message regarding the CPA reform had been launched. Sometimes the CPA reform was seen as the reduction in number of civil servants;*
- *Not all the central public administration authorities implemented in due time the actions needed to modernize the CPA and did not provide in time and in the requested form the information necessary for the national record keeping;*
- *There were no capacities for absorption of the donors' financial resources, which lead to delays in the procurement of services.*¹³⁷

It must be specified that the new legislative cadre assumed through the Strategy of the CPA reformation entered in vigor only in January 1st 2009, which represents a significant delay from the initial plan that was elaborated and adopted in 2006. The new legislative cadre includes the Law regarding the Comportment Code of the Civil Servant,¹³⁸ and the Law regarding the public function and the civil servant's status¹³⁹. In the same context, in 2008 was adopted and entered in vigor the Law

¹³⁶ Iulian Frunțașu, Olesia Koval, (eds.), *From EUMAP implementation to policy making*, Cartier, Chișinău, 2006, pp. 29.

¹³⁷ Government of the Republic of Moldova, *Brief report of implementation of the Central Public Administration Reform Strategy for 2006-2008*, Policy and External Assistance, Coordination Division, Chișinău, 2009, pp 13.

¹³⁸ Law nr. 25-XVI from 22.02.2008.

¹³⁹ Law nr. 158-XVI from 04.07.2008.

regarding the conflict of interest. These Laws have the objective to assure professionalism, competence, impartiality, transparency and efficiency in the activity of the public servants. In this way, the implementation of the provisions of these laws will assure the augmentation of the quality of the public services, but also of the credibility of the public institutions, generating therefore an adequate framework for the implementation of the principles of governance. Consequently, it may be considered that the appliance of the new normative and legislative framework is tardy, as concerns the initial provisions, assumed involuntarily through the adopted reformation acts. At the same time, various experts affirmed that the tergiversation doesn't need to be blamed only on the CPA subordinate to the government, but rather on the legislative that has the tendency to obstruct and make difficult the process of adopting legislative acts. Furthermore during the last few years it has been observed that the legislative institution wasn't implicated plenary and efficiently in the process of the improvement of the internal administrative capacities through an adequate parliamentary control. Therefore, the reformation process is let in the influence sphere of the executive power that reformates "all alone", most of the times through spontaneous indications¹⁴⁰ and emerged actions controlled by the Apparatus of the President of the Republic of Moldova.

On the other hand, many non-governmental organizations and consortiums of the civil society that engaged in the process of supervising the way of accomplishment and implementation of the EUMAP requirements and of those of the Strategy of the reformation of the CPA affirm the fact that besides the inherent aspects of the administrative act are coming into the limelight aspect that regard: the transparency of the realization of the public management process, the consultation with the civil society and with the interested citizens, periodical communication, the application of the evaluation practices of the implemented programmes and policies, the depolitization of the administration, the eradication of the conflicts of interests and of the corruption acts, public accountability. Consequently, making a summary analysis of all the reports and studies realized by the internal civil society and by groups of experts from the internal community of public policies, results that the reforms are tergiversated, the new normative and legislative provisions are applied in a faulty manner, and the fundamental principles of the governance are avoided, sometimes even in a conscious manner. Taking all these into consideration it must be specified the fact that the native civil society and also the internal community of public policies much more active and prepared as regards the supervising of the local and central public administration, and also the participation in the process of consultation and stimulation of creating the reforms. On one hand, the internal administrative capacity becomes stronger indirectly through the civil society's support and stimulation. On the other hand, it is to be appreciated that the civil society and the groups of independent experts become more and more visible and engaged in the processes of partnership with the local and central public authorities. This is undoubtedly an advantage of reciprocal learning but also a framework of gradual transposition of the principles of governance into the process of making the public management.

To conclude this paragraph, it must be specified the fact that mostly, the way of conformation to the EUMAP requirements depended of the political volition developed by the authorities from the Republic of Moldova.

Diffuse interpretations over transparency in the processes of making policies

¹⁴⁰ Segiu Bușcăneanu (edit), *Moldova and EU in the framework of European Neighbourhood Policy. Implementation of the EU-Moldova Action Plan (February 2005 – January 2008)*, Arc, Chișinău, 2008, pp. 42.

During the implementation of the EUMAP it could be observed a certain reticence of the public authorities when communicating and consulting with the internal civil society, the interested factors, the citizens' groups and initiatives regarding the way of reforming the central public administration. Practically, the public authorities responsible for making the policies of conformation to the communitarian requirements in the administrative capacity domain preferred to create the reform in a unilateral manner enjoying even, in certain cases, the evasive status demonstrated by the legislative institution. The responsible authorities limited themselves to miming processes of consultation with the non-governmental actors interested in the reformation process. On the other hand, mass-media benefited mostly from filtrated, diffuse information, that were given on preferences of political loyalty. Still, it was noticed that the civil society and the internal mass-media became much more active and decided in implicating themselves into the process of supervision and information of the wide public as regards the improvement of the administrative capacity through the reformation of the local and central administration.

Even though there exist a law that settles the access to public information, from 2000 – it is the first act of this type from the states of the old Soviet Union, the non-governmental organizations indicate the fact that after the supervising processes realized in the last years it has been observed that the public authorities from the Republic of Moldova act refractory regarding the solicitations of the interested factors.¹⁴¹ Therefore, these solicited to the executive and to the legislative to adopt a normative and legislative framework of transparency, the hat would create the premises for transforming the governance and applying its principles.

Solicited in 2004, the law that settles the procedures specific to assuring transparency in the decisional process came into force only in March 5th 2009. Mostly, the law is a gain of the civil society from the Republic of Moldova because it managed to impose certain points of view regarding the way of assuring the transparency practices and the ones of the participation of the interested factors in the decisional process. Fundamentally, this law creates real premises for the initiation of a series of systemic and functional transformation of new pluralist origins. Nevertheless, it must be specified that this law settles in a limited manner the assurance of transparency in the consummation of the administrative act because it refers only to a phase of the cycle of making the public policies – the decisional process. The other phases of the cycle (establishing the agenda, formulation, implementation and evaluation of the policies) are omitted to be settled in a unitary manner. This fact only indicates the unavailability of creating a transparent and participative framework for making the public policies. In this way, the transposition of the conditionality of creating a transparent decisional framework, responsible to the citizens is effectuated in a fractured and refractor manner. In the actual case of the Republic of Moldova, it can enjoy the existence of some quality practices from the states that have recently adhered to the EU, states in which the legislation regarding transparency is viewed in a unitary manner. There are also cases in which this aspect is settled in a limited manner, like Romania (Law no 52/2003). Moreover, the victory of the civil society was neutralized by the adoption of the Law regarding the secret of state that would endanger the way of implementing the Law of transparency in the decisional process, and also the Law regarding the access to information.

Furthermore, the aspects of consultation with the civil society and the thematic communities of policies are not mentioned in the Law regarding the Government, although the Govern of the Republic of Moldova created in 2008 a Council of Consultation with the Civil Society. At the moment, it is noticed that the Activity of this forum of consultation is not put into the limelight how it should be and that the

¹⁴¹To see: the Annual Report on evaluation of the public information access in the Republic of Moldova, elaborated by Acces-info Centre, Chişinău, January 2009, the document in accessible in electronic version at: <http://www.acces-info.org.md>.

mechanism of consultation was implemented more for conforming to the conditions stipulated in the strategic documents afferent to the improvement of the administrative capacity.

Conclusions

Taking into account the type of the relations between the Republic of Moldova and the EU, the Union developed neither a prescriptive approach nor a prohibitive one. It guided itself more after an approach of developing the cadre-policies, based on the progressivity of conformation for the preparation of the field in view to the future documents and policies of bilateral relationships. There are expected to be much more compelling and oriented on great structural and systemic modifications. For the moment, it is very important that the legislative area, as regards the improvement of the administrative capacity was elaborated and came into force, even though there were registered significant delays and a sort of intransigencies regarding the sociocentric the desegregation of the public management. Therefore the principles of governance fundament these normative and legislative stipulations and offer a framework of internal transformation for the democratization and Europeanization of the public sphere. From now on, it depends on how participative the civil society will be, the internal community of public policies, the groups of interested citizens, and also the private space in utilizing this normative and legislative framework. Undoubtedly, the normative and legislative framework created can be improved through supervising and continuous and cyclical evaluations, but, from now on, the reform of the public administration must be regarding through a conformation that should make efficient the process of negotiation with the EU and contribute to an eventual association to the EU and finally to a negotiation of adhesion. Although, timely speaking, these processes can take place quite rapidly; we should take into consideration that the regional acceptations over the way of accomplishing the conditionalities don't correspond to the ones applicable in the communitarian public area. This is why, after putting into practice the new normative and legislative framework in the CPA domain, the principles of governance will facilitate the unwinding of the necessary transformations for the adaptation and conformation to the rigors imposed by the adhesion criteria; firstly, those that regard the accomplishment of the conditions regarding democracy and the human rights. Although, what happened after the parliamentary elections from April 5th 2009 demonstrate the contrary, the process of bringing closer the Republic Of Moldova to the EU is though an irreversible one and depends on how rapid the citizens themselves would be or how will take place the internal transformations in its way of becoming a member state of the EU.

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