

THE RIGHT TO INFORMATION IN THE CONTEXT OF E-GOVERNMENT TRANSFORMATION

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Abstract

During the last years the concept of electronic government (e-Government) and open government gained more and more popularity, the latter ceased to be used only as a synonym of decisional transparency, but also became an effective instrument for ensuring the right to information. In conditions of a democratic society, citizen isn't any more only a passive beneficiary. He turns into a genuine participant and sometimes a supervisor of public service provision process. The level of access to information and satisfaction of the provided services represents the litmus test of the quality of the activity carried out by the government.

The principles of open government acquire a special importance as a guarantee of access to public information. In this article the author will decipher the concept of transparency and access to information in the context of e-Transformation of the government and will analyze the compatibility of the mechanisms and resources offered by Information Technology with the communication between public administration and citizens and provision of public service in the virtual world.

Keywords: right to information, transparency, e-Transformation, e-participation, open government, open data, electronic means of communication

In the last two decades Informational technology has become an indispensable part of contemporary society and the Internet – a virtual projection of the real world. Global network represents the biggest storage of information, a commercial tool, an entertainment platform, a communication tool and, why not, an alternative environment where public administration activates and offers public services to citizens. That's why we consider that electronic communication means which are currently used by public administration and those which can be theoretically used need a detailed analysis, because they represent a unique and the most significant ways of interaction between public administration authorities, civil servants and citizens in the digital environment.

The Internet is an almost inexhaustible source of information accessible to any person regardless of any chronological limits, the geographical location of user, and level of education or income – an idea which explains the tendency of government to digitize its work. Due to Information Technology, the distance between the governors and the governed can be considerably reduced, because in virtual environment just one click separates them. So, citizens get the opportunity to analyze and supervise "the internal kitchen" of public administration authorities directly, in real time regime, anywhere and anytime they want. In this regard, the main instruments or electronic means of communication are: *official websites* of public administration bodies and their subordinate authorities and, more recently, their *profiles in social networks*. Nowadays computer and Information Technology has become an indispensable attribute of the contemporary society. New technologies, software and web applications have been developed to the level that allow various activities. This fact can be easily used in public

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administration. Internet offers the opportunity to every citizen to obtain information about public authorities, actions carried out by them, their structure, public services provided and the procedure in which they can benefit from a service or another etc.

The Government of the Republic of Moldova is trying to keep up with innovations and increasingly uses IT in its daily activities. Technologies improve the quality of public services, increase the efficiency of the government's activity and facilitate democratic participation by bringing the government closer to the citizens. Application of Information Technology in public administration sphere undoubtedly has a positive effect; it catalyzes efficiency and transparency of the government's activity and increases the sensitivity to people's needs and its ability to meet them. That is why the implementation of innovative technologies is an important precondition for improving public administration activity, for an ample satisfaction of the public interest and for achieving European integration aspirations.

The Government makes great efforts to achieve this goal. Thus there were adopted a number of laws that regulate modalities of application of Information Technology in the public administration sphere, including the provision of public services; in 2005 was created a ministry that elaborates and promotes policies in TI as well as in public administration – the Ministry of Information Technology and Communications¹; there was created a specialized institution – Center for Electronic Governance which is responsible for the development of information society in the Republic of Moldova, the provision of high quality public services to citizens as well as ensuring the implementation of electronic services in various sectors; there were launched a series of public services which may be provided in whole or in part in digital form. E-transformation has brought more efficiency in terms of administrative transparency, through the launch of open data concept.

Due to titanic effort of the Government of the Republic of Moldova in the field of public administration reform and digitization of its activity, the concept of e-government acquires a well-defined contour, which is realized via computer and/or other technical equipment and telecommunications networks, designed to process, storage and exchange the information in electronic form. By transposing in life of *e-governance* and *e-democracy* Moldova will realize the right to information and communication as a fundamental right of the citizen, will ensure universal access to information and knowledge for all social groups, will support access of individuals and organizations to information and knowledge in all areas of social life². For this purpose the Government of Moldova is obliged to respond to a series of challenges and to take numerous actions to diversify the means of informing citizens, to encourage development of Information Technology and to provide appropriate legal and institutional basis for these needs. Thus, the edification of the information society in the Republic of Moldova aims to provide sustainable human development based on social justice and equality of opportunity, freedom, and cultural diversity, civic and scientific progress, by implementation of information and communication technologies in all areas of social life.

¹ Simboteanu Aurel, *Administrația publică: prin reformare spre modernizare*, Chișinău, CEP. USM, 2013, p. 265.

² Hotărîrea Guvernului Republicii Moldova nr. 255 din 09.03.2005 privind Strategia Națională de edificare a societății informaționale „Moldova electronică”//Monitorul Oficial al Republicii Moldova nr. 46-60 din 25.03.2005.

The society is in a continuous process of development, which inevitably involves continuous changing of the needs of citizens and diversification of the requested public services through which public administration meet these needs, as well as changing ways through which these services are provided to beneficiaries and modification of the conditions under which they are provided. Currently, public service beneficiary has no longer a passive role; he turns from an apathetic consumer into a real supervisor, and possibly a participant in the delivery process. Conceptul de transparență reflectă cel mai bine această idee. The concept of transparency reflects the best this idea. According to Law no. 239-XVI from 13.11.2008 on transparency in decision making process, transparency involves providing by public authorities of all information on their activity and consultation of citizens and of associations formed in accordance with the law, and of other stakeholders in the development and decision-making process, in order to inform them openly and explicitly³. In the specialized literature administrative transparency is explained allegorically by comparing it with a “glass house”. In current conditions, the principle of consent and knowledge are essential in a democratic system of governing citizens, so, we consider that the “glass house” must be based on three pillars:

1. *The right to know* everything what is happening inside the public administration, as long as it must serve citizens and the purpose of its activity is to satisfy the public interest;

2. *The right to check* the conformity with the law and the appropriateness of administrative decisions; the forming process and management of the public budget; and last but not least, the quality of provided services;

3. *The right to participate*, to be not so much an administered subject, as a user of administration, a real participant and not a passive spectator. In this regard the public service delivery process involves a feedback materialized not by a payment (because public administration doesn't aim profit, but aims to achieve public interest), but by a reaction from the beneficiaries to the efficiency of public administration and to the quality of provided services.

Contemporary standards imposed by modern society imply that public administration authorities must operate in accordance with generally recognized principles of countries claiming the status of being democratic, in which rule of law is respected, as well as citizens' rights. The principle of transparency as a fundamental principle public administration activity with its derivative – the principle of consulting citizens, just like right to information and its derivative – the right to participate in public affairs, are enshrined by international law: the Universal Declaration of Human Rights Declarația Universală a Drepturilor Omului, the European Convention of Human Rights, the European Charter of Local Self-Government; also they are enshrined by national law: Constitution of the Republic of Moldova, Law on transparency in decision making process, Law on access to information, Law on local public administration etc. Therefore, access to public information and transparency in activity are an important precondition for the existence of a genuine democracy and for the satisfaction of general interest.

However, we should not overlook the possible obstacles that may hinder realization of the open governance in terms of guaranteed access to information, which we should mention:

³ Legea privind transparența în procesul decizional nr. 239-XVI din 13.11.2008//Monitorul Oficial al Republicii Moldova nr.215-217/798 din 05.12.2008.

1. Lack of civic education and the mentality of "homo soveticus", which still is characteristic for both citizens and public servants in the Republic of Moldova;
 2. Timidity, aggression and lack of trust or availability to communication;
 3. Lack of opportunities to inform the public in a timely manner;
 4. Lack forms of information and consultation of citizens;
 5. Lack of interest, apathy and inertia of governors and governed;
 6. Reduced possibilities to solve the needs of beneficiaries, the discrepancy between their expectations and opportunities to meet them;
 7. Lack of appropriate forms of presenting the information by appropriate means in a language accessible to people;
 8. Accesul limitat la informație al cetățenilor și distorsionarea realității de către presă
- Limited access to information for citizens and the vicious tendency of media to distort reality⁴.

To reduce/remove these obstacles, Ioan Alexandru proposes some solutions that can be summarized as: creating an appropriate legislative framework and training citizens in the sphere of rights and opportunities to participate in the administration of public affairs; training of the personnel of public administration authorities; conducting public awareness and civic education; improving the relationship with mass media and involving it to the actions organized by public administration; and perhaps the most important solution to annihilate the obstacles in transparency, in the context of this article is *informatization*⁵. In this regard, we support the idea of the researcher, because we think that placing the information in global network about activity of public administration and about provided services in either classic or digital form offers a number of advantages. Moreover, we consider that this is the easiest, inexpensive and effective way to provide access to information and to promote the prestige of public authorities. We should mention that the information disseminated online is quickly placed; is actual; isn't distorted or interpreted as it is posted by the first source; is open to all categories of users; can be accessed anywhere, from any device (PC, laptop, netbook, tablet, mobile); may be presented in any format such as audio, video, in the form of press releases, videoconferences, instant messages in social networks, or messages delivered by subscription via newsletters etc.

In Moldova the possibility of public administration authorities to have official web sites was regulated for the first time in 2012, although of course, before then some of them had their own websites. To meet the current requirements regarding compliance of public administration to innovations in the sphere of Information Technology, there was adopted a specialized normative act – the Government Decision on the official websites of public administration authorities in the Internet. It was designed to increase the level of transparency of public authorities and public access to information through the official websites of public authorities in the Internet. According to the Government Decision no. 188 official website is the totality of official information in electronic form and of interactive means of dialogue which public administration authority provides to the

⁴ Alexandru Ioan, *Administrația Publică. Teorii. Realități. Perspective*, București: Ed. Lumina-Lex, 1999, p. 117.

⁵ Alexandru Ioan, *op. cit.*, p. 278.

citizens in the Internet⁶. And to regulate the activity of public authorities in social media in 2013 Center for Electronic Governance has developed “Guideline for use of social networks in the public sector”. This document was realized with the support of “The Research Foundation of State University of New York” and financial support from American Embassy in Moldova. The Guideline was consulted with civil society representatives and with Government’s communicators and is recommended to central public administration bodies⁷.

But what actually represents the concept of “*open data*” and “*e-participation*”? The Constitution of the Republic of Moldova guarantees the right to information and the right to participate at public affairs, and also expressly provides the principle of consulting citizens as a fundamental principle of local public administration authorities’ activity⁸. All these rights are actually some manifestations of participatory democracy, which can be approached as a continuous dialogue with the citizens or as a continuous relationship between the governors and the governed, between public administration and public service beneficiaries. Ideally, each and every citizen must be ensured with the right to participate in decision-making process, but in reality this thing can’t be always realized. Information Technology and new means of communication between the administration and citizens may attenuate this deficiency, ensuring public access to information related to public affairs and the citizens’ right to express their opinions on them. That is why the State Chancellery along with the National Council of Participation has proposed to facilitate the “dialogue in the virtual environment” by launching the website www.particip.gov.md, on which are placed drafts of normative and policy documents⁹.

In regard of open data, Government of the Republic of Moldova and Center for Electronic Governance in partnership with ministries, state agencies and other specialized public administration authorities are working hard to collect and publish all open data in one place on a existing in electronic format single window. The purpose of this institution is to identify areas with low transparency and less information available and to publish more data on-line¹⁰. Free access to digitized information of public character is an innovative initiative within governments, civil society and the communities of IT worldwide. It is about placing online government data in standard formats (extensions .doc, .xls, .pdf). Project Open Data was launched with the goal of bringing public administration closer to the citizen. Therefore the activity of public authorities becomes more transparent and citizens can actively participate in decisions-making process. This project concerns only on non-sensitive public data, considering that some government data are of major importance for national or personal security (there are certain prohibitions established by law on access to information, state secret and personal data). The tendency to make government’s activity more transparent is both

⁶ Hotărîrea Guvernului privind paginile web oficiale ale autorităților administrației publice în rețeaua internet nr.188 din 03.04.2012/Monitorul Oficial al Republicii Moldova nr.70-71 din 06.04.2012.

⁷ <http://itmoldova.com/2013/02/04/cge-pune-in-circulatie-ghidul-de-utilizare-a-retelelor-sociale-in-sectorul-public/>.

⁸ Constituția Republicii Moldova din 29.07.1994 (Monitorul Oficial al Republicii Moldova nr. 001 din 12.08.1994).

⁹ <http://particip.gov.md/pageview.php?l=ro&idc=474>.

¹⁰ <http://www.egov.md/index.php/ro/solutii-pentru-cetateni/platforma-datelor-deschise>.

common to highly economically developed countries, and for developing ones or for those which are in the process of transition, which include also the Republic of Moldova.

According to the data of the global organization Open Knowledge Foundation (founded in 2004, which is the first organization to define what is open data, a definition that is now recognized and used in the field of “open government”), provided through the Open Data Index, the Republic of Moldova is ranked on 12th place with a score of 530 points, from 70 states by the transparency of government. It is important to mention that Moldova is the only developing country among such developed countries as UK (1st place with 940 points), USA, Denmark, Norway, Australia, Canada etc.¹¹ We should also mention that the Open Data Index represents a structured mode of presentation of the international project Open Data Census held on 28 October 2013 and is realized in the form of a global census, which was organized to collect and present information on open data in the different countries around the world (in terms of geographical position and level of economic development), to encourage the deployment of an effective dialogue between government and the citizens worldwide.

The access to information and administrative transparency acquires increasingly importance, especially because the means by which they can be achieved diversified so much. However, regardless of the chosen means the main purpose of public administration authorities which they pursue is to ensure citizen's right to information and the right to participate at administration of public affairs. In conditions of a democratic state there should be ensured the right of the public to be consulted on matters of major interest. The main condition is that the flow of information should move in a double sense. Informing presumes the existence of a feedback mechanism.

Public administration authorities should not only provide information requested by citizens, but also to give them the right to respond to it in one or another way, to criticize and to influence directly the decision making process of public administration bodies¹². Informing the citizens should turn into an obligation for public administration, obligation enshrined not only in the legislation, but as well in the internal instructions and regulations. It is also important the information to be presented in a suitable form for the target audience, accessible to every citizen, regardless of education level or other characteristics. Information should have a clear and a concrete content, to be veridical and to not carry political connotations. Transposed to our research topic, the last idea can take shape through data interoperability and usability principles because electronic information is presented in a form which slightly differs from the one presented classically.

We conclude that information and transparency which are effectively performed can bring a number of benefits:

- They are a true guarantors of democracy – they can become efficient solutions of conflicts between attitudes, ideas, institutions, citizens, public authorities and civil servants;
- They are the creators of an atmosphere of understanding between the public administration authorities and citizens – their mission is to establish a climate of trust

¹¹ <https://index.okfn.org/country>

¹² Cioaric Vasile, *Relațiile cu publicul în administrația publică locală*, Chișinău: Academia de Administrației publice pe lângă Președintele Republicii Moldova, 2002, p. 17.

between public administration as a provider of public services and citizens as beneficiaries of these services;

- Also, information and communication necessarily imply the existence of a feedback, they can become a tool of persuasion to change an unfavorable public opinion or to reinforce public opinion, as well as to evaluate the results of public authorities' activity.

So we can say that establishing of an effective communication relationship between public administration authorities and citizens certainly can have many positive effects. Provision of public services in a transparent conditions by taking into consideration the opinion and needs of beneficiaries, establishing a partnership relationship is essential in a democratic state. In this sense can be used various means of communication and considering e-government transformation the choice is even wider. Citizens should be informed about the existence and the way of public services delivery, they should be heard when expressing discontent, their wishes and needs must be taken into account. Only in this case public services provided by public administration authorities will be provided with maximum efficiency and high quality.

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