Administrative Simplification in the Context of the Global Economic Crisis. The Case of Romania

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Abstract

The economic crisis has developed new challenges for public institutions in the EU member states. These institutions experience a notable economic pressure on their decisional process. The EU has been boosting the member states to reduce the ‘administrative burden’ of public institutions by promoting measures of institutional and legislative adaptation to the challenges set by the crisis, measures appropriate to the techniques of adaptive public management. The goal of this article is to analyze the administrative simplification processes undertaken as a result of the implementation of adaptive public management in the Romanian public administration. The targeted fields of reform analyzed relate to public investments, public expenditure, public procurement, the fiscal policy, the level of bureaucratisation, and the support for business development. Methods of research refer to the analysis of official documents regarding the ‘administrative burden’ and possible solutions for reducing it, as indicated by the EU or member states that succeeded in doing so, as well as the method of data analysis regarding the indicators of improvement of the targeted fields and the results of administrative simplification. The conclusions underline the level of implementation in the Romanian public administration of the action courses promoted by the EU in the direction of reducing the ‘administrative burden’.

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Peer-review under responsibility of Academic World Research and Education Center

Keywords: administrative burden; debeaurocratisation; economic efficiency; fiscal policy; business development; REFIT

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1. Introduction

The global economic crisis produced a domino effect in the Euro-Atlantic basin propagating its effects throughout the EU as well. This has brought a series of wanted consequences both on the private and the public sectors. From monetary instability, to increasing public debts, to numerous cases of bankruptcy, or the mortgage crisis, this period has reshaped governmental policies in order to counteract the administrative burden resent. The European Commission has provided the necessary background for these reforms through regulatory and administrative programs. Romania, member of the European Union has proven the political will of the government to reshape and reform regulation and institutional framework, thus implementing a series of regulatory measures aimed at reducing the administrative burden.

2. The administrative burden in the context of the global economic crisis

As imposed by the financial crisis, the public sector has become preoccupied for reducing the administrative burden in order to better connect with the private sector, as a consequence of the new public management implementation (Matei and Matei, 2010). Numerous reports issued by EU authorities have depicted the undesired impact of the economic crisis. The Report on the impact of the financial and economic crisis on human rights (2012/2136(INI)), issued by rapporteur Inese Vaidere in 2012 lists the main threats and malicious effects of the global economic crisis effects such as:

- the increase of social instability (generating anti-governmental protests)
- a decrease in exports of developing countries
- a raised public debt
- the apparition of new risks for the business environment
- the reduction of aids issued for countries strongly affected by poverty
- an increase of the level of corruption
- new cases of labor rights denial

Regarding human rights protection, the report draws attention to the respect labor rights have in the time of crisis. An ETUI policy brief underlines that social measures undertaken by EU member states in the time of the economic crisis deny social dialogue partners the required implication in formulating governmental policies (Laulom, Mazuyer, Teissier, Triomphe, and Vielle, 2012).

All of these unwanted effects helped increase the administrative burden in the European Union. A report issues in 2005 by The CPB Netherlands Bureau for Economic Policy Analysis defines the administrative burden as the effort required for supplying mandatory information associated under national laws and regulations (Kox, 2005). As this effort has increased in the time of the economic crisis, the main solution became a better regulation. This technique is considered to be the motive of reform in central governments across Europe and OECD countries. (Wegrich, 2010).

Another perspective on the administrative burden is provided by The Better Regulation Unit of Malta. The BRU defines the administrative burden as a cost imposed on businesses in order to comply with Government regulations and to provide information regarding their activity, adding to the administrative costs in the private sector (www.bru.gov.mt).

Furthermore, a document issued by the Romanian Government, known as The Operational Program Under the „Investment for Growth and Jobs” Goal regards the relationship between public administration and citizens as defined by difficult procedures, long document procedures and deadlines, or redundant paperwork, developing a real burden that affects the activity of businesses. This only justifies the need to provide a simplification of administrative processes, through programs such as REFIT established by the European Commission.

3. Guidelines of administrative simplification

In order to provide a viable response for the need to simplify administrative and normative processes, the European Commission launched the REFIT Program (Regulatory Fitness and Performance Program) aiming to assist
national governments and EU bodies in better regulating public policies in order to counteract the effects of the economic crisis. Regarding the REFIT Program, the European Commission underline that simplification has to be shaped by changing the existing law (through codification, recasting and consolidating text, repeal of irrelevant laws, normative revisions), adopting directly applicable regulations by replacing directives with regulations, withdrawal of pending legislation if they are not in line with current policy perspectives, self-regulation and co-regulation (http://ec.europa.eu/smart-regulation/refit/index_ro.htm).

Public organizations respond to political, economic, social and technological challenges by constantly reshaping their legislation framework. REFIT points out to the main guidelines for normative and administrative simplification undertaken by normative adaptation. The REFIT program follows the Objectives of the European Council, which stated in 2007 that all member states must reduce administrative costs by 25%.

Administrative systems literature considers three main regulation processes that aid in achieving these guideline: pre-regulation (prevention of legal conflicts and predefinition of organizational behavior), co-regulation (regulating with the assistance of interested parties or local public authorities) and post-regulation (the balancing between the goals and the outcomes of the normative procedures) (Matei, 2003).

Authors have also noticed that, since the 1990s, the orientation of the public sector has changed, as better regulation (quality of regulation) became the main concern, and not deregulation (Wegrich, 2009). In 2013, the European Commission issued the document Regulatory Fitness and Performance (REFIT): Results and Next Steps (COM (2013) 685 final), which analyzed the level of simplification undergone by the EU in time of crisis. On a quantitative approach, the document points out that the Commission, through the REFIT program, approved 660 initiatives of simplification, codification or normative recasting, more than 5590 legal acts were repealed, and new regulatory frameworks have been adopted in fields such as agriculture, transportation, public procurement, fiscal policy, etc. On a qualitative approach, the document reaffirms that REFIT is the Commission commitment to a better regulation in the EU, aiming at identifying and reducing, burdens, inconsistencies or ineffective measures.

These evolutions and statements are issued in the light of another communication issued by the European Commission regarding EU Regulatory Fitness (COM (2012) 746 final) through which the broad vision regarding simplification was proclaimed. The communication provides that the answer of the EU towards the economic imperative can be achieved through smart regulation, that can set the conditions for smart, sustainable and inclusive growth (COM (2012) 746 final).

Together with these documents and others such as The 2020 Agenda or the White Paper on European Governance, another document paves the roadmap for regulatory fitness. Better Governance for the Single Market, issued in 2012 proclaims the need to reshape the economic competitiveness of the EU and, in order to do so, it sets out a series of courses of action for the European Commission such as:

- measures for raising the efficiency of regulatory processes in the major fields of interest for the EU
- preparing an annual report regarding the integration processes of economies in order to better identify the measures that need to be taken both at national level and at the level of the entire European Union
- permanent revisions of the measures proposed

Furthermore, the document also urges the EU member states to adopt legislative measures regarding (Better Governance for the Single Market, 2012):

- Timely harmonization of the European norms with the national legislation
- Launching communications that explain in an informal manner the processes of harmonization of EU legislation
- Reducing the timeline for infringement procedures and application of the rulings issued by the Court of Justice

In 2014, the European Commission issued memo known as The High Level Group on Administrative Burdens – Questions and Answers, explaining the key facts about this body established in order to support REFIT. According to the document, The High Level Group on Administrative Burdens started advising the European Commission regarding the means of reducing the administrative burden ever since 2007.

As described by the document, The High Level Group on Administrative Burdens is established as an independent body and aims as supporting the political desire of the European Council, which stated in 2007 that all
member states must reduce administrative costs by 25%. As described by the document, the main achievements of this agency consist in supporting the Commission calculate the administrative burden for businesses in the EU and monitored the transposition of EU legislation in national regulations.

One of the most important accomplishments of these regulatory fitness programs are the adaptation of The Services Directive and The VAT Directive, as well as the establishment of the European Patent Court.

The Services Directive (Directive 2006/123/EC of 12 December 2006 on services in the internal market) promoted and underlines a series of normative reforms that needed to be undertaken, resulting in the repeal of numerous unjustified national provisions that only enhanced the administrative burden. The Unified Patent Court aims at reducing the administrative costs regarding patent protection in the EU and avoiding litigations between member states. The VAT Directive adds to these achievements by bringing a new standard in terms of electronic invoicing procedures.

To sum up, as the administrative burden brings new threats to businesses and citizens in the time of economic crisis, the EU has undergone a vast process of simplification. Member countries responded to these actions plans and developed new measures of regulatory and administrative fitness.

4. Administrative simplification in Romania

In the context of the growing challenges of the economic crisis, the Romanian public sector has undergone a series of administrative and normative reforms in order to achieve the fitness desired by the European Commission. Concerning the administrative simplification, we can depict a process of narrowing the Romanian public sector. The government has adopted a series of measures targeting the coordination processes of the public administration, thus reducing the number of ministries, as well as the number of secretaries of state.

As well as this, the Governmental Cabinet also established strict guidelines for administrative simplification in Romania, proclaimed by political documents. The Strategy for a Better Regulation at the Level of Central Public Administration 2008-2013 represents a political document issued by the Governmental Cabinet and aimed at setting the background for administrative and legislative simplification of the Romanian public sector.

The Strategy for a Better Regulation at the Level of Central Public Administration 2008-2013 states that the Romanian government has undergone a thorough process of administrative simplification in order to assist businesses, with the aid of several instruments: surveys (in order to identify the administrative problems of the private sector) and the development of action plans with the help of the academic environment, labor organizations or NGOs.

Following the development of these action plans, the main progress was noticed regarding: regulating an electronic system of private company registration, faster procedures for real estate transactions and building authorizations, faster procedures for citizens through personal statements, faster foreclosure procedures, better transparency regarding the activity in the private sector, or simpler procedures in the case of bankruptcy or insolvency.

With respect to the human resource in the public administration, the governing programs during the economic crisis have expressed objectives that are specific to NPM implementation processes. An example of these objectives is the depolitisation of the public sector. Through the chapter named ‘The Commitment for the good governance of Romania’, the 2009 – 2012 government program aimed at not involving politics in matters of Justice, making this a main objective by means of which it was believed that a good governance was going to be achieved. The ‘Human resources’ chapter obliged the executive to take clear steps towards the professionalization and depoliticization of the management career in education.

The Governmental Cabinet also adopted Emergency Government Ordinance no. 37/2009 on some measures aimed to improve public administration activities, to reform the recruiting process for public functions. In spite of it, under the pressure of the economic recession, Emergency Government Ordinance no. 34/2009 on the 2009 budget rectification and regulation of financial and fiscal measures was formulated, which states that ‘exam based employment in public institutions is suspended’.
These measures were implemented following the political impulse set by The Strategy for a Better Regulation at the Level of Central Public Administration 2008-2013, in which the Government proclaimed under section 7.5 that the national legislation shall be simplified through:

- the reduction of the number of legal documents (through codification and repeals of similar regulations);
- the reclamation of active norms (by repealing desuete norms);
- increasing legislative stability (by counteracting excessive regulations and legal modifications);
- guaranteeing unicity and unity of regulations (by codification);
- providing the background to better understanding and applying of legal acts;
- providing full access to legal documents (increased transparency);
- conserving traditional Romanian normative values.

In support of these courses of action, the codification and unification process, a vital instrument for administrative simplification, is sustained by new unified regulations such as Law 284/2010 regarding the standards of wages for the personnel sustained by public funds, Law 263/2010 regarding pensions, Law 287/2009 regarding a unified Civil Code, Law 85/2014 regarding insolvency, etc.

Administrative simplification is depicted in The Strategy for a Better Regulation at the Level of Central Public Administration 2008-2013 as an objective for the institutions of the Secretary General for the Government. The institution’s role in this domain is, as stated, to measure administrative costs in order to reduce the administrative burden set out by national regulations. The main instrument for measuring the administrative cost is the Standard Cost Model, as proclaimed by EU regulatory fitness programs. The document describes the SCM as a provider for a wide view on the administrative burden, aiding ministries to develop administrative simplification plans. Moreover, a series of steps are outlined for ministries:

- To develop a sectorial action plan in order to achieve the regulatory fitness desired
- To monitor the implementation of the action plans
- To organize workshops in public agencies in order to better implement these action plans

With regards to budgetary processes, through EGO 26/2012, the public protocol spending have been diminished: such expenditures were generated by consultancy services, if they could be sustained by the state institutions, by travels abroad, and so on. Law 118/2010 adopted a set of austerity measures which resulted in a profound change regarding careers in the public administration, as well as regarding public spending planning.

Regarding the measures to stimulate the business environment, Emergency Government Ordinance no. 39/2010 has diminished sanctions for the economic agents that do not respect their fiscal obligations. Moreover, the central budget has been used to sustain local authorities to pay their financial obligations towards the private suppliers of goods and services.

Furthermore, through the Emergency Government Ordinance no.28/2009 on the regulation of certain social protection, fiscal pressure has been relieved for some categories of economic agents. EGO no. 13/2010 regulating certain measures to stimulate the creation of new jobs and to reduce unemployment in 2010 was also adopted, as a vehicle of increasing the efficiency of the public sector in the fight against the unwanted effects of the crisis.

The Governmental Cabinet traces similar objectives and proclaims by The Strategy for a Better Regulation 2014-2020 that the legislation has to undergo further reforms in order to achieve a profound simplification. This strategy proclaims three steps in achieving such a goal:

- Establish an inventory of the existing legislation;
- Establish priorities of legislative simplification and set up methods of action;
- Implementing the methods and courses of actions set up with the aid of instruments such as republication, repealing parallel norms, codification.

The priorities will be set up based on the frequency of applications of norms, the economic impact, the regulatory level, number of reforms suffered by the legal document, and the level of difficulty in applying the norms.

Furthermore, a new legislative project has undergone aiming at establishing a new fiscal code, proclaiming a series of innovative measures in assisting the private sector in counteracting the effects of the economic crisis.

The Strategy for a Better Regulation 2014-2020 also outlines the need to establish projects that aim at reducing bureaucracy, according to the Doing Business Report Issued by the World Bank, as this document is considered by
the Governmental Cabinet a source that describes the level of regulation that guides the private sector in a country, establishing a country rating.

5 Conclusions

To sum up, as reducing the administrative burden in the European Union is considered to be a solution to the economic crisis, the European Commission has developed a series of regulatory fitness programs in order to assist national governments in establishing an administrative and normative simplification. The Romanian public administration has undergone a series of changes in order to respond to the will of the European Commission. As a specific pattern, the most important measures concern codification of norms, faster administrative procedures and public expenditure cuts. As underlined in political documents, the main vehicles of administrative simplification for the near future concern the fiscal policy and the establishment of regional governments.

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