

CONTRIBUTIONS TO IMPROVING THE QUALITY OF THE COMMUNICATION PROCESS AT THE LEVEL OF CENTRAL PUBLIC AUTHORITIES, ON ACCESS TO INFORMATION OF PUBLIC INTEREST

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Abstract: *The scientific paper presents a research on the place and role of communication in the institutional management applied within a central public authority. The authors wanted to send a personalized message on how to implement and operationalize communication management in a public institution, with direct applications on the central public administration in Romania. Specific issues were addressed regarding the legal regulations about the access to information of public interest, respectively the protection regarding the copyrights. The scientific paper also focuses on the transmission of information interpreted by authors on free access to information of public interest. All contributions focus on how substantial solutions can be generated to improve communication and communication management in the organizations analyzed.*

Keywords: *communication, communication management, protection of intellectual property, central public administration, communication quality.*

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1. Introduction

Man has the uniqueness of being a creative being, who can accomplish, through intelligence, things that can beautify and improve the life of a society. Sometimes we have the opportunity to enjoy a wonderful book, from which we can learn real life lessons. Sometimes, we have the opportunity to escape from the realities, sometimes sad, in which we find ourselves, in order to transpose ourselves, for a few hours, in different wonderful spaces and places, just by simply reading a book. But a book is not written alone, it is the product of an intellectual effort of an author, who managed to transpose, in a happy way, the ideas of his creative being. The creation of a writer, composer, engineer, architect, landscape painter, doctor, artist or any other author, who has the ability to translate his experience in different forms of expression, is protected today by special laws developed at national and European level and worldwide, laws whose main attribute is the guarantee of intellectual property rights. The protection of copyright and related rights is an objective also assumed at the level of public institutions. The role of central public authorities is to comply with and enforce the normative acts, including those subject to the protection of intellectual property or the laws on access to information of public interest. Very often these two types of normative acts can lead to confusion among citizens and among investigative journalists. Through this paper we will try to bring some clarifications, meant to lead to solving confusing situations that may occur in public relations.

2. Pragmatic theoretical considerations on the subject

The author John Fiske, in the study entitled "Introduction to the Studies of Communication", stated the following: "communication is a central dimension of our cultural life, without it, any kind of culture dies. Conse-

quently, the study of communication presupposes the study of the culture in which it is integrated". In order to understand what communication means, we will turn to one of the well known definitions of communication published in the book *The Communication Science*, which belongs to the authors J.J. Van Cuilenburg, O. Scholten and G.W. Noomen, who defined communication as "a process in which a sender transmits information to the receiver through a channel, in order to produce certain effects on the receiver." We mention that the definition is based on the linear system of the communication process, developed by the authors C. Shannon and W. Weaver and published initially, as an article, in 1948, in the *Technical Journal of the Bell System*, and later on in the book "*Mathematical Theory of Communication*". The book, published in 1949, is considered one of the most important specialized publications, representing a reference point in the specialized literature and a determining factor in the development of future communication studies. Communication is one of the important components of management, being one of the functions of management. Communication is vital for the optimal functioning of a public institution, as it connects all managerial functions, and the success of the institution it represents depends, to a very large extent, on the skills of a good communicator.

The objectives of communication within public institutions are:

- information / transmission of information;
- positioning, representing the communication of the identity that the institution wants to transmit to the public;
- facilitating adherence to the common values of the institution;
- concentration of actions in order to increase the degree of internal cohesion.

Communication management in public institutions (Androniceanu, 2004) also involves the management of social media. Currently, through social media, citizens can express their opinions, observations and can con-

tribute with ideas or solutions on everything that is relevant in society and the importance of social media was also analyzed by the authors Varinder and Priya (2012). Central public authorities, but also other types of organizations, are aware of the importance of the science of communication, often only in crisis situations, when public relations specialists must find the "miracle solution" to save the image of an institution (Bortun, 2001). It is believed that "communication officials" have an easy life, not as stressed as employees in other departments. No one is aware of the effort that communication specialists make on a daily basis to design answers to media requests, which are often "bombs" that are about to explode. In general, the press is not interested in the positive aspects that a public institution tries to disseminate, but rather focuses on "sensational", on confidential information that "sweats" to journalists through its own "benevolent employees". Crisis communication management is based on a set of principles designed to combat crises and reduce the damage caused by crises, as stated by the authors Chiciudean and David (2011, p. 73). In other words, crisis management seeks to prevent or reduce the negative effects of crises and to protect both the organization and the public involved in the field from possible damage. Regardless of the quality of the management of an institution (Oprean, et al., 2002), each organization will go, at some point, through a crisis situation. A crisis always unfolds uncontrollably, and the stress is felt by every employee of an institution, who will then be pressured to lend his or her specialist support to resolve the crisis. The response time in a crisis situation is counter-clockwise - thus, it is necessary that the information from the specialized departments, such as the economic, legal or patrimony department, circulates without delays or blockages. The management of communication within central public authorities needs to be improved, so as to bring about the much desired changes in the perception of citizens towards the public services that are provided by a government entity. This can

only be done if the decision-makers, who manage the central public authority, have the capacity to seek advice and are willing to accept the views of those working in the communication departments. Leaders of central public authorities generally want to devote their time and focus their efforts to activities they consider important, such as high-level meetings.

We consider that a successful management of communication mean, first of all, a proactive attitude towards the citizen of the head of the governmental entity, so that, later, this attitude is transmitted and assumed by each executing civil servant. We cannot approach the management of communication if we do not refer to the quintessence of communication at the level of any central public authority, namely to the free access to information of public interest. A first approach to the right to information is stipulated in the fundamental law of the Romanian state. Thus, according to the provisions of art. 31 of the Romanian Constitution, one of the fundamental rights guaranteed to any citizen is the right of access to information supported by documents assumed and ratified internationally by the Romanian Parliament. Thus, every person has the right to have access to any type of information of public interest, and the central public authorities have the obligation to ensure to every citizen this fundamental right. In a general sense, a public institution or authority means any entity or organization that administers or manages public financial funds (resources), such as: political parties, sports federations, non-governmental organizations of public utility, autonomous utilities, companies under authority, under coordination or subordinated to a central or local public authority, any regional operator, etc. The legal framework of free access to information of public interest is regulated by two normative acts: Law no. 544 of October 12, 2001 on free access to information of public interest, as subsequently amended and supplemented, and Decision no. 123 of February 7, 2002 for the approval of the Methodological Norms for the application of Law no. 544/2001 on free

access to information of public interest, with subsequent amendments and completions. Law no. 544/2001 specifies a series of information of public interest that any governmental entity, which uses public financial sources, must provide ex officio to the citizens, through its own internet pages or through the information points - from the institution's headquarters.

As most normative acts contain a number of exceptions, the above-mentioned law does not depart from this rule either. The obligation to comply with both the provisions on free access to information of public interest and those on the protection of restricted information, in order to ensure information security, rests with public institutions, so implicitly civil servants who have specific responsibilities under Law no. 544/2001. The exceptions, stipulated in article no. 12 of Law no. 544/2001, are the following:

- a) information in the field of national defense, security and public order, if they are part of the categories of classified information, according to the law;
- b) information on the deliberations of the authorities, as well as those concerning the economic and political interests of Romania, if they are part of the category of classified information, according to the law;
- c) information on commercial or financial activities, if their publicity infringes the intellectual or industrial property right, as well as the principle of fair competition;
- d) information on personal data, according to the law;
- e) information on the procedure during the criminal or disciplinary investigation, if the result of the investigation is endangered, confidential sources are disclosed or the life, bodily integrity, health of a person following the investigation carried out or in progress is endangered;
- f) information on judicial proceedings, if their publicity is prejudicial to ensuring a fair trial or the legitimate interest of any of the parties involved in the proceedings;

g) information the publication of which prejudices the measures for the protection of young people.

In this paper we will focus on the exception that restricts citizens' access to information, as provided in letter. c) art. 12 of Law 544/2001, respectively: "information on commercial or financial activities, if their publicity infringes the intellectual or industrial property right, as well as the principle of fair competition". This provision often leads to confusion among citizens, who, by filing complaints against the central public authorities, find their solution in court. These complaints are usually made by investigative journalists. In support of the above, we will exemplify through specific cases, which find a correspondent in the existing daily practice at the level of central public administration.

Press articles with headlines such as:

"Archaeological massacre with vestiges dated before Christ. What did the specialists sent to research do: "I covered them with foil" (https://adevarul.ro/locale/constantina/masacru-arheologic-vestigii-datate-hristos-facut-specialistii-trimisi-cerceteze-le-I-covered-foil-1_5e3be0785163ec4271d119cc/index.html, February 6, 2020);

"Ministers of Transport and Culture, accused of wanting to destroy a Roman camp" (<https://www.dezvaluiri.ro/ministrii-transporturilor-si-culturii-acuzati-ca-vor-sa-distruga-un-castru-roman/> April 17, 2019);

"For a responsible approach to archaeological research. The dangerous precedent MICIA (https://www.petitieonline.com/pentru_o_abordare_responsabil_a_cercetrilor_arheologic_periculosul_precedent_micia) are subsequently constantly picked up by the print media and television and causing scandals and strong reactions.

An important aspect to mention is that most press articles of this kind have behind them people who are archaeologists by profession, most accredited even by the Ministry of Culture, and who, in their actions of revela-

tion, are not involved out of devotion to saving national and world heritage, but sometimes out of personal interests. As in most scientific, artistic, political or economic circles, there are spheres of interest in the field of cultural heritage. In archeology, there are teams that have been together for many years or are newly established, whose main objective is to obtain contracts for archaeological discharges / excavations. Failure to conclude such a contract causes dissatisfaction among certain scientific circles of archaeologists, and one of the ways to try to cancel a contract, such as an archaeological discharge, is to challenge the authorization for preventive archaeological research issued by the Ministry of Culture. In order to cancel such an authorization, it is necessary, in advance, to obtain not only the documentation submitted for the issuance of the authorization, but especially the preventive archaeological research project, in order to be challenged. If for a documentation any citizen can avail himself of the provisions of Law no. 544/2001, because they are considered to be documents produced and / or managed by a central public authority, regarding the provisions of a preventive archaeological research project, the provisions of Law no. 8/1996 on copyright and related rights prevail. We mention the fact that a preventive archaeological research project is a work that is coordinated by a scientific manager and that involves the intellectual contribution of a research team, consisting of several archaeologists.

The constituent elements of the preventive archaeological research project are: exposition of the legislative framework, aims and objectives of archaeological research, expected research techniques, methods of recording archaeological data, archiving procedure of archaeological material, mentioning the procedures for depositing archaeological heritage and processing of archaeological materials, publication and dissemination of archaeological research, monitoring, promotion and capitalization of archaeological heritage. Another element included in the preventive archaeological research

project is the copyright regime, which states that "the copyright of each researcher on his scientific work, whatever the concrete form or form of expression, including sketches, drawings, of graphic works or materials made as a result of an intellectual creation work is guaranteed and protected, in accordance with the provisions of Law no. 8/1996, republished, regarding copyright and related rights, with subsequent amendments and completions". The law that protects the specific intellectual property at art. 7 lit. b) and i), respectively to art. 8, lit. a) states the following:

"Article 7

The original works of intellectual creation in the literary, artistic or scientific field, whatever their mode of creation, mode or form of expression and regardless of their value and destination, such as:

(...)

b) scientific works, written or oral, such as: communications, studies, university courses, textbooks, projects and scientific documentation;

(...)

i) plastic works, maps and drawings in the field of topography, geography and science in general.

Article 8

Without prejudice to the copyright of the original work, derivative works which have been created on the basis of one or more pre-existing works, namely:

a) translations, adaptations, annotations, documentary works, musical arrangements and any other transformations of a literary, artistic or scientific work which represent an intellectual work of creation".

Since in the field of archaeology the law does not clearly specify, as it is in the case of the field of architecture, where the normative act stipulates, in article 8, let. h), that "are protected: architectural works, including drawings, models and graphic works that form architectural projects", certain

citizens request from the central public authorities, in copy, the archaeological research projects.

It is important to note, firstly, that all archaeological research projects are carried out for a well-defined area, and, secondly, that the projects are developed by specialists on the basis of a service contract, which has including the payment of a certain amount of money. In this context, with regard to archaeological discharges, the non-specification in the content of the law of the fact that intellectual property and archaeological research projects are protected by copyright leads to interpretation to the detriment of the author and to the advantage of various stakeholders. Also, the group of archaeologists, signatories to the service contract, may have confidentiality clauses concluded with the entity that funded the archaeological research project and thus have reasons to challenge in court the access of a third party to the elaborated project, forcing the central public authority to pay damages to the team of archaeologists.

3. Contributions to the presentation of a vision on the quality of communication in the area of interest concerned

We consider that in order to improve the quality of communication at the level of the central public administration, in order to reduce the number of complaints in court and the payment of damages, there are two solutions, through which the blockages that may occur at the level of a central public authority. It should be noted that going to court is a legal way, sometimes unavoidable, as it is the right of every citizen to go to court if he considers himself harmed in his fundamental right to access information of public interest, but, beyond a litigation, there are other consequences. First of all, we start from the limited number of employees, whether we are talking about civil servants working in the legal department, or we are referring to the existing staff at the level of the communication office or at the level of

the patrimony department. Or, a lawsuit requires that certain employees, from at least three departments, allocate time to search the archive, make selections, annotations, and copies of all documents that will be submitted to the court. This activity involves time, which will no longer be allocated to current activities. Thus, a second consequence arises, namely the fact that civil servants will be unable to process current documents. In this context, there will be works that will inevitably be postponed or there will even be the risk that certain works and documents will be evaluated and processed superficially, due to lack of time. In conclusion, a process can lead to the difficulty and inefficiency of the work of some departments, which is undesirable for any manager of a government entity.

As a solution, we propose, first of all, to include in the text of the law on the protection of intellectual property a paragraph that clearly stipulates that archaeological research projects are considered intellectual creations, they are developed by a team of specialists, stating that the research results will be brought to public knowledge on a date set by the scientific research team. Unfortunately, this solution requires the resumption of the entire process of drafting regulations, which is a difficult stage. Another solution, which we consider much easier to implement, is the one related to the elaboration of a ministerial order, which will be supported by a specialized report elaborated by the Cultural Heritage Department, in collaboration with the Communication Office and the Romanian Copyright Office (ORDA), an order that will clearly mention the fact that the archaeological research project is an intellectual creation.

We mention the fact that the Romanian Copyright Office is methodologically coordinated by the Minister of Culture. The order issued by the Ministry of Culture will be published on the ministry's website, in the chapter Decisional Transparency, in the section created in accordance with Law no. 544/2001, respectively “The list containing the documents of public in-

terest”. In this way, there will be a document assumed at the level of the ministry and ORDA, which will be published on the website of the Ministry of Culture. Thus, for future requests for information of public interest, regarding the provision of a copy of an archaeological research project, the applicant will be answered within five days, according to the legislation in force, by disseminating the link that will be created in the Decision Transparency section.

4. Final conclusions

We consider that this paper has achieved its main goal, namely to identify a way to implement and operationalize communication management within a central public authority. The problems exemplified in this paper are also found at the level of all 42 decentralized services of the Ministry of Culture, here referring to DJCs (the county departments for culture), where also the press or citizens are requesting, under the law on free access to information of public interest, archaeological research projects. In this context, we believe that the same solution can be applied at the national level, thus bringing about an improvement in the communication process and communication management within several government entities. Also, once this solution is implemented, it can be extended to other projects that contain intellectual contributions and are used, analyzed and validated for approvals issued by the Ministry of Culture, here referring to the approvals issued for the restoration of objects and buildings heritage. We mention that this type of opinion is issued within the National Commission of Historical Monuments - Section of Artistic Components, a commission that operates under the Ministry of Culture, and within which conservation projects are analyzed. An example in this sense is the one that aimed at restoring murals and stone and metal components and that was submitted for the Church "St. Nicolae ", village / commune Ribița, code LMI / 2015 HD-II-m-A-03431,

from Hunedoara county. In essence, the identified solution aims to streamline the activity, which will facilitate the work of civil servants.

It will also considerably reduce the response time for requests for information of public interest, as there will be no need for specialized departments within the central public authority response. Also, in this way, a state of comfort will be induced among civil servants, who in the future will be able to elaborate a more rapid response to the official public requests.

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