THE INTERCONNECTION OF GOOD GOVERNANCE - GOOD ADMINISTRATION - LEGAL CERTAINTY

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Abstract

In modern democratic systems, in order to be certain that governments serve their citizens effectively, fairly and justly, good governance under conditions of good administration, under conditions of legal certainty, is essential. Only in this way can we speak of a state based on the rule of law, in which respect for human rights becomes a reality, leading to political and social stability. Although distinct in scope, these concepts overlap and support each other, forming a framework designed to enhance trust in institutions. This paper aims to present the interconnections between good administration, good governance and legal certainty, emphasizing their individual importance and how they converge towards democratic governance.

Key words: good governance, good administration, legal security, legal certainty, regulatory quality, regulatory inflation, human rights, bureaucracy, corruption

JEL Classification: [K38]

1. As Introduction

In the twenty-first century, known for democratization, as has also been argued in doctrine, the separation of powers in the state (legislative, executive and judicial) is the main direction for promoting democracy and good governance and is the essence of the rule of law, i.e. that system of government which requires that governmental power be limited by law so as to ensure the protection of fundamental rights and freedoms (Huntington, 2000) (Brack Nathalie, Olivier Costa, 2018) (Leisner, 1977). The meaning is that, in the absence of any of these powers in their own right, democracy and good governance cannot exist, just as good governance and good administration cannot exist when these powers are out of balance.

The rule of law is an universal and ideal aspiration and a guarantor of fundamental rights, legality and democracy. The public administration operates strictly in accordance with the law, and public officials and elected representatives aim to serve citizens consistently, in order to fulfil the common good. It is therefore

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necessary for public administration to prioritise citizens' interests, administrative efficiency and good governance, implicitly representing responsibilities of the rule of law, ensuring legal certainty, freedom and equal treatment (Bălan, 2008).

The key state institutions in a democratic system of government have an essential role to play in promoting democracy and good governance. As the democratically elected representatives of the people, politicians have the honorable task of ensuring good governance of the people, and it is indisputable that effective governance can have a considerable influence on the quality of decision-making in the sphere of public administration. At the same time, the evolution of society and the constant political, economic and social changes require an analysis of the clear impact of legal certainty, one of the fundamental principles of the rule of law, and its application is based on societal trust in regulators, the quality of regulation and appropriate interpretation (Brinkerhoff, D. and Goldsmith, A., 2005). Legal certainty is a principle, a value implemented and promoted by the state, especially when its effectiveness is evident, intrinsically including the legal guarantee that citizens' rights are protected.

2. Good governance, good administration and legal certainty

The State, as the guarantor of human rights, has to take numerous legislative, economic, administrative, educational and so on measures, to ensure respect for these rights through its institutions. Public administration is both the technical component and the practical expression of executive power, the central objective of which is to implement the regulatory framework in order to protect the fundamental rights and freedoms of the individuals. Good administration, as a concept, is frequently used as a synonym for good governance, although the latter refers to a system of principles aimed at the exercise of power in a society, the relationship between good administration and good governance being, in fact, a part-whole relationship, where good administration is a key element of good governance (Moroianu Zlătescu, I.; Marinică, C. E., 2024).

The concept of good governance is currently attracting significant attention, becoming a favourite topic of both political discussion and academic enquiry. This concept covers a set of principles relating to effectiveness, transparency, accountability, participation, responsiveness, fairness and adherence to the rule of law in governance systems (Bryson, J. M. B., Crosby, C. and Bloomberg, L., 2014). The underlying objectives of these principles are to foster trust in government institutions (Halachmi A., Greiling, D., 2013), to increase the effectiveness of public services, to mitigate corruption and to serve the interests of citizens as promptly and efficiently as possible (Moroianu Zlătescu, 2015).

Therefore, good governance refers to the wider framework within which public administration takes place, encompassing the structures, processes and relationships between government institutions and citizens. It emphasises the importance of citizen participation, the rule of law and efficient management of resources. While good administration focuses on how public bodies fulfil their functions, good governance emphasises how decisions are made, how citizens are involved and how power is distributed. The implementation of good governance principles brings various benefits, including increased transparency, enhanced public participation, increased bureaucratic efficiency, improved quality of public services, fostering economic growth, converging to create peace and social stability, by implementing the principles of good governance, the government is expected to deliver better quality policies and programs, support sustainable development and improve the quality of life for all citizens (Stoker, G.; Peters, B. G. and Pierre, J., 2015).

Good governance exists in a system were the law is paramount and laws are applied equally to all people, regardless of their status or position. A hallmark of good governance is the participation of citizens, who contribute to the decision-making processes, whether through voting, public consultations or civil society organisations, active participation is a guarantor of governance that reflects people's needs and aspirations. At the same time, since government must respond to the needs and concerns of its citizens, good governance also implies a proactive attitude, i.e. anticipating problems and implementing solutions, creating a system of governance that is adaptable and flexible to social change.

In good governance, accountability extends beyond the public administration, meaning that public officials, political leaders and government institutions are held responsible for their actions and accountable to the public and oversight bodies. At the same time, good governance seeks to build a broad consensus among different social and political groups in the fulfilment of its purpose, a consensus that helps to ensure stability and cooperation in the decision-making process, which is vital for addressing and solving complex social problems.

Good administration, on the other hand, can be defined as the efficient, transparent and equitable functioning of government bodies in implementing public policies and delivering public services, being concerned with the way in which state institutions exercise their powers in relation to the public, ensuring that actions are carried out correctly, promptly and in accordance with established rules and procedures. Good administration is not only about technical efficiency, but also about building trust through accountability and fair treatment of individuals.

Transparency is a cornerstone of good administration. When government actions are clear and accessible to citizens, it encourages accountability and minimises the risk of corruption or abuse of power. Transparency enables individuals and civil society organisations to scrutinise government decisions and hold public officials to account. Closely related to transparency is the efficiency, effective administration ensures that public resources are used optimally and services are delivered promptly, proving that bureaucratic delays and inefficient allocation of resources can undermine citizens' trust in their government and even hinder economic development.

Good administration also entails accountability, with public officials being held accountable for their decisions, both to citizens and to independent oversight bodies, and fairness and equity are the living expression of the principles of non-discrimination and equality before the law, principles which the public administration, called upon to implement the law in practice, is obliged to respect to the letter. Good administration ensures that all citizens, irrespective of their origin, are treated fairly and equally, as discrimination in the provision of public services leads to social unrest and diminished trust in state institutions¹ (Moroianu Zlătescu, 2018).

We can thus say that good governance, as a concept, is the framework through which public institutions are able to create that environment of general well-being that best serves the interests of the citizen in a timely and efficient manner.

Another main element of the rule of law is the principle of legal certainty, that encompases the regulatory power of the state, the quality and clarity of regulation and, last but not least, the proper interpretation of regulation. The principle of legal certainty is seen as a structural element of the rule of law, necessary for the stabilisation of legal relations and legal systems in which the administration plays an important role (Moroianu Zlătescu, 2021).

This principle is, in the view of many, the foundation of the rule of law, the quality of lawmaking that gives expression to legal certainty, being that which radiates the norms, composing their spirit and serving as a criterion for their precise understanding and reasoning, precisely because it determines the logic and rationality of the normative system, by giving it a harmonious meaning.

It follows from the constitutional principles of equality and justice that the legal rule must be certain, clear and unambiguous. In the absence of these essential requirements, it is impossible to ensure uniform application of the legal provision and proper interpretation, which inevitably leads to arbitrariness. Legal certainty is therefore an increasingly important and significant factor in the process of drafting and applying the law, as it designates the clarity, certainty and accessibility of the legal standard. It is all the more important to emphasise this principle in the light of today's society, because of the complexity of the relationships that prevail in it, with uncertainty and unpredictability, especially in the political, social and economic spheres, and whose reflections in law are even more evident. Honouring this principle ensures that laws and regulations are clear, consistent and predictable, enabling citizens and institutions to plan their actions with confidence. In this context, we assert that legal certainty supports both good administration and good governance by providing the legal framework within which the administration carries out its activities and the government implements its programme of governance (Kettunen, 2011).

¹ The concept of good administration is regulated in the Charter of Fundamental Rights of the European Union (art. 41);

Legal certainty facilitates good faith in the legal circuit, ensuring stability and reliability, confidence in the precision of the law and in normative predictability. Otherwise, the rule of law ends up losing its consistency, and democracies, even the most solid ones, begin to have problems of legitimacy and credibility in the eyes of their own citizens. Moreover, the principle of legality, the separation of powers in the state and the recognition and protection of the fundamental rights of the individual make up the democratic rule of law. The principle of legal certainty requires legislation to be clear, accessible, predictable and to provide legal certainty for citizens and institutions. Respect for legal certainty implies guaranteeing the protection of individual rights, preventing arbitrariness and strengthening confidence in the justice system and the rule of law as a whole (Predescu & Safta, fără an).

The objective of clarity and precision requires that laws and regulations are written in clear and unambiguous terms, so that beneficiaries can understand both their rights and obligations unequivocally. In this respect, ambiguous legal language creates confusion, which leads to uneven application and thus undermines the credibility of the system. At the same time, it is also important to fulfil the requirement of quality of regulation, which must be capable of generally covering a large number of similar legal situations, in order to avoid specific, exceptional regulation applicable to individual situations. Consistency and stability require that the law applies equally to similar cases, inconsistent application can lead to unfair results and erode citizens' trust in state institutions, while a stable legal framework is crucial for both governance and administration. Sudden or unpredictable changes in the law are likely to disrupt society at all levels, creating uncertainty, which is incompatible with the principles of the rule of law.

Legal certainty is also linked to the ability of individuals to have access to justice, which means that legal procedures must be accessible, transparent and fair, so that any person whose legitimate rights or freedoms have been violated can seek a remedy through the intervention of the judiciary.

There is currently a significant increase in regulation worldwide, which inherently leads to an impressive amount of legislation, making the legal order increasingly difficult to predict. Against this backdrop, concern about legal certainty is a constantly topical issue, with the growing complexity of regulations and, not least, the lack of transparency of some of them, clearly affecting legal certainty and creating a wide range of challenges for the public sector and, by extension, public administration.

Good governance, through good administration by ensuring the quality of regulation, means that the beneficiaries of regulation - citizens, the public and private sector - are placed at the center of attention, and by applying the principle of legal certainty, the lawmaking process succeeds in ensuring that all stakeholders have their rights protected and that the rule is enforceable in practice, in order to achieve the desired result.

Good administration, good governance and legal certainty are closely interlinked and their successful implementation depends on their effective interaction. Together, they contribute to a political and legal environment in which citizens' rights are protected, governance is effective, and public services are administered fairly and justly².

A good administration enhances legal certainty by ensuring that government decisions are clear, transparent and follow established procedures. When citizens understand how decisions are made and when those decisions are based on stable legal rules, it builds trust in the system. At the same time, a system of governance that emphasises participation, responsiveness and accountability creates an environment in which public institutions are more likely to function effectively and fairly. Participatory governance can lead to better designed administrative processes that respond to citizens' needs, while a predictable legal environment provides the basis for good governance. Clear and stable laws guide decision-making and ensure that governance is not subject to arbitrary political changes. Legal certainty also favours an atmosphere of trust in which citizens are more willing to participate in the political process.

3. Challenges in achieving good administration, good governance and legal certainty

Important as they are, while the concepts of good administration, good governance and legal certainty are essential to democratic societies, turning them into reality is fraught with significant challenges. Governments, unequivocally, face a number of problems that hamper their ability to effectively implement these principles. These challenges can vary depending on the specific political, economic and social context of a country, but some common obstacles include bureaucracy, corruption, political interference, legal ambiguity and exclusion of marginalised groups.

Legal certainty depends on a clear, predictable and accessible legal framework, which requires a thorough knowledge of legislative technique for all those working in the field of drafting normative acts (Zlătescu, 1995) (Mrejeru, 1979). However, as we have pointed out, in today's society we are witnessing legislative inflation, i.e. an excessive number of regulations, often non-harmonised and with contrary provisions in the same area of lawmaking, which leads to ambiguity in the system and, obviously, inconsistency in application (Checheriţă, fără an). When laws are written in vague terms that leave room for multiple interpretations, or even when laws are clear but their application is inconsistent due to inconsistent interpretation of the rules so that interpretation varies from case to

² OECD: Principles of Good Governance. Organisation for Economic Co-operation and Development (2019).

case, this undermines the ability of citizens to understand and exercise their rights and increases the potential for arbitrary decisions by public officials.

Also in this context, are to be mention situations where, for various reasons, laws are adopted quickly and without sufficient public consultation, so that they do not reflect the needs or values of the population, a situation that can negatively influence good governance and good administration by failing to fulfil their purpose - to respond to citizens' needs.

Bureaucracy remains one of the public sector's most persistent challenges. Inefficiencies in public administration often manifest themselves in delayed services, poorly designed procedures and a lack of responsiveness to citizens' needs, while complex procedures, outdated technology and a lack of resources can exacerbate these problems (Grindle, 2004). This not only undermines public service delivery but also erodes public trust in state institutions. In fact, the European Commission, after the 2024 elections to the EU institutions, announced that it would embark on an unprecedented effort to cut red tape across the Union, to develop simpler, fewer regulations that will help modernise public administration systems, to the extent that, at present, some governments relying on outdated processes often face delays in service delivery and citizens may have difficulty accessing essential services³, while in some systems, excessive centralisation of power can create bottlenecks where decision-making is slow and inflexible. This is particularly common in countries where local governments have limited autonomy, hampering their ability to act quickly on issues that directly affect their communities.

Moreover, many public institutions suffer from a lack of qualified staff, insufficient resources and poor training. As a result, administrative bodies often struggle to meet public expectations in terms of both service quality and timeliness. A 2022 World Bank study highlights that many low-income countries have public sector institutions that are unable to effectively manage resources or implement policies due to inefficient administrative structures. The result is not only poor service delivery but also increased citizen frustration and distrust in the state.

Addressing these problems requires targeted reforms to modernise systems, empower local governments, invest in human capital and streamline procedures.

One of the most powerful tools for tackling bureaucratic inefficiencies is digital transformation. E-government initiatives enable governments to streamline processes, reduce paperwork and improve service delivery through online platforms. This not only increases efficiency but also transparency and accessibility for citizens. The e-government model in Estonia is a well-known example of best practice. Estonia has implemented a comprehensive digital governance system, where citizens can access a wide range of services online, from filing tax returns to voting in elections. This has drastically reduced bureaucratic delays and improved service delivery. According to the World Bank, the Estonian e-government

³ OECD, (2019).

programme has contributed to a significant reduction in administrative costs and improved overall government efficiency⁴.

Another tool for good administration and hence good governance is the simplification of administrative processes to improve bureaucratic efficiency. Governments can conduct analyses of existing procedures, eliminate unnecessary steps and introduce user-friendly digital platforms to interact with citizens, an eloquent example being the implementation of the online digital signature, which has made it easier for both the public and the institutions to make their needs known without having to physically appear in front of the authorities⁵.

At the same time, there is a growing opinion (Anon., fără an) (Moroianu Zlătescu, 2024) (Fiszbein A., Schady N., 2020) that decentralising authority to local authorities can significantly reduce bureaucratic inefficiencies, allowing decisions to be taken closer to the people they affect. Local authorities are often better attuned to the needs of their communities and can act more quickly to solve problems without waiting for central approval. Moreover, public sector institutions face difficulties in recruiting qualified staff, especially in rural areas, leading to inefficiencies in service delivery as tasks are performed by under-qualified or overworked employees. Lack of adequate training also means that employees are unable to utilise new technologies or best practices to improve performance. More autonomy in decision-making, including in terms of the organisational structure, allows for better problem management and more effective problem-solving in a shorter timeframe.

These courses of action, together with investments in public sector capacity building through continuous training programmes for civil servants, with the aim of equipping them with the skills to manage modern technologies, understand policy changes and process demands efficiently, enhance the state's capacity to have an efficient and well-managed government⁶.

Another significant barrier to good governance and good administration is the phenomenon of corruption, which can permeate all levels of government and can take many forms, from petty bribery, so-called *attentions*, to major corruption involving senior officials. Corruption undermines the rule of law and, together with undue political influence on administrative decisions, can undermine good administration and good governance, as political interference often manifests itself in the manipulation of administrative and legal processes for personal or party gain, distorting outcomes and eroding the legitimacy of public institutions, which should be impartial and accountable only to the interests of citizens (Rose-Ackerman, 1999).

Political interference in administrative decisions is often a key factor in corruption. When politicians use their influence to steer government contracts, appointments or decisions in favour of personal or political interests, this can

⁴ "Digital government in developing countries: a global comparison", World Bank (2021).

⁵ "The impact of administrative simplification on governance", OECD (2023).

⁶ OECD, (2020).

compromise the fairness and transparency of the administration's actions. This undermines both administrative efficiency and legal certainty, as decisions are not based on merit or public interest, but on political expediency. Transparency International's Corruption Perceptions Index (CPI) from 2024 shows that countries with higher levels of corruption often suffer from weak governance structures, leading to an erosion of legal certainty.

Corruption and political interference lead to a lack of trust in government institutions. Citizens begin to see the administration as self-serving and unaccountable, weakening democratic processes that rely on public involvement and trust. This breakdown of trust further undermines good governance, creating a vicious circle that is difficult to overcome.

Combating these challenges requires comprehensive institutional reforms, transparency initiatives and strong accountability mechanisms to prevent abuse of power. Effective anti-corruption measures require strong institutions, independent judiciaries, transparent procurement processes and strong regulatory bodies

The fight against corruption therefore requires the creation of independent anti-corruption bodies with the authority to investigate, prosecute and penalise corrupt practices. These institutions should be shielded from political influence to ensure that they can operate impartially and without fear of reprisals, ensuring that perpetrators are held accountable, regardless of their status⁷. In this respect, it is also important to ensure legal protection for whistleblowers⁸, as their intervention can be instrumental in exposing corruption and political interference. Whistleblower protection laws must provide confidentiality, job security and legal immunity to individuals who report illegal activities or unethical behaviour within state institutions. It should also be recalled that essential in the fight against corruption is ensuring the independence of the judiciary⁹. Political interference in the justice system can impede the realisation of justice by allowing corrupt officials to evade accountability. Judicial reforms should focus on protecting judicial independence, enhancing the professionalism of the judiciary and increasing transparency in judicial processes (Mungiu-Pippidi, 2015).

Lack of transparency in public procurement is also a major source of corruption. By implementing transparent and competitive tendering processes and digital procurement systems¹⁰, governments can reduce opportunities for corrupt practices such as bribery or favouritism in the award of contracts. At the same time, encouraging greater civic participation and increasing inclusiveness of government processes can help reduce corruption. By involving citizens in the decision-making

⁷ "The role of anti-corruption agencies in governance", OECD (2021).

⁸ "Whistleblower protection and transparency: a global overview", Transparency International Annual Report 2023 (2023).

⁹ "Judicial Independence and Anti-Corruption Reforms", International Bar Association (2013).

¹⁰ "The impact of e-government on public procurement", World Bank (2023).

process, governments can ensure that administrative policies and practices reflect the needs and interests of the public, rather than those of corrupt elites¹¹.

Even in democracies with relatively strong good governance frameworks, certain marginalised groups can be excluded from meaningful participation in governance. Groups such as ethnic minorities, women, refugees, people with disabilities or those affected by poverty often face barriers to full participation in political processes and are directly affected by ineffective administration.

These marginalised groups may face institutionalised barriers to voting, running for office or participating in political discussions. In some situations, public administration systems may directly or indirectly affect minority communities directly or indirectly, minority communities may have less access to public services for various reasons, or may suffer unequal treatment in public institutions due to system bias or lack of cultural sensitivity in government services, while access to justice may be particularly difficult for representatives of these groups, who may face financial, social or cultural barriers when seeking to get legal recognition and defence of their rights.¹²

In today's increasingly digitised world, governments are expected to manage vast amounts of data, provide online services and interact with citizens through digital platforms. However, technological and information gaps present significant challenges for both good governance and effective administration.

Due to the public sector nature of government, where financial resources are managed through strict budgetary practices and regulations, governments may not have the capacity to implement the latest and best technological solutions, which can lead to inefficiencies in service delivery and the inability of government to respond adequately to citizens' needs. In addition, cyber security threats and data privacy concerns are increasingly important in maintaining trust between governments and their citizens.

Although in Romania, for example, the government has made significant progress towards digitizing public services, challenges remain in ensuring equitable access to digital infrastructure, especially in rural areas. Although in urban areas, digital platforms are becoming an essential tool to improve the delivery of public services, there are still problems of system stability and accessibility, which means that Romania still faces technological gaps that hinder the efficient management of public services¹³.

¹¹ "Civic engagement in governance and anti-corruption efforts", United Nations Development Programme - UNDP (2023).

¹²For more details see United Nations Development Programme (UNDP) (2023) highlighting the continuing struggles faced by indigenous peoples, women and refugees in accessing legal recourse and making their voices heard in governance.

¹³ "Digital government in developing countries: a global comparison", World Bank (2021).

4. As conclusions

It follows that the challenges facing the state in achieving good administration, good governance and legal certainty are significant and multifaceted. Bureaucratic inefficiencies, corruption, legal ambiguity, exclusion of marginalised groups and technological gaps all contribute to weak governance structures. Addressing these challenges requires sustained efforts, including institutional reforms, better allocation of resources, increased transparency and improved legal frameworks. While progress has been made in some regions, more needs to be done to ensure that all citizens can benefit from the fundamental principles of good governance and legal certainty.

Both bureaucratic inefficiency and corruption are deep-rooted challenges in many government systems around the world. While efforts to modernise public administration systems and fight corruption have made progress, these problems persist, often due to profound political and structural factors. By addressing these challenges through institutional reforms, transparency initiatives and a commitment to the rule of law, governments can move closer to achieving good governance and legal certainty.

Good administration and, by extension, good governance requires multifaceted approaches that combine technological innovations, transparency measures, institutional strengthening and political will. Governments must invest in digital transformation, decentralisation and capacity building to improve administrative efficiency. At the same time, anti-corruption reforms, including transparent public procurement systems, judicial independence and whistleblower protection, are essential to reduce corruption and political interference.

By implementing these reforms and learning from global examples of good practice, governments can build more effective, transparent and accountable institutions, which are guarantees of the rule of law and which are essential for promoting good governance, good administration and legal certainty.

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