

## The Challenges of the Pandemic at the Intersection with Public Administration and Migration

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### ABSTRACT

*The COVID-19 pandemic has brought with it many challenges in all areas of public administration, including migration and asylum. These include travel restrictions, as well as various containment measures that were needed in the context of the pandemic. The study presents the impact of the pandemic on economic immigrants and asylum seekers, as well as on public administration authorities with responsibilities in managing the phenomenon of migration. In the second part, the study analyzes the solutions offered for the protection of migrants' rights, as well as the prospects, so that the effects of the COVID-19 crisis are mitigated. The last part presents the prospects for the elaboration of a new treaty by the World Health Organization, so that humanity is constantly prepared for any possible crisis. The article's conclusions lead to the idea that this crisis could become an opportunity to find new innovative solutions for public administration, as well as for the protection of economic migrants and asylum seekers.*

**KEYWORDS:** *pandemic, human rights, asylum, good governance, efficacy.*

### 1. Introduction

The financial, economic, health crises of the twentieth century and the beginning of our century have shown that, immediately after their passage, states, governments have shifted to other concerns, instead of focusing on the foreign policy of their states within the UN, but also at regional



level, in order to learn the lessons needed to prevent, detect and assess crises of any kind and to meet any such challenges.

However, the recent health crisis caused by COVID 19 has led states to learn the lessons they need to learn even before it ends, teaming up to prepare for new health crises. The pandemic has affected all areas, and migration is also among them.

Since the spread of the COVID-19 virus at international level, public administration authorities, both at central and local level, have been facing an unprecedented situation for contemporary society. In addition to the immediate consequences of the pandemic, public administration authorities need to find solutions and provide a rapid response so that the long-term impact is as low as possible. In this period of crisis, public administration officials are required to adapt as well as possible to the existing situation and to respond optimally to the challenges posed by COVID-19 and to represent the sociological mirror of the nation. New rules on fundamental guarantees for civil servants, rules of the judiciary or the definition of the categories of public institutions responsible for the management of the pandemic are imposed, which poses serious problems for the adaptation of the training system for civil servants<sup>1</sup>.

## 2. Challenges for public administration and migration during the pandemic

The impact of the COVID-19 crisis is “extremely heterogeneous, with significant implications for crisis management and policy responses”<sup>2</sup>.

The national doctrine emphasized that public administration requires the use of managerial, political and legal theories and processes in order to achieve legislative, executive and judicial governance, to ensure regulations and services for society as a whole and for its segments”<sup>3</sup>.

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<sup>1</sup>The Ecole Nationale d’Administration itself - ENA - created by an ordinance of October 9, 1945, subsequently amended by law, is undergoing a major transformation. Thus, there is the problem of organizing the higher education system in the field of public administration in order to contribute to ensuring equal opportunities in terms of access to senior public positions and professionalizing the training of senior officials, founding principles, by the way, and ENA.

<sup>2</sup>OECD, 2020, *The territorial impact of COVID-19: Managing the crisis across levels of government*, OECD, p. 1.

<sup>3</sup>Alexandru, Cărăușan, M., Bucur, S. 2017, *Drept administrativ*, ed.a II-a, Bucharest: Lumina Lex Publishing House, Bucharest, p.36.



Thus, we can consider that public administration is at the epicentre of the state, evolving in response to existing needs in general.

Any difficulties encountered at the level of public institutions must be seen in two aspects: consensus and risk analysis. Thus, any activity and approach aimed at achieving the objectives must be ensured by stability. Risk management is based on a set of identification, analysis, and response<sup>4</sup> to potential problems encountered during the implementation of a strategy or program, even during the pandemic.

Public administration, as has been stated on various occasions<sup>5</sup>, incorporates the rhetoric and imperatives of the rule of law. Through the public administration, it is obliged to ensure an environment in which all individuals have the opportunity for evolution based “on formal / institutional rules”<sup>6</sup>.

Given the ongoing changes and challenges in society, state governments are adopting policies and strategies in these times of health crisis to be implemented in practice, adapted to new situations. Therefore, the public administration is focused on both the adoption and implementation of government policy, regardless of conditions. With regard to immigration, public administration remains the main player in implementing and coordinating public policies in this area.

Through the development of risk management plans, institutions must be able to control, to a large extent, the dangers and achieve the objectives. However, no matter how much an institution is aware of the risks, none is immune to crises<sup>7</sup>.

Risk involves an element of probability, occurs when the cause contains components of vulnerability, as in the case of the pandemic.

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<sup>4</sup>Chiciudean, I., David, G., 2011, *Managementul comunicării în situații de criză*, Bucharest: Comunicare.ro, p. 80.

<sup>5</sup>Vedinaș, V., 2019, *Drept administrativ*, Bucharest ; Universul Juridic Publishing House, p. 25.

<sup>6</sup>Bălan, E., 2016, *Statul de drept și calitatea reglementării*, in *Reforma Statului- Instituții, proceduri, resurse ale administrației publice*, Bucharest: Wolters Kluwer Publishing House, p. 39.

<sup>7</sup>*Idem*, p. 64.



With regard to external risk factors, as their occurrence cannot be prevented, management in this case must focus on their early identification, as well as on mitigating the impact on the national situation<sup>8</sup>.

The crisis generated by COVID-19 underlined the need for the authorities to anticipate as well as to prevent and respond to the complex challenges that currently exist. On this occasion, certain dysfunctions in the governance systems were observed.

COVID-19 has generated many challenges in the field of migration and asylum, the impact being felt both among people who have travelled across borders and on public administration authorities with responsibilities in managing the phenomenon.

Thus, a large part of the activities related to the protection of asylum seekers involve their direct access to the services and assistance provided. Under these conditions, the central and local public administration authorities had to find solutions and adapt to the new conditions. The pandemic has led to travel restrictions that have affected about 2.75 million migrants, as estimated by the International Organization for Migration<sup>9</sup>.

At the same time, the pandemic affected the voluntary assisted return of the International Organization for Migration, as well as integration programs.

Also, the efforts of the authorities have not always led to positive results in the protection of asylum seekers. For example, the United Nations High Commissioner for UNHCR has pointed out that in Cyprus measures taken by the authorities to protect public health have affected asylum seekers, meaning that they live in inappropriate conditions in closed and overcrowded camps, for example in Pournara and Kofinou<sup>10</sup>. The Commissioner for Administration and Protection of Human Rights also expressed concern about the exposure of unaccompanied minors and vulnerable people to risks associated with the pandemic.

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<sup>8</sup>Bowen, S. A., & Lovari, *Crisis Management* in Harris, P., Bitonti, A., Fleisher, C., Skorkjær Binderkrantz, A. (eds), 2020, *The Palgrave Encyclopedia of Interest Groups, Lobbying and Public Affairs*, Springer International Publishing, pp. 2-3, DOI: 10.1007/978-3-030-13895-0.

<sup>9</sup>International Organization for Migration( IOM), 2021, *Migrant Protection and Assistance during COVID-19: Promising Practices*, Geneva, p.1.

<sup>10</sup>EU Agency for Fundamental Rights, 2021, *Migration: Key Fundamental Rights Concerns, Quarterly Bulletin*, 1.10.2020, 31.12.2020, Luxembourg: Publications Office of the European Union, p.3.



However, if the health crisis has temporarily changed the way European borders are controlled, the essence of its rationality remains essentially the same. From another point of view, migrants have been affected by the pandemic from an economic point of view, many of them being unemployed. Migrants are also exposed to the health consequences of the pandemic, with living conditions and poverty increasing their risk of contracting the virus.

### 3. Prospects for a treaty by the World Health Organization

In the context of the crisis, heads of state and government from around the world joined the call made for the first time by European Council President Charles Michel in Paris in November 2020 for the Peace Forum. He was taken over by the Director-General of the World Health Organization (WHO), Teodoros Adhannom Ghebreyesus.

International Health Regulations (2005) specifies in Article 3 that : “The implementation of these Regulations shall be with full respect for the dignity, human rights and fundamental freedoms of persons”<sup>11</sup>. Consequently, these rights must be respected for all persons who are in the territory of a state, including immigrants.

WHO members promote the idea of drafting an international treaty based on collective solidarity and “anchored in the principles of fairness, inclusion and transparency”, on the fight against pandemics, a universal instrument “which could take the form of a framework convention under the WHO Constitution”. The purpose of this legal instrument is to draw the lessons learned from the pandemic caused by COVID -19 which led to some states leading to a higher number of deaths even than those caused by the two world wars of the previous century<sup>12</sup>.

But the pandemic has also caused serious disruption to health systems that it has found unprepared to deal with an unprecedented situation.

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<sup>11</sup>World Health Organization, 2016, *International Health Regulations (2005)*, third edition, France: WHO Library Cataloguing-in-Publication Data, p. 10.

<sup>12</sup>Moroianu Zlătescu, I., *Carantinarea și utilizarea inteligenței artificiale în justiție*, in „Punctul critic”, no. 3-4(33-34)/2020, p.161.

The idea behind it is that there will be other pandemics and other major health emergencies that will cause more and more damage to the world economy and the problem is not to know if such situations will occur but when they will occur. That is why the initiators of the appeal believe that the whole world community, the states together, must be better prepared, “in order to predict, prevent, detect and assess pandemics” and to be able to cope as well as possible with such situations. Obviously, this can only be achieved through close cooperation, on the basis of an international treaty on the preparation of states to take the necessary measures in the event of a pandemic<sup>13</sup>.

The call, which was launched on March 30, 2021, has a mobilizing title, namely: “Against COVID-19, unity of action is needed to strengthen the international health architecture”. The idea behind it is that a pandemic is practically very difficult to prevent and as such there must be training and coordination in the international community in order to be able to react quickly throughout the “detection, alert and response cycle”. In the event of a pandemic, the prevention of a state of emergency costs, as has been stated countless times, “a hundred times less than the attempt to control it”. The drafting of the new treaty is based on “a spirit of collective solidarity anchored in the principles of fairness, inclusion and transparency. “As scientifically proven, more than two-thirds of serious diseases and all pandemics so far have been caused by animal pathogens. But, they forget that in fact the origin is the human activities, which had the role of destroying biodiversity, creating an imbalance in ecosystems. Under these conditions, a sustained activity is required, the researchers in the field even creating a surveillance and alert system to be associated with pandemic prevention plans.

In this context, the initiators started from the idea that an international treaty, which is a legal instrument, creates obligations for the states that have concluded it and for those that adhere to it. Therefore, if an international pandemic treaty were to be adopted at WHO level, it would give states the opportunity to strengthen their capacity at the national level, but also to contribute

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<sup>13</sup>Gallina, P., *Covid-19 health crisis management in Europe: Decisive assessment is needed now*, in *International Journal of Infectious Diseases*, vol. 96, 2020, p.416, <https://doi.org/10.1016/j.ijid.2020.05.010>.



to capacity building at the regional and, of course, global level, as well as resilience to what future pandemics may mean.

The Treaty must include the basic objectives and principles that allow for the necessary collective action in the fight against the pandemic, highlight priority areas for international cooperation, provide for improved alert and response mechanisms and show the role that scientific research must play, and innovation. It must also provide for a control mechanism for national medical systems to see if they can cope with a pandemic. It must also play a role in restoring confidence in the international health system so that it can regain citizens' trust.

#### 4. Conclusions

Recent reality has shown that during this period of the Covid-19 pandemic, no state, no government, no organization or institution could cope, in isolation, with the situation. So it could not meet the challenges that other possible pandemics could pose in the future.

Although the crisis generated by Covid-19 requires a global response, the role of local government authorities in managing the epidemic must be brought to the fore, as action at the local level can be a complement to central government action. In this context, the function of public administration is not only to manage existing situations at the state level, but also to prepare strategies, being concerned about the future of society. Thus, we appreciate that the present and future strategies are very important for the management of the Covid-19 post-crisis period. Therefore, the adaptation of the institutions, as well as the development of the capacity to take effective decisions in the shortest possible time and the implementation of these decisions, through continuity are vital.

We appreciate that this crisis is an opportunity to find new innovative solutions to protect the whole society, and, obviously, migrants as well too.

We also believe that artificial intelligence (AI) will play an important role in managing future crises, as it is a comprehensive tool that allows people to rethink how they integrate



information, analyse data and use the resulting information to improve decision-making. especially by the public administration, contributing to a good governance.



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