

# Good Administration in the View of the Institutions of the European Union. Theoretical and Practical Aspects

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## Abstract

The right to good administration is provided by the Charter of Fundamental Rights of the European Union. This right presupposes that any person is recognised as having the right to benefit, as regards his problems, from impartial, fair treatment and within a reasonable time from the institutions, bodies, offices and agencies of the Union. The guardian of this right is the European Ombudsman. This concept of good administration is associated with the rule of law, legality, transparency, efficiency, effectiveness, democracy and implies that the institutions of the European Union must comply with certain standards. The author proposes as objectives: (i) Analysis of the right to good administration in the existing documents at the level of the European Union: the Charter of Fundamental Rights, the Maastricht Treaty on the European Union, the Lisbon Treaty on the functioning of the European Union, the European Code of Good Administrative Behaviour; (ii) refer to the specialised literature in the analysis carried out; (iii) to refer to case law. The author uses content analysis as a qualitative research method. The study shows different paradigms regarding the concept of good administration.

**Keywords:** good administration, EU institutions; maladministration, legality, rule of law.

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## 1. Introduction

The author aims to analyse the right to good administration by referring to legislation, specialised literature, and jurisprudence. The research approach starts from the clarification of apparently similar notions: good administration and good governance. What gives added value to the research is the reporting angle: not to see good administration as a simple right, or as a framework for defending a right, but to give it a new meaning, that of legal security.

How are citizens' rights protected? What is the normative substrate and how does the Court of Justice of the Union relate to the right to good administration? What is the connection between good administration and legal security, of regulations? To answer these questions, the author uses content analysis as a research method.

The organisation of the research by sections aimed to make the connection between the considerations of historical order and of Union law. Thus, the Union had as its initial foundation a basis of economic cooperation. The creation of the communities made possible the birth of a normative framework.

## 2. Considerations regarding good administration

The Europeanisation of public administration has been involved, over time, overcoming many challenges. The gradual transition from the European Communities, which were based on economic cooperation, to what today we call a political-economic organisation based on values, on the rule of law, did not imply the absence of obstacles. Winston Churchill, in his 1946 speech at the University of Zurich, shared his vision of a 'the United States of Europe'. This vision was received with reluctance in a century in which states were attached to the concept of sovereignty. The objective of

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the European Union was and remains the consolidation of the integration of the states with a view to greater economic and social cohesion<sup>2</sup>. The Balkan Wars and especially the end of the First World War meant the disintegration of empires and the emergence of nation states. Since the French Revolution of July 14, 1789, we can speak of a triumph of nationalism. However, only after the First World War can we really speak of the affirmation of national identities specific to the states.

At the level of European institutional law, but also at the European level, two apparently similar notions are used that can induce terminological confusion: ‘good administration’ and ‘good governance’. Considering that a principle of good governance is that it also involves ensuring or guaranteeing the rights of any person in relation to the activity of the public administration, it can be stated that good administration is a basis and a condition of good governance<sup>3</sup>.

Administrative rules have an important role in the law enforcement process, especially those that refer to fundamental rights. Administrative norms have a *secundum legem* character<sup>4</sup>. The existence and proper functioning of the procedural framework are preconditions for the proper implementation of the right from the primary norms. The influence of the Charter on the entire European legal system is known<sup>5</sup>. The importance of the procedural framework was also emphasised in a case from the relevant jurisprudence of the Court of Justice of the European Union. It ruled that the observance of the right to defence is closely related to the equality of arms<sup>6</sup>. What does equality of arms entail? The Court of Justice, in another case, ruled that ‘it is important to bear in mind that the principle of equality of arms, which is an integral part of the principle of effective judicial protection of the rights that individuals derive from EU law, enshrined in that provision, in that it is a corollary, like, in particular, the principle *audi alteram partem*, of the very concept of a fair trial, implies an obligation to offer each party a reasonable opportunity to present its case in conditions that do not place it in a clearly less advantageous position by comparison with its opponent’<sup>7</sup>. The Treaty on the European Union specifies from the very first article that it ‘marks a new stage in the process of creating an ever deeper union between the peoples of Europe, within which decisions are taken in full compliance with the principle of transparency and as close as possible to the citizens’<sup>8</sup>. Two important elements with reference to the good administration are proclaimed from the first article of the Treaty<sup>9</sup>.

European citizens, in relation to the administrative authorities, are in a lower position, since the administrative authorities, both at the level of the Member States and at the level of the Union, are in a superior position. These authorities have what is called in the specialised literature ‘discretionary power’. In order to guarantee a remedy that guarantees the rights and freedoms of European citizens, at the level of the European Union, there are several mechanisms to guarantee the effectiveness of the rights and freedoms stipulated in the treaties. The right to good administration has a formal consecration in art. 41 of the Charter of Fundamental Rights of the European Union<sup>10</sup>. However, we cannot speak of a new right arising, as this right had been developed much earlier by

<sup>2</sup> Balázs, S. G. (2023). „Principles for the europeanisation of public administration: In search of the european procedural administrative principles”. *Public Governance, Administration and Finances Law Review*, 8(1), 73–89. Source: <https://doi.org/10.53116/pgaf.6850>.

<sup>3</sup> Emil Bălan, Gabriela Varia, Marius Văcărelu and other, *Dreptul la o bună administrare. Între dezbaterile doctrinară și consacarea normativă [The right to good administration. Between doctrinal debate and normative consecration]*, Ed. Comunicare.ro, Bucharest, 2010, p. 318.

<sup>4</sup> See in this regard Cătălin-Silviu Săraru, *Drept administrativ. Curs universitar*, Volume I, Ed. Universul Juridic, Bucharest, 2023, p. 43-45.

<sup>5</sup> Margrét Vala Kristjánsdóttir. (2013//Spring). „Good administration as a fundamental right”. *Stjórnmal Og Stjórnslá*, 9(1), 237–255. Source: <https://doi.org/10.13177/irpa.a.2013.9.1.12>

<sup>6</sup> Case C-471/22, Request for a preliminary ruling under Article 267 TFEU from the Administrativen sad Sofia-grad (Administrative Court, Sofia, Bulgaria), made by decision of 4 July 2022, received at the Court on 13 July 2022.

<sup>7</sup> Case C-219/20, Request for a preliminary ruling under Article 267 TFEU from the Landesverwaltungsgericht Steiermark.

<sup>8</sup> Art. 1 of the Maastricht Treaty on the European Union, Official Journal of the European Union, C 326/16.

<sup>9</sup> Elisabeta Slabu, *Buna administrare în spațiul administrativ european [Good administration in the European administrative area]*, Ed. C. H. Beck, Bucharest, 2018, p. 41.

<sup>10</sup> The Charter of Fundamental Rights of the European Union was proclaimed by the European Commission, the European Parliament and the Council of the European Union on December 7, 2000, within the Nice European Council, and gained legal force through the Treaty of Lisbon on the functioning of the European Union, signed in 2007 and entered into force in 2009, Official Journal of the European Union C 326/02. The Charter has the same value as the Maastricht Treaty on the Functioning of the European Union and the Lisbon Treaty on the Functioning of the European Union.

jurisprudence by the Court of Justice of the EU. Although the Charter was proclaimed in Nice on December 7, 2000, it did not enjoy legal force. Later, with the entry into force of the Lisbon Treaty on the Functioning of the European Union, the Charter gained legal force. What does legal force entail? In relation to the acts emanating from the member states, in case of conflict, the provisions of the Charter prevail. Moreover, acts issued by institutions, offices or bodies of the Union that infringe the rights provided for in the Charter can be annulled. This competence of the Union is based on art. 263 of the Treaty on the Functioning of the European Union. The Court of Justice controls the legality of acts issued by the institutions, offices or bodies of the Union<sup>11</sup>.

According to the Charter, every person is recognised as having the right to benefit, with regard to his problems, from impartial, fair treatment and within a reasonable time from the institutions, bodies, offices and agencies of the Union. It is mentioned that this right mainly includes: the right of any person to be heard before taking any individual measure that could affect him; the right of any person to access their file, respecting the legitimate interests related to confidentiality and professional and commercial secrecy; the administration's obligation to justify its decisions. It recognizes the right of any person to receive reparations from the Union for damages caused by its institutions or agents in the exercise of their functions. Also, any person can write to the institutions of the Union in one of the languages of the treaties, the institutions being obliged to respond using the same language<sup>12</sup>.

The special feature of the charter is that it is in an interdependent relationship with the other union acts. Being therefore in a non-hierarchical position, it has the same value as the treaties. The notion of 'good administration' knows improvements, being a concept that acquires new values over time. It can be imagined as a framework, as a basis of the rule of law and procedural principles in protecting the rights of European citizens. Union institutions, offices and bodies must show what is called a 'duty of care'. Good administration can be viewed from two angles of analysis: on the one hand, it represents a basic principle that aims to make the administration more efficient; and on the other hand, it represents the framework for guaranteeing the subjective rights of individuals<sup>13</sup>.

The right to good administration appears as a fundamental right of the European Union<sup>14</sup>, being included in Title V 'Citizens' rights', so good administration is associated as a right of European citizens. The rights in the Charter are organised into six titles: Dignity, Freedoms, Equality, Solidarity, Citizens' Rights and Justice.

In the composition of this right provided by the Charter, we find the right to defence, given the fact that it is stipulated that every citizen of the Union has the opportunity to have access to his own file (he is given the framework to prepare his defence), on the one hand, and on the other hand, the person has the right to express his point of view regarding any measure that could harm his legitimate rights and interests (which means that he is guaranteed the effective exercise of the right to defence). Then, the right to information is considered, by mentioning the fact that any person has the right to request an answer to his questions or problems from one of the institutions of the European Union, an answer that must be addressed in one of the languages officially recognised by treated. Finally, there is also a right regarding the obligation of administrative bodies to motivate their decisions, an important aspect that refers to the principle of legality, of the rule of law. The action of the administrative authorities must be in accordance with the law<sup>15</sup>.

The principle of legality, considered to be the basis of the functioning of any legal system,

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<sup>11</sup> Kamila Milecka, „The right to good administration in the light of article 41 of the Charter of fundamental rights of the European Union”. *Contemporary Legal and Economic Issues*, 3, 43–60, 2011. Source: <https://www.proquest.com/scholarly-journals/right-good-administration-light-article-41/docview/1032551345/se-2>.

<sup>12</sup> Art. 41 of the Charter of Fundamental Rights of the European Union, Official Journal of the European Union, 2012/C 326/02.

<sup>13</sup> Herwig C.H. Hofmann, C. Mihaescu (2013/02//). „The relation between the charter's fundamental rights and the unwritten general principles of EU law: Good administration as the test case”. *European Constitutional Law Review*, 9(1), 73–101. Source: <https://doi.org/10.1017/S1574019612001046>.

<sup>14</sup> See on the right to good administration Cătălin-Silviu Săraru, *European Administrative Space - recent challenges and evolution prospects*, ADJURIS – International Academic Publisher, Bucharest, 2017, p. 51-53, <https://adjuris.ro/books/eas/Sararu%20-%20European%20Administrative%20Space.pdf>; Cătălin-Silviu Săraru, *Drept administrativ. Probleme fundamentale ale dreptului public*, C.H. Beck, Bucharest, 2016, p. 797-799.

<sup>15</sup> Emil Bălan, Gabriela Varia, Marius Văcărelu and other, *op. cit.*, pp. 38–39.

takes on special importance in the European Code of Good Administrative Behaviour, which states that all actions of the administration must be based on the law<sup>16</sup>.

This right to good administration provided by art. 41 must be interpreted in close connection with arts. 51 and 52 which refer to three important principles: the principle of the assignment of powers to the Union by the Member States, the principle of proportionality and the principle of subsidiarity.

Before the ratification of the Treaty of Lisbon, each institution had its own way of approaching this principle. The situation changed in 2009. Once the Treaty entered into force, references to this right were included in the primary law of the European Union. Starting from this moment, we can talk about good administration (sound administration) or bad administration (maladministration). What is important to note is that the right to good administration is proclaimed as a fundamental right<sup>17</sup>.

The guardian of the right to good administration is the European Ombudsman, also known as the European Ombudsman, elected by the European Parliament and empowered to receive complaints from any citizen of the Union or any natural or legal person residing or having its registered office in a member state, regarding cases of maladministration in the activity of the institutions, bodies, offices or agencies of the Union, the exception being those referred to the Court of Justice of the European Union in the exercise of its jurisdictional functions<sup>18</sup>. The European Ombudsman has no competences to resolve complaints concerning the national, regional or local administration in the member states<sup>19</sup>.

The characteristics of good administration are citizen participation; transparency; effectiveness and efficiency; equity and inclusiveness; the existence of a system based on norms, on the letter of the law to ensure respect for human rights<sup>20</sup>.

Good administration cannot be possible without democracy and public participation, and the first sign of democratisation should be the observance of some norms, the letter of the law by any person regardless of their professional status, and then the depoliticisation of the administration and the elimination of administrative centralism, of the system centralised. The right to good administration gives the person the opportunity to be treated impartially and in a reasonable time in solving his problems by the institutions and bodies of the Union, this being possible through an exemplary behaviour of civil servants in relation to the rules and principles existing at the national level and European<sup>21</sup>. In another case, the Court of Justice of the European Union ruled that 'the principle of impartiality, which pertains to the right to good administration, must be differentiated from the principle of the presumption of innocence'<sup>22</sup>.

The concept of good administration is also found in the European Code of Good Administrative Behaviour<sup>23</sup>. The Code aims to show what standards European citizens, the public, should expect in relation to the Union's institutions. The principles of good administrative behaviour are legality; non-discrimination; proportionality; impartiality and independence; objectivity; respecting the legitimate expectations of the public; the consistency of the official in his own administrative behaviour; notifying the public of the manner in which a problem falling within the attribution of the respective official is pursued and the manner of solving the problem; correctness; kindness; sending the answer to letters in the citizen's language; confirmation of receipt of a letter or complaint and indication of the competent official; the obligation to transfer to the competent service

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<sup>16</sup> Mirlinda Batalli, Artan Fejzullahu, „Principles of good administration under the European Code of Good Administrative Behavior”, *Pécs Journal of International and European Law*, 2018/1, p. 31.

<sup>17</sup> Imola Strehö, *Good administration in the European Union. Moving towards a culture of service for the European Institutions*, Sciences Po, École de droit, Centre d'études européennes, p. 73.

<sup>18</sup> Art. 228 of the Treaty on the Functioning of the European Union, Official Journal of the European Union, C 202/54.

<sup>19</sup> Irina Moroianu Zlătescu, *Instituții Europene și Drepturile Omului [European Institutions and Human Rights]*, Romanian Institute for Human Rights, Bucharest, 2008, p. 61.

<sup>20</sup> Elena Claudia Marinică, *Promovarea și protejarea drepturilor omului prin mijloace contencioase [Promoting and protecting human rights through contentious means]*, Romanian Institute for Human Rights, Bucharest, 2011, p. 43.

<sup>21</sup> Maria Cristiana Ieremie, *Reasonable Term. Component of the Right to Good Administration*, The 16<sup>th</sup> edition of the International Conference 'European Integration Realities and Perspectives', 2021, p. 70.

<sup>22</sup> Case C-251/22 P, APPEAL under Article 56 of the Statute of the Court of Justice of the European Union.

<sup>23</sup> The European Code of Good Administrative Behaviour, adopted by the European Parliament in 2001.

within the institution a complaint or letter by a direction that does not have the competence; the right to be heard and to give statements in cases concerning the rights or interests of individuals; resolving within a reasonable time a request or complaint addressed to an institution; the obligation to mention the basis of the decisions adopted by the institution; indicating attack possibilities, etc. This Code has no binding legal force<sup>24</sup>.

The Code aims, on the one hand, to expose in a succinct manner the working methods and principles of the institutions and bodies of the European Union, the latter having the obligation to respect them in relation to individuals. On the other hand, this Code intends to eliminate some deficiencies in the activity of civil servants, which could lead to the violation of some rights and freedoms of citizens and thus harm, damage the image of the institutions where the civil servants carry out their work<sup>25</sup>.

In order for the will of the citizens of the Union to be heard and taken into account, 'The institutions grant citizens and representative associations, by appropriate means, the opportunity to make their opinions known and to exchange opinions publicly, in all areas of action of the Union.' Also, the citizens of the Union, nationals of a significant number of member states and at the initiative of at least one million of these citizens can cause the Commission to present an appropriate proposal in the matters where these citizens consider that an act of the Union is necessary<sup>26</sup>.

Elements such as equality, proportionality, openness, transparency, citizens' participation in decision-making, respect for people's fundamental rights are considered as principles of the European Union and undoubtedly constitute elements of good administration<sup>27</sup>.

### 3. Good administration in the view of the institutions of the European Union

The right to good administration has the character of a legal principle, a regulation with a fundamental value, which has a guiding role for the legal system. It is not a vague notion that can be interpreted according to the factual situation, but an integrated system of elements with connections between them that define a regulation of a principled nature. Good administration cannot be referred to only by referring to impartiality, fairness, transparency, the right of access to one's own file or the public administration's obligation to motivate its decisions. Good administration also requires other elements such as the legality on which the action of the public administration must be based, the right to address the petition and receive an answer within a reasonable time, the right to challenge in court a decision of the public administration that has the capacity to affect the legitimate rights and interests, the right to compensation in case of injury by the action or inaction (omission) of a public authority, as well as the right to have clear procedures, brought to the public's attention regarding the relationship with the public administration<sup>28</sup>.

Also, the institutions and bodies of the Union must 'combat any discrimination based on sex, race or ethnic origin, religion or beliefs, disability, age or sexual orientation' and to promote 'good governance and ensure the participation of civil society, the institutions, bodies, the offices and agencies of the Union act respecting the principle of transparency to the highest degree'. Also, every citizen of the Union, natural or legal person is recognised, 'the right of access to all the documents of the institutions, bodies, offices and agencies of the Union, regardless of the support on which these documents are located'<sup>29</sup>.

Governments and citizens must work together to promote and implement the principles of good governance<sup>30</sup>. In this sense, the European Council plays an important role, which 'gives the Union the necessary impetus for its development and defines its general political orientations and

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<sup>24</sup> Imola Strehö, *op. cit.*, p. 78.

<sup>25</sup> Emil Bălan, Gabriela Varia, Marius Văcăreanu and other, *op. cit.*, p. 161.

<sup>26</sup> Art. 11 of the Maastricht Treaty on the European Union.

<sup>27</sup> Elisabeta Slabu, *op. cit.*, p. 44.

<sup>28</sup> *Ibid.*, p. 50, 51.

<sup>29</sup> Art. 11 of the Maastricht Treaty on the European Union.

<sup>30</sup> Mirlinda Batalli, Artan Fejzullahu, *op. cit.*, p. 28.

priorities.<sup>31</sup> EU leaders adopted the Versailles Declaration, 10–11 March 2022 on Russia's aggression against Ukraine, a look at how the EU can live up to its responsibilities in this new reality, protecting European citizens, values, member states' democracies and the European model<sup>32</sup>.

Transparency also covers the public meetings' in which the European Parliament meets. The Council also meets in public meetings, but only when debating and voting on a draft legislative act<sup>33</sup>. Through the transparency of the meetings of the European Parliament, it is aimed that the European citizens are aware of the activity of the European Parliament, all the more so since this institution together with the Council adopts the legislation of the Union and the citizens contribute to the activity of the Parliament through the vote expressed once every five years<sup>34</sup>.

The interpretation of the right to good administration with regard to the European Parliament is done through reporting and in the light of the regulation of the right to address petitions to this institution<sup>35</sup>. Also, the European Parliament can, at the request of one fourth of its members, set up 'a temporary commission of inquiry to examine the alleged breach of legal norms or maladministration in the application of Union law', the exception being the case where the alleged facts are examined by a court and the jurisdictional procedure is not concluded<sup>36</sup>.

In accordance with EU law, member states have a fairly large margin of freedom to establish their own direct taxation systems, they have the opportunity to find the best way and formula to ensure the fulfilment of their objectives in terms of domestic policy. Member States must take the right action on taxation in a transparent manner in the framework of the exchange of information for fair tax competition. It is up to national governments and not the European Union to decide on the level of taxes that citizens have to pay. In this context, the role of the European Union is to supervise and ensure that fiscal regulations are consistent with the general objectives of the European Union and that these regulations are not likely to bring unfair advantages to businesses from a member country of the Union in compared to competitors from another country. Excessive fiscal measures developed and adopted through insufficiently good fiscal policies can harm society as a whole because a tightening of taxation leads to the emergence of tax evasion, this phenomenon increasing in intensity with the increase in the number and rates of taxation. An increase in taxation in the form of taxes and fees instituted by the state has as a consequence the increase in prices, as an attempt will be made to recover the amounts paid by taxpayers to the general state budget<sup>37</sup>.

The good administration of justice in the context of the powers that the Court of Justice of the European Union has been closely related to the rule of law, the principle of legality, the right to a fair trial, within a reasonable time, before an independent court and impartial, the proportionality of the sanction applied in relation to the deed, i.e. the supremacy of law<sup>38</sup>.

The Court of Justice has the power conferred by the treaties to 'review the legality of legislative acts, acts of the Council, the Commission and the European Central Bank, other than recommendations and opinions, and acts of the European Parliament and the European Council intended to produce legal effects vis-à-vis third parties'. Any natural or legal person may notify the Court of the omission of an institution, body, office or agency of the Union to address an act, other than a recommendation or an opinion<sup>39</sup>.

The question arises whether the right to good administration was born jurisprudentially or not? To answer this question, we must note that for each article of the Fundamental Charter we have comments that indicate the sources of each article, which are intended to serve as a semi-official interpretation before the Court of Justice of the European Union. We note that in these comments that refer to art. 41 of the Charter regarding good administration, reference is made to the Court of Justice

<sup>31</sup> Art. 11 of the Maastricht Treaty on the European Union.

<sup>32</sup> Declaration of Versailles, 10–11 March 2022.

<sup>33</sup> Art. 15 para. (1)–(3) of the Maastricht Treaty on the European Union.

<sup>34</sup> Elisabeta Slabu, *op. cit.*, p. 45.

<sup>35</sup> Art. 44 of the Charter of Fundamental Rights of the European Union, Official Journal of the European Union, 2012/C 326/02.

<sup>36</sup> Art. 226 of the Lisbon Treaty on the functioning of the European Union.

<sup>37</sup> Emil Bălan, Gabriela Varia, Marius Văcăreanu and other, *op. cit.*, p. 326.

<sup>38</sup> Irina Moroianu Zlătescu, *op. cit.*, p. 21.

<sup>39</sup> Art. 263 of the Lisbon Treaty on the functioning of the European Union.

case file. In all these cases, the right to good administration is not found. In one case, there is talk of the community legal order applicable to administrative procedures. In another case, reference is made to the right to compensation, a concept closely related to the reparation of damages, then to the principle of proportionality or the protection granted to legitimate expectations. What we notice is the fact that many aspects related to the administration are included, but in no case is this jurisprudence referred to the phrase ‘good administration’, this notion being a formulation of those who drafted the Charter of Fundamental Rights by which they wanted to take a step forward, this notion being an umbrella that covers several aspects<sup>40</sup>.

In the context of the powers of the Court of Justice of the European Union, we can speak of a good administration of justice. An important role is played by the ‘preliminary questions’ that can be addressed to the Court by the national courts in order to clarify the application of the European norms in the internal legislation of the member states. The purpose of this provision is to ensure in the European administrative space a uniform interpretation by the national courts of the provisions stipulated in the legislation of the Union<sup>41</sup>. Thus, ‘the Court of Justice of the European Union is competent to give preliminary rulings on the interpretation of treaties; the validity and interpretation of acts adopted by the institutions, bodies, offices or agencies of the Union’<sup>42</sup>.

In a case from the recent jurisprudence of the Court of Justice of the European Union, the Timișoara Court of Appeal observed that the object of the request concerns an act proclaimed by the European Parliament, the Council and the Commission, respectively the Charter of Fundamental Rights of the European Union, which is why the Court referred of Justice of the European Union in order for it to give a preliminary ruling on some questions regarding the principle of proportionality of punishments and the right to work<sup>43</sup>.

In the context in which the Charter of Fundamental Rights speaks in the context of the right to good administration and ‘the right to reparation by the Union of damages caused by its institutions or agents in the exercise of their functions’, we note that the Court of Justice has the competence to judge disputes whose object is the reparation of damages caused by its agents in the exercise of their functions<sup>44</sup>.

Legal security presupposes the trust of European citizens in the acts issued by the institutions, bodies or offices of the Union. In a society based on law, the development of individuals can take place when legal security prevails, i.e. for the norms to enjoy legitimacy. In a case from the relevant jurisprudence, the Court of Justice of the European Union ruled that ‘in order to guarantee legal security and the good administration of justice, it is necessary, for an action to be admissible, that the essential factual and legal elements on which it is based on this should emerge, at least briefly, but coherently and comprehensibly, from the very text of the introductory request. (...) According to the jurisprudence, the principle of legal security, which is part of the general principles of Union law, requires that legal norms be clear, precise and predictable in terms of their effects, so that interested persons can orientate themselves in situations and in legal relations that are governed by the legal order of the Union’<sup>45</sup>.

#### 4. Conclusions

The right to good administration has the value of a legal principle having a major role in a rule of law. Good administration has a number of characteristics such as transparency, citizen participation, effectiveness and efficiency; equity and inclusiveness; the existence of a system based on norms, on the letter of the law that ensures respect for human rights.

Respect for this right is mandatory as the Charter of Fundamental Rights of the European

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<sup>40</sup> Emil Bălan, Gabriela Varia, Marius Văcăreanu and other, *op. cit.*, p. 109–111.

<sup>41</sup> Elisabeta Slabu, *op. cit.*, p. 31.

<sup>42</sup> Art. 267 of the Lisbon Treaty on the functioning of the European Union.

<sup>43</sup> Case C-40/21, National Integrity Agency – interpretation of art. 15 para. (1), art. 47 and art. 49 of the Charter of Fundamental Rights of the European Union.

<sup>44</sup> Art. 268 and art. 340 of the Lisbon Treaty on the functioning of the European Union.

<sup>45</sup> Case T — 829/16, *Mouvement pour une Europe des nations et des libertés v. European Parliament*.

Union has binding legal force. The guardian of the observance of this right is the European Ombudsman, being entitled by Union legislation to receive complaints from Union citizens regarding cases of maladministration by Union institutions, bodies and offices. Respect for this right is also guaranteed by the possibility for citizens of the European Union to turn to the Court of Justice, which has the competence to judge disputes whose object is the reparation of damages caused by its agents in the exercise of their functions.

The right to good administration presupposes the recognised right of any person to be treated impartially and in a reasonable time in solving his problems by the institutions and bodies of the Union, this being possible through an exemplary behaviour of civil servants in relation to the rules and principles existing at the national and European level. At the level of the European Union, there is the European Code of good administrative behaviour that officials must take into account. It has no binding legal force, being only an instrument in which the standards that officials must respect in relation to European citizens are specified. This Code is intended, on the one hand, to present the working methods and principles of the institutions and bodies of the European Union, and on the other hand, to hold civil servants accountable who, through their activities, may harm certain rights and freedoms.

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