

Administrative reform in Romania and Europa. Between wishes and possibilities

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Abstract

The real administrative reform is certainly linked with the idea of local good governance and administrative or financial decentralization, both consisting in a big and real problem for our actual authorities. In Romania, the fundamental objectives underlying the administration reform are the following : the approximation of the national administration to the citizen, decentralization of public services, the increasing efficiency of public administration. Approach of national government to the romanian citizen is achieved only through a real anchoring of the authorities in socio-economic life of all citizens, in maximizing the transparency of decision-making, restructuration of methods of communication with the population that might be affected by its decisions and administrative acts.

Keywords : *administrative reform, efficiency, decentralization, public authorities, European Council*

1. Introduction

In October 2012 it took place the 23rd Session of the Congress of Local and Regional Authorities of the Council of Europe that saw not only the renewal of the Congress membership for a longer term of four years and the election of the new Congress leadership, but also the adoption of its priorities for 2013-2016. The Congress is the Council of Europe's assembly of local and regional representatives. It speaks on behalf of over 200 000 local and regional authorities and ensures the participation of their elected representatives and the citizens in building a Europe that respects democracy, the rule of law and human right.. [1]

In many Council of Europe Member States, the crisis has increased the commitment to reform and restructuring of the different levels of local and regional authorities. While such reforms may in some cases prove to be necessary or useful, they should always be carried out in the interests of local inhabitants and in compliance with the commitments entered into by States under the European Charter of Local Self Government- [1, Ibidem].

2. Public administration in post communist countries and its image in European Council view

As on the ongoing political and economical transition in the Central and Eastern Europe countries CEE moves into the new century the most advanced countries in the region are preparing to deal with their prospective entry into the European Union. More a process than an event join the EU is likely to place heightened demands on public administrations throughout the region. Indeed, in the past the multiple phases of EU accession- prenegotiation, negotiation and membership have called for strong administrative capacity on the part of acceding governments. [2,1].

For many countries—Romania, Bulgaria, Lithuania, Latvia, not to mention Serbia, Ukraine, Moldova, and so on—the insistence on standards that most of these countries can hardly afford to implement creates a danger that the European Union will not be seen as supportive of reform at all, but as holding party governments to account for a raft of policies that they cannot achieve. It is also worth noting that as the economic situation in countries such as Romania remains ill reformed, their political elites find themselves torn not only between their domestic and their international constituency but also between the International Monetary Fund (IMF) and EU. The costs and scope of the Union's *acquis communautaire* are huge, requiring the buildup of state administration and its capacity to process these laws [3, 68]. .

Development administration has therefore suffered from the chronic ailments of dependency instability and policy confusion. To reform and organize their administrative systems for both development and service delivery many less developed nations need to break the chains of dependency on exogenous determinants establish a stable political system that can sustain the courses of reform and formulate clear policies that will steer actions toward desired goals. [4,2].

The real administrative reform is certainly linked with the idea of local good governance and administrative or financial decentralization, both consisting in a big and real problem for the actual authorities. Good local governance is not just a matter of creating the right legal political and institutional framework. It is also about actively building local authority capacity – particularly the understanding and skills and the ability and desire to learn. Framework and capacity – these are the two sides of a coin.

Effective local government requires good leadership and strategic management, good service provision, good community participation. Local self government denotes the right and the ability of local authorities within the limits of the law to regulate and manage a substantial share of public affairs under their own responsibility and in the interest of the local population. [5].

In Romania, government capacity to formulate policies and implement them has direct impact on citizens. The relationship between government and the population becomes increasingly complicated, political decisions go through several levels of government, the political problems must be solved in an environment in constant change which needs cooperation and coordination, both locally, nationally and internationally. Citizens face this process and feel that they have less and less influence on decisions that are taken at local and national level, considering that there is a democratic deficit [6,17].

Guy Peters – author of the article *Government without Government-Rethinking Public Administration*, published in 1998 in *Journal of Public Administration, Research and Theory*, classifies most of the theoretical literature into three broad perspectives on administrative reform and reorganization - purposive models, environmental models, institutional models. In the political science and public administration approaches to this set of models governments and political/administrative elites detect innovations or pressures in the environment that requires government response. [4,4].

In Romania, the fundamental objectives underlying the administration reform are – the approach of the national administration to the citizen, decentralization of public services, the increasing efficiency of public administration.

Approximation of national government to the citizen is achieved only through a real anchoring of the authorities in socio-economic life of all citizens, in maximizing the transparency of decision-making, restructuring of methods of communication with the citizen that might be affected by its decisions and administrative acts. Unfortunately, although in recent years the political class has struggled theoretically to accelerate the reform of the administration in Romania, for example by initiating a project on sharp decentralization and regionalization of our country all these initiatives remained only at the design stage, which is ultimately the result of a deficient managing

of direct communication with all citizens, of its actual involvement in political and administrative decisions and also a warning shot glanced continually to the local or regional authorities that seem to have forgotten that their main role is to be "in service" to their citizens and to bring out the best collective interests.

Social collectivities constituted in territorial administrative units have specific needs that make their cause a common one to all their members and so all local interests are better known and accomplished by local authorities, which increases the spirit of individual initiative and emphasize the spirit of freedom. [7,98-99].

To solve the distribution of powers between central and local administrative authorities, the governments increasingly invoke the subsidiarity principle as a goal of effective political action in achieving this option, subsidiarity having dual nature, both political and legal. The principle of subsidiarity is a political principle, aims to approximate as closely as possible to the citizen, being presumed that the most effective settlement or realization of their interests is ensured to those faced with managing their local problems by themselves, through the means available. Also, according to this principle, the ineffectiveness of local action in achieving local needs, justifies state interference in local issues. [7,ibidem].

In fact, subsidiarity became the leitmotif of EU decision making after the political crisis over The Maastricht Treaty in the early 1990s. By the end of the decade it was firmly established as a norm that all EU decisions had to respect. In particular German, British and French preferences had converged as never before in the Union history around a model in which as many decisions as possible were taken at the national or sub national level. [9,11].

Even the concept is extended to include subnational public entities subsidiarity remains a division of competences within the public sphere. While vertical subsidiarity concern the distribution of powers among different layers of public sphere horizontal subsidiarity could be conceived like a sort of division of labour between public sector and civil society [9, 16].

Civic Engagement and Citizenship Leadership Building suppose a democratic culture Empowerment. So they develop a culture of respect and respect for diversity, promote civic responsibility among local people, make best use of use public hearings,

citizens' forums, consultations and surveys; - use referendums on important issues requiring choices, use conflict mediation mechanisms where necessary; use law to protect the rights and entitlements of all groups, ensure women's participation; give special support to marginal groups. [10].

In our country, given the scale and importance of decentralization process in 2013, the Ministry of Regional Development and Public Administration coordinated the draft law on the establishment of measures to decentralize the powers exercised by some ministries and specialized bodies of public administration central and measures on public administration reform.

Incidentally, in the substantiation of Government Decision approving the general decentralization strategy between 2015-2016 it was indicated that increasing local autonomy is a necessary step to bring public services closer to citizens and to use more existing resources judiciously. Romanian Government proposed through this strategy to help modernize public administration and to offer more efficiency to the allocation of competencies came from central government.

In fact, each level of government maximizes the welfare of its constituency. This implies that different layers of government always act benevolently. They do not pursue their own interest or fall victims of different lobby groups. Moreover, the implementation of policies may be more or less costly but policy design involves no transaction costs nor are there costs of policy learning. [11, 21].

In some countries, important changes in basic laws on local government fall short of implementation or remain ineffective because there is insufficient will at national level and because there are inconsistencies in the legal framework. We consider as being specific objectives : conduct an in-depth analysis of the local government legal framework to identify possible internal inconsistencies and point to changes required in basic and sectoral legislation, and plan legislative reforms in a rational and comprehensive manner and introduce them with timely implementation measures. [12].

The influence of EU enlargement and accession process has also led to a parallel policy interest in regionalization and the establishment of EU regional divisions mainly for statistical purposes [13, 4].

In terms of decentralization and its effects on administration reform assuming new responsibilities through decentralization involves planning, technical management, finance, human resources development of new service operating in this program. It appears as a complex phenomenon involving various geographical entities, stakeholders, governments, private sector, civil society, social sectors represented by all forms of governance: political, social, the cultural, environment. [14, 90].

Thus seen, decentralization appears as a mixture of administrative, fiscal, functions, relationships. We should not see decentralization as an end in itself but as a means of creating an open and effective local governance, as a state of affairs based on principles of freedom, respect and participation. And, above all, it appears as representing the trust of citizens by recognizing their business management capacity in fulfillment of local interest- [14, Ibidem].

The importance of decentralization in the success of public sector reform is an almost universally accepted element. In many countries central governments have resorted to decentralization and have adopted either the European Charter of Local Autonomy or the equivalent thereof global, World Declaration of Local Autonomy of the International Union of Cities and Local Authorities (IULA). [15,13].

As reflected in contemporary doctrine the benefits of decentralization and boosting administrative reform by implementing these benefits to local authorities are evident, they involve, inter alia that the measures and decisions can be made quicker by local authorities as they do not longer need to wait for permission to do so from the center, material and financial resources and even manpower can be used more efficiently and meet priority needs, which local authorities know and feel" even better than the central government, citizens participation (by elections)to designation of local authorities that emphasize their sense of responsibility and initiative in the public life of "city" and leads them to find solutions to the problems facing [16, 337].

Decentralisation is closely related to the transformation of public services. Redefining responsibilities reformarea services is the first step in reformation of public sector [17, 17.]

Decentralization of public services is, in fact, in recognition of a certain autonomy and granting legal personality of some public service institutions organized in administrative-territorial units [18,202].

In the Romanian doctrine, greatly influenced by the French one, it was considered that government represents all public services and that public service is the mean by which the administration operates. Therefore, the public service is done either by state or private structures, and so, the State is free to sustain free enterprise. [19,193].

Although not covered in negotiating chapters distinct, local public services can be found through their problems in chapters as: environment, energy, transport, internal market, budgetary policies. Advancing decentralization in most European Union countries created a favorable context for the development of local enterprises. On the one hand, increased responsibilities entrusted to local and suppression guardianship explains recourse to such enterprises, designed as a mean to the local authorities (in Germany, Belgium, Sweden, Italy, Spain, for example). [29, 17].

In his attempt to make even a step further on decentralization Romanian Government has assumed responsibility for the Act establishing measures to decentralize the powers exercised by some ministries and specialized agencies of the central government, as well as some measures to reform public administration, law, however, was declared unconstitutional by Decision. 1/2014 of the Constitutional Court of Romania, criticisms made this text regarding both internal and external.

In its criticism, the Government, however, said there could not be detained alleged violation of art. 120-122 of the Constitution invoked by the parliamentary group that raised the objection of unconstitutionality, since the principle of subsidiarity, which requires that decisions affecting the community are taken by representatives of the closest community members, is added another criterion, cumulatively, named the existence of administrative capacity of the authority. Therefore "it is obvious that strategic planning should aim, at least in the first phase, one area larger as that of a county level, allowing coordination, coherence and harmonization of local interests in order to achieve objectives joint development-

The Court invoked that the transfer of powers to the local authorities must have regard to their administrative capacity to manage such powers transferred and noted that according to art. 2 letter l) of the Framework Law no. 195/2006, decentralization is the transfer of administrative and financial competence of the central government level to the local government or the private sector. In other words, decentralization must be based on recognition of local interest, distinct from the national one, as territorial administrative units have organizational structure, functional and also their own patrimony, affected to the local interest [21, para 159].

The admission of the exceptions by the Constitutional Court shoawe a realistic portrait of the Romanian actual society and it meant , in fact,act, a big step backward in terms of administrative reform and which were the gaps of central government were gaps in the implementation of the new measures at local government level (foundation skills transfer in the decentralization process had to be realkized based on some impact analysis and its realization is also based on a specific methodology). Or just the failure of the relevant impact studies demonstrated once again the break in the communication between the governed and the governing, between central and local authorities.

In terms regarding administration reform and implicitly public function reform in Romania and Europe it is obvious that most governments have to deal with a changing governance environment and have to create new institutional mechanism or adapt and develop existing ones to suport this new situation. The number of public service reform programmes undertaken in recent decades beares witness to the fact that capacity development is by no means exclusively an issue for developing countries [22,4].

Good governance- the base of the administrative reform is an ideal which is difficult to achieve in its totality. However, to ensure sustainable human development, actions must be taken to work towards this ideal with the aim of making it a reality[12]. Offering public sector reform policies might be off heavily in the short run. At he same time, when public sector reform processes enter a garbage can stage the risk for the participative politicians are considerably increased as the ellectorate will ask questions about the outcomes at least in the long run.. [23, 13].

IN EU post-comunist states there are moves to strenghten democratic controls over state administration to increase its accountability to democratically elected bodies.

Efforts are underway which aim at the descentration and decentralization of the bureaucratic apparatus. Anyway, it is universally accepted that public efficiency, effectiveness and flexibility must be increased. [24, 114], [23, 4].

Administrative reform suffered all these years from a chronic lack of strategic vision at central governmental levels. It is still clear the lack of clear criteria that should have a decisive influence upon the medium and long-term evolution of administrative institutions and practices. [25, 57].

Concern with the new role of the state and the kind of public service required to discharge this role has brought the service under the spotlight in countries over a wide economic range. Reform provisions affect persons and organizations. They are almost of necessity threatening to some often those least able to deal with threat or with least opportunity for change of career. [22,4].

Key Management Issues have been classified in the following manner – institutional environment, triggers for reform initiatives, explicit political support, a clearly defined goal and strategy, a lead agency with sufficient credibility prestige and acces to power, effective communication , consult between all actos and stakeholders, full involvement of the ministries. [22,10].

The indifference with regard to the public, arrogant behaviour and servile attitudes, and slowness that were common during the communist era are still often met in the activity of public servants in the region. A bureaucratic attitude and an individualist culture are the main threats to the public interest. Frequent changes of ministers have led to unstable working conditions and the result is a lack of motivation and indifference from public servants side towards results of their activity. Despite these features, some progress in public service ethos is evident. Changes have mainly occurred as a result of external pressures, in particular the EU enlargement process, and increasing demands from the public [25].

The quality of democracy also depends on the trust that citizens place in their institutions and on their participation in the democratic process. As local authorities are closest to the grassroots, they are best placed to take positive action and encourage participatory democracy. The involvement of citizens and the development of dialogue with their elected representatives are vital at all levels of governance. This dialogue

must include all local residents without exception, in particular groups which currently feel excluded – young people, migrants, foreign nationals, minorities, Roma, etc.- in the best interests of both the majority and the minority of the population. [26].

2. Conclusions

Obviously, the lack of proper use for human resource had negative consequences like: maintenance of negative values, based upon rigidity and lack of initiative specific to the communist regimes, problems related to the professionalization of public service, major communication issues both at internal (inside the organization) and external (towards the citizens) level, the low quality of the service provided in the public administration structures, lack of corporative spirit at the level of the civil servants body [25, 69].

Therefore, through their efforts, both EU and local authorities should work towards transforming civil service reform and local government from the former communist states in a priority axis of their work. It is certain that in terms of public functions will have taken into account the numbers of officials in each state, the rights and obligations to local, predictable demographic change [27,167].

References:

Treaties, monographies, articles :

- [2]. Nunberg B., Ready for Europe- Public Administration Reform and European Union Accesion in Central and Eastern Europe, The World Bank, Washington DC, 2000.
- [3]. Grzymana-Busse A. and Innes A., Great Expectations: A. Grzymana-Busse and A. Innes, Great Expectations The EU and Domestic Political Competition in East Central Europe, East European Politics and Societies, Vol. 17, No. 1, 2003.
- 4]A. Farazmand, Administrative Refom in Developiong Nations, Praeger Publishers, 2002.
- [6] Profiroiu M., Accelerarea reformei administrației publice, RTSA, VIII/2002.
- [7] Bara V., Șuta Șt. , Subsidiaritatea și autonomia locală – principii de organizare administrativă, RTSA, 1/4/2000.
- [8] Peterson and Bomberg, Decision Making in the European Union Macmillan, 1999.
- [9] Colombo Al., The principle of subsidiarity and European citizenship, Milano, 2004.
- [11] Gelauff G., Grillo I, A Lejour, Subsidiarity and Economic Reform in Europe, Berlin, 2008.
- [13] Macmillan P., Descentralizaion and local develoment in South East Europe, 2013.
- [14] Bosie I., Implicații ale descentralizării asupra eficienței serviciilor publice, Editura Universității Alexandru Ioan Cuza, Iași , 2012.
- [15] Dincă D.,Tendințe privind descentralizarea și privatizarea serviciilor publice, Revista Transilvană de Științe Administrative, 2(11), 2004.
- [16]. Preda M., Drept administrativ. Partea generală, Ediția a IV-a, Lumina Lex, București, 2006.
- [17] Peteri G., Zentai V., Recomandări pentru un management de succes al reformei în Controlul descentralizării și reformele administrației publice în Europa centrală și de Est, Edit Tehnica Info, Chișinău, 2004.
- [18] Manda C., Drept admnistrativ , Tratat elementar, ediția a IVa, Ed. Lumina Lex, București, 2007.
- [19] Corbeanu I., Drept administrativ. Curs universitar, Ediția a II-a, revăzută și completată, Lumina Lex, București, 2010.

- [20] Ciomoș V., Serviciile publice locale în context european, revista Transilvană de Științe Administrative, 1(10), 2004.
- [22] Korkery J, Daddah T, C. O Nuallain, T Land, Management of public service reform, IOS Press, Netherlands, 1998.
- [23] Lane J. E, Public sector reform, Rationale, Trends and Problems, 1997.
- [24] Hesse J., Rebuilding the State, Reform in Central and Eastern Europe, 1997.
- [25] Hințea, C. ,Șandor S. D., Junjan V., Administrative Reform in Romania and the European Union, RTSA 1/7/2002.
- [27] Apostol Tofan D., Instituții administrative europene, CH Beck, București, 2006.
- Romanian Constitutional Court Decisions :
- [21] Decizia nr. 1/2014 a Curții Constituționale a României, par. 159.
- Sites :
- [1]<https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2546749&SecMode=1&DocId=1966478&Usage=2>.
- [5] [http://www.coe.int/T/E/Legal -_Affairs/Local_and_regional Democracy./ wcd.coe.int/](http://www.coe.int/T/E/Legal_-_Affairs/Local_and_regional_Democracy/).
- [10]./<https://wcd.coe.int/ViewDoc.jsp?id=1961893&Site=&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679>.
- [12] wcd.coe.int. Jolanta Palidauskaite, <http://www.oecd.org/mena/governance/35521438.pdf>.
- [26]<https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2546749&SecMode=1&DocId=1966478&Usage=2>.