

# Decentralization of Public Services in Romania

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## **Abstract**

*Improving efficiency and modernizing the public administration was and still is a major requirement of the Romanian reform with a view to Romania's EU accession.*

*The quality of the public services provided to the community can be improved primarily by means of their provision by the authority that is closest to the citizen. Therefore, decentralization represents a key element of the Romanian public administration reform, leading to reinforcing the power and role of local authorities in managing public services.*

*Though launched later than it should have, in recent years decentralization in Romania has took important steps in point of pace and contents.*

*Throughout the process of decentralization in Romania a number of problems and shortcomings have occurred, including:*

- the unstable character of the legal framework;*
- the lack of transparency and predictability of transfers from the state budget for balancing the local budgets, but also of inter-administrative transfers;*
- the lack of a clear definition of the responsibilities being transferred to local authorities;*
- assigning responsibilities without granting the adequate resources;*
- a transfer of responsibilities without granting the required competences.*

*The further development of the decentralization process at a more rapid pace and in a more concrete and realistic manner is the major prerequisite for the full success of the administrative reform in Romania.*

*This paper constructed the measure of public services decentralization in Romania. For this it is needed to clarify the definition of the decentralization and to investigate the historical situation of decentralization process. Next, we investigated the historical situation of decentralization in some South East Europe countries.*

**Keywords:** decentralization process, public service, financial autonomy

## **Decentralization Process Evolution**

### **Brief history of Decentralization in Romania**

Decentralization has been a characteristic process of most countries in transition over the latest decades. There is not a national or local model of efficient and measurable government and it is difficult to find the optimal centralization degree in the public sector.

One of the most centralized forms of public administration functioned in Romania until 1990. At the time, the fundamental decisions regarding local community development were made entirely by the central administration.

After the year 1990, along with the democratic changes in Romania, new attributions and responsibilities were entrusted to the local communities, especially the management of local or county public problems. The fundamental principles of local public administration organization and efficiency were stipulated by the Romanian Constitution in 1993 its changes from 2003: "the public administration of the territorial administrative units is based on the principles of decentralization, local autonomy, and public service decompression". Decentralization means to transfer the administrative and financial competences of some public service from the central to the local public administration. The main purpose of decentralization is to provide better and cheaper public service and to modernize the structures that provide them.

The process of decentralization in Romania had to meet the provisions of the community aquis, especially those regarding regional development, justice, administration and internal affairs.

On the other hand, the public authorities noticed the need of compatibility with the European public administration. In consequence, Romania adopted by Law 199/ 1997 the "European Charter of Local Autonomy" that states that "the local public administrative authorities are fundamental in any democratic regime" through which "the citizens' right to participate in public affairs" "can be exercised most directly".

This implies the existence of some local public administrative authorities endowed with decisional bodies, democratically constituted and benefiting by a large autonomy regarding their competences and means to fulfill their duties.

Therefore the European Charter defines the local autonomy as "the right and real capacity of the local public administrative authorities to find solutions and to manage part of public affairs according to the law, for themselves and for the local people interest" considering that "the general exercise of public responsibilities should be given to the authorities closest to the citizens".

Following these principles, Romania prepared a whole set of regulations in view of decentralization, attribution share and financial aid to support the local public administration. In consequence, the local public administration took gradually the attributions of undergraduate education system (first the patrimony, than the payroll for didactic and non-didactic personnel), health system, children protection, social protection (including the minimum guaranteed income), population computerized record, community police, etc.

During the process of transferring responsibilities to the local public authorities, most problems were the result of the central administration's refusal to complete decentralization in certain fields. Therefore the processes started in all fields, but none of them really completed. Education and health systems go through a partial decentralization, with exclusive attributions of local public

administration and also parted attributions with the central administration or even delegate administrations (defined as such by Law 195/2006 regarding decentralization). This results in authority overlapping and financing gaps.

It is true that by means of the Governmental Urgent Decree 45/ 2003 regarding local public finance a series of procedures decentralized; though limited, predictability occurs for the first time in case of financial resources of the local public administration. The size of these resources compared to the attributions generated and still generates a tense situation for the local public administration, a permanent concern to satisfy the community's needs, compared to the services the local authorities should provide for the citizens.

### **Principles and Rules of Public Service Decentralization Process**

Decentralization starts from the premise that the local public authorities are more competent to meet the citizens' needs, as they understand better their problems and the best ways to settle them. Decentralization means to draw near the citizen decision. A whole set of public services are supplied more efficiently from the local level: undergraduate education, social assistance, water supply and road systems are only a few public services for which the local public administrative authorities make the best decisions to assign the resources adapted to the specific needs of each local community. Decentralization is not only a purpose, but a method to provide public services more efficiently and to correlate them with the beneficiaries' requests and preferences. A central system cannot meet the local communities' infinite variety of needs, compared to the local authorities elected and responsible toward them. According to the decentralization Law No. 195 from May 22<sup>nd</sup>, 2006, the principles of decentralization are the following:

- the principle of subsidization consists of performing competences by the local public administrative authority which is located closest to the citizen and has the necessary administrative capacity;
- the principle of providing proper resources for the transferred competences;
- the principle of the local public administrative authorities' responsibilities toward their competences; it is compulsory for them to attain the quality standards in public service and public utility delivery;
- the principle of providing a stable and predictable decentralization process, based on objective criteria and rules, that does not constrain the activity of local public administration or limit the local financial autonomy;
- the principle of equity provides all citizens' access to the public services and public utility services;
- the principle of budget constraint forbids the central public administrative authorities to use the special transfers or subventions to cover the final deficits of the local budgets.

*The general rules of the decentralization process are:*

- 1 The Government, the ministries, and the other specialized bodies of the central public administration transfer competences to be performed by the local public administrative authorities of

counties, towns and villages, respecting the principle of subsidization and the following criteria:

- the scale economy;
- the beneficiaries' geographical area.
- Competence transfer is based on impact analyses of specific methodologies and monitoring indicator systems, planned by the ministries and the other specialized bodies of the central public administration, in cooperation with the Ministry of Administration and Internal Affairs and the associative structures of the local public administrative authorities. The ministries and the other specialized bodies of the central public administration in cooperation with the Ministry of Administration and Internal Affairs and the associative structures of the local public administrative authorities organize pilot-stages to test and evaluate the impact of the proposed solutions to decentralize its present competences.
- Competence transfer is performed simultaneous with resource provision, necessary to exercise them. The competences should be performed only after the financial resources have been transmitted. Delegate competence financing is entirely provided by the central public administration, and the local public administrative authorities have to meet the quality standards in supplying decentralized public services.

2 The stages of competence transfer are the following:

- the Government, the ministries, and the other specialized bodies of the central public administration plan the strategies of competence transfer to the local public administrative authorities and the regulation projects to perform them;
- the Government, the ministries, and the other specialized bodies of the central public administration identify the necessary resources and the entire costs for the competences to be transferred, as well as the budgetary sources to finance them. These identified resources are then transferred to the local public administrative authorities, according to the law;
- the Government, the ministries, and the other specialized bodies of the central public administration in cooperation with the associative structures of the local public administrative authority provide the long-term correlation between the transferred responsibilities and the respective resources, so that they cover the cost fluctuation of supplying decentralized public services and public utility services.

## **Present Situation of Public Service Decentralization in Romania**

### **The Competences of the Local Public Administrative Authorities in the Field of Public Services**

To provide local public services, the local public administrative authorities perform exclusive, parted and delegate competences.

The local public administrative authorities of towns and villages perform **exclusive competences** of:

- public and private domain administration of the respective town or village;

- local road transport infrastructure administration;
- local culture institution administration;
- local public sanitary institution administration;
- territory planning and urbanism;
- water supply;
- sewerage system and rain or used water filter systems;
- public lighting;
- sanitation;
- social assistance services for children and old people protection;
- social assistance services for the victims of family violence;
- local public transport.

The local public administrative authorities of counties perform **exclusive competences** of:

- local airport administration;
- public and private domain administration of the respective county;
- county culture institution administration;
- county public sanitary institution administration;
- social assistance services for the victims of family violence;
- social assistance services for old people.

The local public administrative authorities of towns and villages perform **parted competences** with the central public administrative authorities regarding:

- supplying the thermic energy produced in centralized systems;
- building social houses and houses for the young;
- undergraduate education, except for the special education;
- public order and safety;
- providing social aids for persons with difficulties;
- preventing and managing the local urgency situation;
- providing health and social assistance for social cases;
- providing social assistance for disabled people;
- community public services of population record;
- managing local road transportation in villages.

The local public administrative authorities of counties perform **parted competences** with the central public administrative authorities regarding:

- county road transport infrastructure administration;
- providing health and social assistance for social cases;
- social assistance services of children protection;
- social assistance for disabled people;
- community public services of population record.

The local public administrative authorities of counties perform **competences delegated** by the central public administrative authorities regarding the payment of children and disabled people benefits.

## **Financial Autonomy - The Material Support of Public Service Decentralization**

The reform directions for the local public administration cannot be set up without taking into account the financial implications, as reflected in the structure of the budget on each government level. On one hand the process of services decentralization is closely related to the financial tools decentralization and on the other hand without fiscal decentralization there is no real autonomy for local communities irrespective of the level.

The setting up of a new administrative level involves not only the drafting of the regional budget but also the reform of certain aspects of the local budget such as the equalization process or decentralization of fiscal revenue.

The services of general interest may be financed by different sources, among which:

- budgetary funds: the federal budget, the states' budgets, the local communities' budgets;
- fees and contributions of individuals or organisations that supply financial funds of special destination as: the budget of social insurance, the unemployment funds, so on so;
- takings from the fees or rates the users or customers of some services pay from their own incomes;
- foreign financial aid and so on.

The proportion these financing sources are used may vary according to the social and economic particularities of each state, the time of financing or the type of the financed service. Thus, taking into account the special importance given by the public authorities, in case of the education services, the state budget is the main financing source in all countries of the world. On the other hand, the financing sources for the social security services are the contributions of the employees, freelancers and employers, to which subventions from budgetary funds are added sometimes.

Public and private companies have similar financing mechanisms. Since some of these entities satisfy public needs, their financing mechanism has certain particularities, that is the prices of the produced/performed goods and services are controlled and sometimes imposed by the public authorities. Therefore it is necessary to compensate with subventions these companies' insufficient incomes.

In case of the public companies that perform services of general interest, the notion of profit is considered the surplus of income taken from users or customers above expenses. In the European Union (see European Economic and Social Committee, Opinion on the Green Paper on Services of General Interest, Brussels, December 2003) the use of the following financing mechanisms for companies is recommended:

- 1 Indirect financing by crossed subventions between different fields of activity. This is the cost transition from unprofitable activities to profitable ones. This financing mechanism allows two possible variants:

- surplus incomes achieved from performing services of general interest by a series of public companies are drawn by the public authorities that will use these incomes to finance those public companies that show losses as a result of their economic activities. There are such financial flows between the public companies and the public authorities in both directions. Taking into account the complex financial flows between the state and the public companies that perform services of general interest, sometimes the special relations between the public authorities and some types of companies may hide state aids that risk escaping the control made by classical means. Therefore the European Union adopted some legal instruments to ensure their evidence and transparency and an effective control for the state aids (Directive 80/723/EEC regarding the transparency of the financial relations between the member states and the public companies, regarding the financial transparency within certain companies, as well as other supplementary directives).
  - companies that provide a great number of services of an integrated structure occur. Such a company should manage profitable services (electricity and water supply, etc.) as well as services that sometimes may generate losses (passenger public transport, sanitary engineering, so on so).
- 2 Financing from state budget or local budget, from their fiscal incomes. Thus the state or the local authorities finance directly the poor customers, by assigning for free anticipated payment tickets to pay a certain part of consumption. Community as a whole should take over the support of socially deprived groups.

In Romania, the decentralized public service financing should be provided mainly from local revenues, from local taxes and duties. However, they are not sufficient in any administrative system, so that the central administration should provide partially or entirely the necessary resources to finance certain services and meet two fundamental principles: predictability and objectivity. In consequence, the central administration' duties are: regulation, strategy, monitoring, evaluation and control.

The local budget revenue evolution between 1991 and 2005 demonstrates the increasing importance of local authorities in providing social services.

**Table 1: Local budget revenue evolution between 1991 and 2005**

Indicator	Achieved revenues (million lei in nominal expression)								
	1991	1995	1999	2000	2001	2002	2003	2004	2005
Total revenues	5.86	333.65	2224.37	3344.5	7119.6	9322.6	13078.1	15955.8	19480.9
Current revenues out of which fiscal revenues	1.7	87.41	722.34	801.7	1115.9	1561.5	2285.9	2747.2	3149.5
State budget withdrawals	-	120.3	1039.89	1843.0	5092.4	7096.0	9374.3	11909.8	14667.1
State budget subventions	4.14	119.99	156.40	285.2	453.2	117.4	734.9	920.2	1218.1

Source: Romanian National Institute of Statistics

Table 1 shows the increasing shares of state budget withdrawals to cover the expenses generated by some public service transfer to the local administration management (from 36% in 1995 to 75% in 2005) and the decreasing state budget subventions (from 36% in 1995 to 6% in 2005).

The analysis of the local public expense between 1991 and 2005 shows that a significant portfolio of public services was transferred from the central to local authority management.

**Table 2. Local budget expense evolution between 1991 and 2005**

Indicator	Achieved expenses (million lei in nominal expression)								
	1991	1995	1999	2000	2001	2002	2003	2004	2005
Total expense	5.84	326.53	2159.93	3321.7	7067.5	9268.8	12852.7	15540.7	18777.0
Socio-cultural expenses	0.39	108.28	467.80	802.4	3503.8	5002.1	6775.2	8257.0	9971.8
Services and public development	2.82	127.05	872.04	1196.4	1797.9	2079.1	3334.1	3156.8	3673.4
Economic actions	1.96	98.67	284.60	398.8	601.0	711.2	1045.1	2203.7	2766.3

Source: Romanian National Institute of Statistics

Table 2 shows the increasing shares of socio-cultural expenses out of local budget expenses from 6.7% in 1991, 33.2% in 1995, to 53% in 2005, as the result of the following local public service decentralization: undergraduate education, public health, social and cultural assistance. In case of undergraduate education, the following competences were decentralized: school management, human resource management; they were transferred to the local public administrative authorities and school administration boards. In case of public health, a series of competences regarding the local public sanitary unit management were transferred to the local or county public administrative authorities. The culture institutions with local community beneficiaries were also decentralized.

In case of public order, the competences of the local public administrative authority were strengthened by establishing the local police. In the transport field (the main component of economic actions), the resources assigned by the local public administrative authorities to maintain and modernize the local and county public roads increased.

Though the importance of local authorities in supplying public services has increased considerably, the local budgets make unflagging efforts to keep the balance between revenues and expenses. Therefore it is necessary to identify some means to finance expenses, based on economical principles and efficiency, to benefit by other revenue sources of fiscal nature (because their share in total local revenues decreased from 22% in 1995 to 12% in 2005), or to value the goods that belong to the territorial and administrative units.

#### **Decentralization in some South East Europe countries**

Decentralization and development of modern local government systems were fundamental components of transition in South East Europe. During this first decade of demolishing centralized states and unifying public services, various local government models were designed. Political mechanisms, economic systems, inherited institutions and management practices were restructured in these countries.

In 2003, at the beginning of fiscal decentralization in Bulgaria, local governments were given the power to set the rates of local fees. Local governments are free to decide on types of local fees to levy as well as the amount to charge in correspondence with local needs and



preferences. All local taxes are determined in the Local Taxes and Local Fees Act, promulgated in 1997 and amended in 2006 (in 2007 for the last time, providing municipal taxing powers). Local governments are responsible for some services regarding public education and health care, but despite the government transfers, the funds are not enough to cover the needs. They lack adequate resources to serve the public to the full extent of their legally defined competencies. The administrative capacity of municipalities remains limited.

The Law on Local Public Finance has been enacted in 2006 in Serbia. It promises to make substantial progress in the equity, transparency and stability of the fiscal decentralization system. The reforms enacted in the 2006 Law have been necessitated by the introduction of VAT and the consequent abolition of Sales Tax whose sharing with local government constituted a major component of local budgets. The new Law provides alternative revenue sources, but opportunity has been taken to introduce a more equitable horizontal distribution of revenues and greater stability. The 2006 Law substantially increases the discretion of local government while limiting that of the Government. In particular local governments gain the right to determine rates of property tax and to collect it. They are also awarded the right to borrow money for investment within a debt service ratio of 15% of annual revenue. The Law also reduces dependence on annual state budget legislation. It fixes the wage tax share at 40% and indexes the block grant at 1.7% of GDP.

New laws on local self-government are being drafted, promising to improve the competencies and fiscal independence of municipalities in Bosnia and Herzegovina. Most of these laws remain untested. The power of municipalities is, however, constrained by the extensive formal competencies and informal powers of political subdivision. Local governments have responsibilities in both entities for communal and utility services and for the non-salary costs of some educational and social services.

Albania is not a decentralized state yet. At the end of 2006, about 70% of all public services were delivered by the central government to the citizens, either directly or through regional offices. Local governments have limited, if at all, decision-making powers with regard to funds and budgeting, especially in fields like education, health, social care, transportation, and culture.

The Croatian Constitution stipulates the rights of citizens to take part in the conduct of public affairs and to have access to public services, the right to vote and to be elected, as well as the right to submit petitions and complaints, to make proposals to government and other public bodies. The main responsibilities of local and regional governments are: organization of settlements and housing, town and urban planning, utility services, child-care and social welfare, primary health protection, education and primary-school education, transit and traffic infrastructure, fire-protection and civil defense. The revenues of the units of local and regional self-government are: municipal/town/county taxes, surtax, indemnities, contributions, and fees, revenues from assets in its property and from property rights, revenues from trade companies and other legal entities in its property, revenues from fees for concession granted by the representative body, share in joint taxes with the Republic of Croatia, subventions and grants of the Republic of Croatia earmarked in the state budget, others.

According to the Slovenian Constitution, municipalities are financed from their own sources. Only those municipalities that are insufficiently economically developed can receive additional funds from the central government. Local governments also have the right to borrow. The following revenues belong to local governments: tax on assets, inheritance and gift taxes, tax on profit from gambling, tax on trading in intangible property.

Modest progresses in the quantity but substantial gains in the quality of fiscal decentralisation have been reported in this countries. In terms of the range of expenditures funded through local budgets and their proportion of public expenditure, decentralisation has gone about as far as it can go in some countries. In others, local competences and expenditures are restricted by the continued direct payment of personnel such as teachers by the State; the general local government legislation promises more devolution than the small print of sectoral laws and regulations has delivered.

### **Conclusions and proposals**

In Romania, during the lastest decades, a significant portfolio of public services has been transferred from central to local authority management: public transport, undergraduate education, social protection and assistance for disabled people, partial financing of hospitals, population computerized record, community police, etc. This process keeps on running.

The decompressed services of ministries and of other specialized bodies of the central public administration should keep only the attributions regarding the control, inspection and monitoring their fields of duty. The central public administrative authorities should keep only the attributions regarding the supply or management of some strategic or national public services.

Decentralization is a long-term effort, within sequencing and staging according to the needs and possibilities are most important. Decentralization is more efficient when it sets working some mechanisms that imply actively all the interested parties. All the institutional actors of economic and social policies have to get involved in public service and resource management and supplying. Population has to participate in each decentralization stage: analysis, planning, implementation, monitoring, evaluation and feedback. Partnership should imply mutual trust and parties' behavior, strengths and weaknesses understanding.

Therefore some sources to finance the local partnership projects must be found. A good example is the eligible projects of co-financing from European funds.

Administration development is the greatest challenge for Romania right now, as it is indispensable if we want to absorb higher funds resulted from our right as member of the European Union. The states that adhered to the E.U. in 2004 are known to achieve great performances in this field and managed to attract more than 10% of the funds they had access to. We have to learn from this experience if we want full benefits and the adherence to the European Union to bring the prosperity the Romanian citizens expect.

We propose the following measures to improve the public service and the budget balancing system financing:

- Changing the amount distribution criteria for the county territorial-administrative units, using the principle of "exclusion", so that a minimum income per inhabitant should be provided from the income tax at least at the average county value;
- Increasing transparency in distributing the balance amounts on the county territorial-administrative units, by replacing the county councils (which are political institutions) with the general directions of public finance (which are administrative structures);
- Changing the indebt limit of the local public administrative authorities to increase the investment capacity locally, respecting Romania's indebt limit approved yearly, as well as the conditions of macroeconomic stability.

Attracting private resources to develop public-private partnerships should be also a priority of public service financing.

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