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Lucica **MATEI**

# **Romanian Public Management Reform**

## **Theoretical and Empirical Studies**

■

*Volume 1. Administration and Public Services*

■



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Scientific coordination of the collection:

Ph.D. Professor **Ani Matei**

Ph.D. Professor **Tudorel Andrei**

Coperta: **Alexandru ION**

Revizie text: **Carmen SĂVULESCU**

Tehnoredactare computerizată: **Nicoleta BOBOCEA**

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010702, BUCUREȘTI, sector 1,  
Calea Griviței nr. 21, etaj VII;  
tel.: 314.10.12; 319.64.96; 319.64.97;  
E-mail: edecon@edecon.ro;  
office@edeconomica.com;  
http: //www.edecon.ro;  
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## Foreword

For the time being, public management reform represents the concern of most states, no matter their development level, geographical and strategic position, membership to various supranational structures or political and social organisation systems. This process represents the topic of several papers and publications of outstanding international scientists or specialized structures of international organizations, such as OECD.

In the EU Member States or acceding states, an argument for public management reform consists also in the need to bring into line with the national and regional administrations and even European administration.

In the reform process, the most visible actors are the public authorities and institutions as well as the academic environment, which at national, regional or European level has structured own levers and mechanisms for debate and action concerning the reform mentioned.

In line with the above efforts, it is worth to mention the activity of the European Group for Public Administration (EGPA), the Network of Institutes and Schools of Public Administration in Central and Eastern Europe (NISPAcee), International Institute of Administrative Sciences (IIAS), European Public Law Organization (EPLO), European Institute of Public Administration (EIPA) etc.

In this respect, I have oriented my own preoccupations of analysis and research, expressed in theoretical and empirical studies, accepted with interest in prestigious regional, European or

Trans-Atlantic scientific events. In the actual context of developing administrative sciences in Romania, I consider that a synthesis of the main themes and outcomes is useful. They benefited of national and international recognition, being accepted at specialised events, being published or quoted.

The contents of the current volumes focus on two important fields of research in administrative sciences: fundamental issues and developments of public administration and services, on one hand, and civil service, on the other hand.

Within this broad topic, several chapters aim and present relevant, conceptual and empirical issues of the fundamental processes in national and European administration, i.e. decentralisation, setting up and asserting the European Administrative Space or regional cooperation.

Romanian experiments and practices for representing the local interests in the governmental decision-making process, partnership and local governance or universal services are in line with the European trends for developing the public services. In fact, Europeanization of national public administrations represents the outcome and the engine of changes in Romanian public management in the context of the European integration.

The first volume concludes with a broad comparative study concerning Romanian and Japanese public management.

Result of a "Foreign Visiting Professor" programme at the National Institute of Multimedia Education, Japan, the study reveals the core values deriving from the culture and social organisation of two peoples with distinct history and development, that unify and separate the national public administration systems.

The conclusions of the first volume are formulated in most studies. They are shaping Romanian public administration as a developing system, open and convergent towards the European values characterising the whole European integration process.

The second volume focuses on civil servants' career and training. The Europeanization process, the curricular harmonization of the content and organisation of higher education

in the area of administrative sciences are analysed in view of the principles of European Higher Education Area.

Basically, the studies describe a new for researching and method evaluating the contents of the Bachelor and Master programmes according to a set of principles, promoted by the European bodies, such as the European Association for Public Administration Accreditation (EAPAA).

The studies represent an extension towards the pillars of a European dialogue concerning in-service training and the impact of new technologies in public organisations.

Important experiences in management and training of Romanian civil service are approached in the context of promoting meritocratic criteria or developing the democratic mechanism, supporting the Romanian public management reform.

Of course, only reading these lines, a concrete and detailed idea about the current paper could not be formulated. For those interested, it will be a major effort to cover all the topics presented. Every topic is subject to appreciations and critics, representing the pillar of new developments. In fact, it represents one of the aims for my approach.

The other aims are focused on re-launching the professional and scientific dialogue in specialised academia on the coordinates of research in the field of public management, accepted at European level, ensuring an enhanced internal, national and European visibility for the contributions of the Romanian public management school.

6 May 2009

The author



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## Chapter 1

# Romanian Public Administration. Context and Fundamental Processes

### 1.1. Romania – Territorial structures, representation and democratic mechanisms\*

#### 1.1.1. Introduction

Romania is situated in the geographical center of Europe (south-east of Central Europe), at north of Balkan Peninsula, at half distance between Atlantic coast and the Urals, inside and outside the Carpathians Arch, on the Danube (1075 km) lower course and it has exit to the Black Sea (the Romanian seaside is lying on 245 km). Romania has an area of 238,391 km<sup>2</sup>, being the 12<sup>th</sup> country of Europe, as size. It has a population of 22,303,522 inhabitants (est. 2006)<sup>1</sup>. The Capital of Romania is Bucharest Municipality, with a population of 1,924,959 inhabitants. The first documentary mention of Bucharest dates since 20 Sept. 1459. Bucharest becomes Capital of Walachia since the second half of the 17th century and Capital of Romania since 1862. It is the most important political, economic and cultural-scientific center of the country. Romania is NATO Member State since 29 March 2004 and European Union Member State since 1 January 2007.

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\*included in "First Global Report on Decentralisation and Local Democracy in the World", World Bank and United Cities on Local Governments (UCLG), 2008, [www.cities-localgovernments.org/gold/country\\_profile.asp](http://www.cities-localgovernments.org/gold/country_profile.asp)

<sup>1</sup> Source: National Institute of Statistics ([www.insse.ro](http://www.insse.ro)).

Romania is a sovereign, independent, unitary and indivisible national state; the form of government is a Republic, according to the Constitution of Romania, adopted in 1991, modified in 2003. It is organised according to the principle of separation and balance of the legislative, executive and judicial powers. The legislative power is represented by the Parliament of Romania, with two chambers, comprising the Senate (137 members) and the Chamber of Deputies (314 members). 18 additional places in the Chamber of Deputies are reserved for the representatives of the national minorities.

The executive power is represented by the Government, led by a Prime Minister, designated by the President of the state. According to the constitutional provisions and laws<sup>2</sup>, the President of Romania, the Chamber of Deputies and the Senate are elected by universal, equal, direct, secret and free suffrage. The mandate of the Chamber of Deputies and Senate is on a term of 4 years, and since 2004, the mandate of the President of Romania is on a term of office of five years. At the same time, in case of the local elections, the mandate is on a term of four years.

The judicial power is represented by courts of law, Public Ministry, Superior Council of Magistracy<sup>3</sup>.

The territory of Romania is organized administratively into communes, towns and counties. Some towns are declared municipalities, according to the provisions of the law.<sup>4</sup>

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<sup>2</sup> Law no. 370/2004 for election of the President of Romania and Law no. 373/2004 for election of the Chamber of Deputies and Senate.

<sup>3</sup> Art. 3 (3), Constitution of Romania, 2003, «Official Gazette» Autonomous Regies, Bucharest.

<sup>4</sup> Historically, in the last two centuries, public administration in Romania, was subject to reforms, being reorganised 30 times, supporting gradually the institutionalisation of local and regional structures. Romanian local government structure represents the result of centralisation and decentralisation actions at the end of the 19th century and 20th century. We mention the first law on local government (Law 394/1864), enforced during a period of developing the concept of local governance and the principles of decentralisation and local autonomy. The law regulated election of a local council and mayors, directly by citizens. Romanian territory division into counties was documentary certified on 8 January 1392, when in a document, the ruler Mircea cel Bătrân appointed "Vâlceii land" as county. Thus, Vâlcea county is the first county, documentary certified, on the

The public administration in the territorial – administrative units shall be organised and shall function on the grounds of the principles of decentralisation, local autonomy, deconcentration of public services, eligibility of the government authorities, legality and citizen consultation in solving local matters of particular interest.

A collection of laws on organisation of administration, territorial planning and urbanism, finances, taxes, services for health, social security, education etc. has been enforced, regulating both the form of political decentralisation of some public services and the form of territorial and administrative deconcentration by the Prefect institution.

Decentralisation as *transfer of administrative and financial competence* from the central government level to the local government level or private sector<sup>5</sup> represents a system of managing local, commune, town or county interests, by authorities freely elected by the citizens of the respective community.

Human communities or public services are self-governed under state control, according to the law<sup>6</sup>. In Romania, *territorial administrative* decentralisation is based on a community of „public interests” of the citizens belonging to a territorial-administrative unit, „recognising the local community and the right to solve its problems” and *technical and financial* decentralisation of the public services, namely transferring the services from the „center” to local communities, aimed to meet social needs.

The *decentralisation* process has represented also the beginning of a process to create and strengthen new forms of *dialogue* between central and local government, represented by the Federation of Local Authorities in Romania (FALR), professional administrative corps or other associative structures of local government authorities (ACoR-Association of Communes in Romania, AOR-Association of Towns in Romania,

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current territory of Romania. The last major administrative-territorial reform in Romania took place in 1968 when the territory was divided into *counties*.

<sup>5</sup> Law no. 195/2006, Law – Framework on decentralisation, art. 2 (1)).

<sup>6</sup> Law 51/2006 on community services of public utilities.

AMR-Association of Municipalities in Romania, National Union of County Councils in Romania – UNCJR). Local autonomy refers to organisation, functioning, competences and attributions, as well as managing the resources that, according to the law, belong to commune, town, municipality or county. On the other hand, it represents the right and effective capacity of local government authorities to solve and manage, on their own behalf and under their responsibility, an important part of public affairs, for the interest of the local communities.

### 1.1.2. Territorial organisation

The communes, towns, municipalities and counties<sup>7</sup> are territorial – administrative units, where local government authorities shall be organised and function.

At country level we identify three hierarchical levels: national, county and local (Figure 1.1.1).

The county level is represented by the 42 counties of Romania, including also Bucharest Municipality. (Table 1.1.1) Each county has its residence at municipality level, representing the political, economic, social-cultural and scientific center of the county. At each county level, the local government authority is exerted by a County Council, coordinating the activities of commune, town and municipality councils. The Government of Romania appoints a prefect for each county, inclusively for Bucharest Municipality, who are state representatives at local level. The Prefect directs the deconcentrated public services of ministries

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<sup>7</sup> *County* is a traditional administrative-territorial unit in Romania, comprising towns and communes, depending on the geographical, economic, social-political and traditional conditions of the population. *Municipality* is a town with important economic, social, politic and cultural role, with administrative tasks. *Town* represents a human concentration, with administrative tasks, characterised by a life style specific to urban areas, with non-agricultural social-professional structure. *Commune* is an administrative – territorial unit comprising rural population united by interests and traditions, including one or several villages (of which one is commune residence). *Village* is the smallest territorial unit, with characteristics of rural settlements.

and other bodies of the central government in the territorial-administrative units.

The local level comprises 2851 communes, 216 towns and 103 municipalities<sup>8</sup>. The communes, towns and municipalities have their own Local Council (deliberative authority) and a mayor (executive authority), elected after the poll organised on a term of 4 years.

Bucharest Municipality is organised on 6 territorial-administrative subdivisions, called sectors. Bucharest Municipality has a General Council of Bucharest Municipality and General Mayor of the capital and each sector has a local council and a mayor.

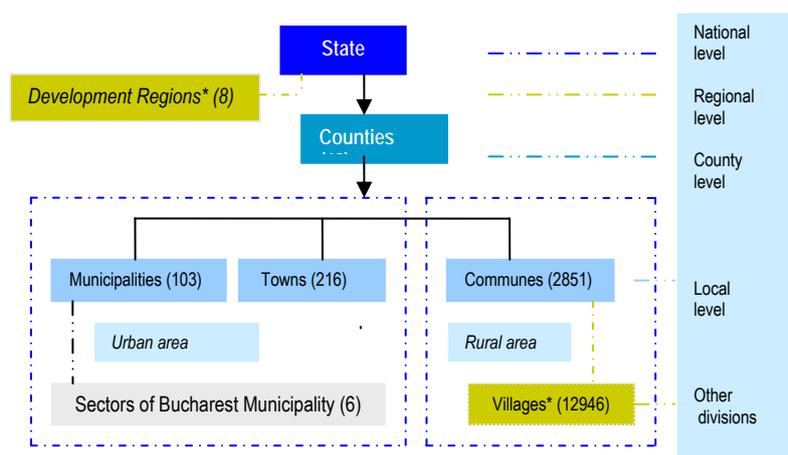
In 1997 a new structuring of Romania into 8 development regions<sup>9</sup> has been proposed. The regions, which are not territorial – administrative units, are set up by gathering counties, aimed to develop European financial assistance programmes within European Union regional development policies. Projects on creating metropolitan areas exist in most large cities in Romania. The metropolitan area<sup>10</sup> is expressed by the association structures between territorial-administrative units, around Capital – Bucharest Metropolitan Area – or those around municipalities, county residence: Oradea, Iași, Arad, Cluj-Napoca, Timișoara, Baia-Mare, Târgu-Mureș, Brașov, Bacău and Galați.

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<sup>8</sup> Source: National Institute of Statistics, 31 Dec. 2005 (www.insse.ro).

<sup>9</sup> Law no. 315/2004 on development regions.

<sup>10</sup> Art.1 in Law on Local Government – Law no. 215/2001, defines the metropolitan area as an association structure of intercommunity development, set up on the basis of the partnership between the Capital of Romania or municipalities of first rank and administrative-territorial units situated in proximity area.



**Figure 1.1.1.** Representation of the administrative hierarchical levels in Romania

For 2006, the public expenditure was 51235.6 million lei, of which local public expenditure represented 25392.8 million lei. Local public expenditure per inhabitant recorded a value of 1176.6 lei/inhabitant<sup>11</sup>.

### 1.1.3. Local democracy

#### 1.1.3.1. Local political system

The Constitution of Romania stipulates the principle of political pluralism as a condition and guarantee of constitutional democracy<sup>12</sup>, meaning that the fundamental law recognises the importance of the political parties in free organisation of society, in defining and expressing citizens' political will<sup>13</sup>.

The Romanian electoral system complies with the dimensions of European majority electoral system, that of

<sup>11</sup> Romanian Statistical Yearbook, edition 2007, www.insse.ro.

<sup>12</sup> Art.8, paragraph (1), Constitution of Romania, 2003.

<sup>13</sup> Art.8, paragraph (2), Constitution of Romania, 2003.

*proportional representation* and it observes the principle of proportional representation, thus allowing the access of a greater number of political parties to the Parliament (Figure 1.1.2). In the elections from June 2004, the Social Democrat Party (PSD) obtained the greatest number of mandates and DA Coalition (PNL and PD) obtained the greatest number of votes in the urban area<sup>14</sup>.

The parliamentary elections are held on the basis of *list ballot*, being a *proportional electoral system with closed list ballot*.

The political parties and alliances, the organisations of minorities and independent candidates submitted in each constituency the lists of their own candidates<sup>15</sup>. There are 42 constituencies (corresponding to the number of counties, including Bucharest Municipality).

Electoral year	Number of parties	Number of parliamentary parties	Accessibility [%]
1990	75	16	21.3
1992	150	12	8
1996	38	9	23.7
2000	39	6	15.4
2004	31	6	19.3

**Figure 1.1.2.** *Evolution of political spectrum and access into the Parliament*<sup>16</sup>

The appreciations<sup>17</sup> on elections in 2004 in Romania have been positive concerning the action manner, relatively efficient, professional and transparent, recording a trend of Romanian political life bipolarisation.

<sup>14</sup> UNDP, National Report on Human Development in Romania 2003-2005, p.92, 2006, Bucharest.

<sup>15</sup>The number of candidates is related to the number of mandates designated to each electoral constituency.

<sup>16</sup> Matei, L., "Democracy and politics. Romanian mechanisms, realities and electoral developments", Verejná správa a spoločnosť, ed FVS UPJS, Kosice, 2007

<sup>17</sup> "Report of OSCE/ODIHR Mission to evaluate the elections in Romania", Warsaw, 2005; „Pro Democrația” Association, 2005, www.apd.20.

### 1.1.3.2. Citizen participation

Citizen participation in local governance is developing, the citizens acquire information about decision-making process, resources, management structures and planning. The statistics reveal that citizen participation in the meetings of the local councils is greater in the rural area than in the urban area.

Legislation stipulates citizen participation to:

- a. organisation and participation to public meetings<sup>18</sup>,
- b. public debates, priority for good governance<sup>19</sup>,
- c. public decision-making process<sup>20</sup>,
- d. electoral actions, citizen's right to elect and to be elected, as fundamental rights<sup>21</sup>,
- e. right to legislative initiative<sup>22</sup> represent the proof of democracy in Romania.

The vote is the means to express electorate's option, being a non-material relation between voter and voted. The texts of the articles of the Constitution of Romania reveal the characteristics of the vote: universal (all Romanian citizens who fulfil the conditions stipulated in the Constitution), equality (equality of rights for the Romanian citizens), free, direct and secret. They are also considered constitutional conditions of the vote, being completed by special laws, on the electoral action, such as: registering the citizens with "vote" right on a (permanent or special) electoral list and holding the voter's card.

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<sup>18</sup>Art.39, Constitution of Romania, Law no.60/1991 on organisation and holding of public meetings.

<sup>19</sup>Art.102, art.31, paragraph (2), Constitution of Romania, „*The public authorities, according to their competence, shall be bound to provide correct information to the citizens in public affairs and matters of personal interest?*”.

<sup>20</sup>Law no. 52/2003 on decisional transparency.

<sup>21</sup> Art.36, art.37, Constitution of Romania, 2003, Electoral legislation for local, presidential and general elections, other laws, ordinances and Government decisions with special feature, legal instruments and decisions of courts of law.

<sup>22</sup> Art.74, art.150, Constitution of Romania, 2003, Law no. 189/1999 on exerting legislative initiative by citizens.

The elections in Romania were held and are held on three levels:

1. local level (for local councils, county councils, city halls and General Council of Bucharest Municipality),
2. general level (respectively for the Parliament of Romania) and,
3. presidential level (for the office of President of Romania).

At the last elections, the electorate has proved a reorientation to the “useful vote”, asserting a new significance of the “vote sanction”; the electorate has changed its attitude related to the vote, recording an increase of absenteeism, thus proving “a new type of civic competence”<sup>23</sup>.

The electoral management is exerted in *electoral constituencies* organised at the level of each commune, town, municipality and territorial-administrative subdivision for electing local councils and mayors, and an *electoral constituency*<sup>24</sup> is formed for electing county councils at each county level. The electoral law stipulates that the number of the polling stations in a constituency is determined depending on the number of voters assigned to each polling station. The vote is exerted in polling stations, organised in localities, observing the representation norm, depending on the number of inhabitants<sup>25</sup>. The local and county councils are elected on the ground of party lists, according to the proportional representation system.

#### 1.1.4. Central-local relationships

##### 1.1.4.1. General issues

After 1990, Romania has undergone the process to redefine the role of central government related to local government, political and administrative competences delegated to local

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<sup>23</sup> “Electoral statistics”, Parliamentary and presidential elections, National Institute of Statistics and Permanent Electoral Authority, January 2005, Bucharest.

<sup>24</sup> Art.8, paragraph (1), paragraph (2), Law no.70/1991 on local elections.

<sup>25</sup> Art.11, paragraph (1), paragraph (2), paragraph (3), Law no. 70/1991.

government, necessary sources, as well as the performance of decentralisation process and strengthening democratic local governance. In the governmental structure, the main body responsible of public administration is the concerned ministry with the related bodies (ex: Superior Council for Public Administration Reform, Coordinating Public Policies and Structural Adjustment-2003, Central Unit for Public Administration Reform – 2002), namely the Ministry of Interior and Administrative Reform (MIRA). Within MIRA there is a State Secretary for public administration reform. The Government, ministries and the other specialised bodies of central government transfer competences<sup>26</sup>, currently exerted by local government authorities at county, commune or town level. The government authorities, by which local autonomy in communes and towns is achieved, are the elected Local Councils and elected Mayors, in accordance with the law. The County Council is “the government authority coordinating the activity of commune and town councils”, with a view to carrying out the public services of county interest<sup>27</sup>. The local, county councils and General Council of Bucharest Municipality have rule-making functions and they are deliberative authorities on local level.

#### 1.1.4.2. Supervision of local government

The *institutional framework* of the decentralisation process ensures the development and operationalisation of the adequate “infrastructure” and technical structure. It comprises the Ministry of Interior and Administrative Reform, the Ministry of Economy and Finance, specialised structures, Inter-ministerial Technical Committee for Decentralisation, Committee for local public finances<sup>28</sup>, working groups for competency decentralisation, specialised bodies of central government with responsibilities in coordinating the decentralisation process. *The Committee for local public finances* represents a partnership-type structure, without

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<sup>26</sup> Art. 4, 5 and 6, Law no. 195/2006.

<sup>27</sup> Art. 122, paragraph 1, Constitution of Romania.

<sup>28</sup> Law no. 195/2006, Chapter III.

legal personality, with consultation role in elaborating and implementing the financial and fiscal decentralisation policies.

Concerning the constitutional regulations, the *Constitution of 2003* adds the *principle* of public service *deconcentration* (article 120) to the principle of public service *decentralisation*. Article 123 eliminates the confusion between the notions of decentralisation and deconcentration stipulating that „the prefect is the representative of the Government on local level and directs the deconcentrated public services of ministries and other bodies of the central government in the territorial-administrative units”.

At *central government* level, there are *regulating authorities* – government authorities entitled to issue regulations, rules, procedures and standards in view of public service provision. They are *in charge with public service financing*, providing the funds necessary for public services in their own budget or the state budget. They may be regional operators of public services and *authorities responsible for implementation*, in charge with service provision.

The local council may be dissolved as such or by local referendum, action to administrative disputed claims court addressed by the mayor, vice mayor, secretary of the territorial – administrative unit or other interested person. The court analyses the situation, pronounces the judgement and communicates it to the prefect as irrevocable judgement. The mayor’s mandate ceases as a result of a local referendum, organised at the request addressed to the prefect by the citizens of the commune, town or municipality.

#### 1.1.4.3 Protection of local self-government rights and interest

In justice, the territorial-administrative units are represented as the case may be, by the mayor or president of the county council or a lawyer, empowered by the mayor, respectively the president of the county council or a legal adviser from the specialised apparatus of the mayor, respectively county council.

The local or county councillors, mayors, vice mayors, General Mayor of Bucharest Municipality, presidents and vice presidents of county councils, secretaries of territorial –

administrative units shall be responsible as the case may be, administratively, civil or penal for the deeds committed in the exercising of their duties. The offences declared by the prefect, as public authority and representative of the Government on local level are subject to fines.

The associative structures of local government authorities are: Association of Communes in Romania, Association of Towns in Romania, National Union of County Councils in Romania, other associative forms of general interest.

#### 1.1.5. Local responsibilities

The transfer of competences from central level to communes, towns and counties, and implicitly, the creation of new forms of organisation and coordination of national and local policies represent the major step undergone by Romania since 1990 in *decentralisation* of power, authority and decision. Some ministries and central bodies organise *local agencies*, most of them with headquarters in the municipality, county residence<sup>29</sup>, where on behalf of the ministry and according to its rules, the activities belonging to the area of competence in that county are managed. For example, the Government, respectively, the ministry by county inspectorates of the Ministry of Culture is managing theatres or museums, institutions with local specificity, which could be better managed by city halls. The local deconcentrated agencies of ministries have attributions concerning the control, inspection and monitoring, the attributions concerning supply or administration are transferred to county or local level, excepting those considered of strategic or national importance.

The only *decentralised public services* are those organised in *communes, towns or counties by local government authorities*.

Local government authorities exercise exclusive competences, shared competences and delegated competences (Table 1.1.2).

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<sup>29</sup> Some deconcentrated public services may also have branches in other large towns of the county.

*Local government authorities* may be *authorities responsible of public service financing* that provide the funds necessary for public services in their own budget or the state budget. They may be regional operators of public services and *authorities responsible for implementation*, in charge with service provision.

They are public services, for which the law stipulates competences, both for local and central authorities, i.e. education or health. Transferring the attribution on establishing the price of Giga calories represents another example of decentralization.

The county council coordinates the activities of commune, town and municipal councils, aiming at carrying out public services of county interest. It has attributions on social economic development of the county, managing the patrimony of the county, the subordinated public services etc. The relations between local government authorities in communes, towns, municipalities and government authorities at county level are based on the principles of autonomy, legality, accountability, cooperation and solidarity in county problem-solving. There are no relations of subordination between local government authorities and county council or between local council and mayor. The local council exerts functions, stipulated by law<sup>30</sup>, of which we mention: local economic development, setting up and organisation of public institutions and services of local interest, according to the specificity and local needs, managing the goods belonging to its public or private ownership; the local councils of the sectors of Bucharest Municipality exert also other attributions stipulated by law or delegated by the General Council of Bucharest Municipality.

At local government level, the successful actions are as follows: decentralisation (administrative, decisional, financial decentralisation – budget, charges and taxes) at local level, accountable local development policy-making, management and provision of public services of local interest; the following actions

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<sup>30</sup> Constitution of Romania, Law no. 215/2001, Law no. 195/2007, Law no. 273/2006.

should be enhanced: mechanisms for local governance accountability, selective modernisation of local government and cultural development of local policy.

### 1.1.6. Local finance and management

#### 1.1.6.1. Local government incomes

Local government authorities have the competence to establish the levels for local taxes and charges, to elaborate and approve local budgets of communes, towns, municipalities and counties, under the limits and terms of law<sup>31</sup>.

The revenues of local budgets comprise:

- a) own revenues from: taxes, charges, contributions, other payments, other revenues and shared amounts from the income tax;
- b) shared amounts from some revenues of the state budget;
- c) subsidies from state budget and other budgets;
- d) donations and sponsorships.

The share from GDP designated to local budgets during 1998-2001 increased from 3.6% to 6.5%, and local public expenditure increased from 14% to 26%.

From the state budget, by the budgets of main credit directors, as well as from other budgets, transfers may be awarded to local budgets in order to finance some development or social programmes of national, county or local interest, which are approved, annually, in global form, by the Law on state budget.

Further decentralisation of some activities, the administration and financing by local government authorities of some public expenditure, as well as of other new public expenditure has determined an increase of local subsidies during 2003-2005 from 654.4 million lei to 1102.1 million lei<sup>32</sup>.

In order to finance public expenditure provided also for balancing local budgets of territorial – administrative units, in the law on state budget, shared amounts from some revenues of the

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<sup>31</sup> Law 273/2006 on local public finances.

<sup>32</sup> Source: Romanian Statistical Yearbook, chapter 21.

state budget are approved. Thus, 80% from the amount designated to balancing local budgets is distributed by the decision of the Director of General Directorate for Public Finances, according to a clear and transparent formula, and 20% by decision of the County Council, exclusively to support the local development programmes.

The local, county councils and General Council of Bucharest Municipality may approve to contract or guarantee internal or external loans, on short, medium or long term, in order to achieve public investments of local interest, as well to refinance the local public debt. The territorial – administrative units may benefit also of external loans, which are under state contract or guarantee, in accordance with the law.

#### 1.1.6.2. Local government personnel and management

The total number of public positions in the own apparatus of county councils, local councils and other local public authorities has recorded an increase from 40.69% in 2003 to 45.35% in 2006<sup>33</sup>, reaching 58,282 civil servants in 2006. The increase is due especially to the efforts in view of decentralisation, making administration more citizen-friendly and developing proximity services. The ratio between executing and leading public positions is 9 to 1, observing the maximum limit of 12% for leading public positions, stipulated in Law no. 188/1999 on Statute of Civil Servants.

The decrease of the number of public positions in the category of high civil servants is due to legislative changes – the public positions of director general and secretary of the county do not belong to that category.

According to study level, the structure is as follows: executive civil servants with long-term higher education studies (44.80%), short-term higher education studies (3.72%), upper secondary studies (51.48%).

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<sup>33</sup> National Agency of Civil Servants, Report on management of civil services and civil servants on 2006, Bucharest, 2007.

The degree of professionalisation decreases in case of local councils and other local government authorities (only 3 of 10 civil servants have higher education studies), due both to the lack of labour market with high qualification and lack of an attractive package of remuneration and rewarding the potential employees.

Concerning the increase of the capacity to prevent and resist to corruption for civil servants, Law no. 7/2004 on the Conduct Code of Civil Servants was changed in 2007. Transparency International Romania<sup>34</sup> reveals „a series of legislative developments with major impact on the integrity at local government level” on allocation and management of local public finances, modification of the law on local government and punishment of political migration. At the same time, the results of the Barometer on 2007 reveal that both the services of public utilities and those issuing documents have obtained in 2007 higher rates than in the previous year, respectively 2.4 points and 2.9 points. Taking into account this perspective, Transparency International Romania draws attention to the fact that anticorruption efforts should focus on genuine reform of the administrative system, as long as citizen perception on corruption is based on a large extent on personal experiences in the direct relation with the state institutions<sup>35</sup>.

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<sup>34</sup> “National Report on Corruption – 2007”, [www.transparency.ro](http://www.transparency.ro)

<sup>35</sup> “Global Barometer of Corruption 2007”, Transparency International Romania, [www.transparency.ro](http://www.transparency.ro)

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### Administrative organisation of Romania territory on 31 December 2005

Table 1.1.1

County	Total area (km <sup>2</sup> )	Number of towns and municipalities	of which municipalities	Number of communes	Number of villages	Population localisation	
						Urban population	Rural population
Romania	238391	319	103	2851	12946	11811349	9607291
Alba	6242	11	4	66	656	220076	159113
Arad	7754	10	1	68	270	255083	204203
Argeş	6826	7	3	95	576	311236	335084
Bacău	6621	8	3	85	491	334080	389438
Bihor	7544	10	4	90	429	300877	295793
Bistriţa-Năsăud	5355	4	1	58	235	114978	202276
Botoşani	4986	7	2	71	330	192369	267531
Braşov	5363	10	4	48	149	444886	150325
Brăila	4766	4	1	40	140	241747	128681
Buzău	6103	5	2	2	475	204750	289302
Caraş – Severin	8520	8	2	69	287	187559	144317
Călăraşi	5088	5	2	9	160	124170	194190
Cluj	6674	6	5	75	420	465506	229005
Constanţa	7071	12	3	8	188	507731	206094
Covasna	3710	5	2	40	122	112764	111122

County	Total area (km <sup>2</sup> )	Number of towns and municipalities	of which municipalities	Number of communes	Number of villages	Population localisation	
						Urban population	Rural population
Dâmbovița	4054	7	2	82	353	168027	369063
Dolj	7414	7	3	104	378	381708	330968
Galăț	4466	4	2	60	180	352847	267653
Giurgiu	3526	3	1	51	166	89012	197196
Gorj	5602	9	2	61	411	180489	204363
Harghita	6639	9	4	58	235	144022	182536
Hunedoara	7063	14	7	55	457	369550	110909
Ialomița	4453	4	3	58	127	133578	159088
Iași	5476	5	2	93	418	376155	437788
Ilfov	1583	8	-	32	91	3750	108570
Maramureș	6304	13	2	63	213	303119	212491
Mehedinți	4933	5	2	61	344	148296	157130
Mureș	6714	11	4	91	460	307825	275558
Neamț	5896	5	2	78	344	220149	350533
Olt	5498	8	2	104	377	196258	287416
Prahova	4716	14	2	90	405	422357	406896
Satu Mare	4418	4	2	57	226	167155	206931
Sălaj	3864	4	1	57	281	100083	146126
Sibiu	5432	11	2	53	162	286258	136722
Suceava	8553	16	5	97	379	305855	399897
Teleorman	5790	5	3	92	231	141884	280430
Timiș	8697	10	2	85	313	415301	243536
Tulcea	8499	5	1	46	133	124036	128449
Vaslui	5318	5	3	81	449	124036	128449
Vâlcea	5765	11	2	78	556	187829	227352
Vrancea	4857	5	2	68	331	148999	244767
Bucharest Municipality	238	1	1	-	-	1924959	-

**Source:** National Institute of Statistics, [www.insse.ro](http://www.insse.ro)

### Competences of local government authorities<sup>36</sup>

Table 1.1.2

Exclusive competences		Shared competences		Delegated competences	
Counties	Communes and towns	Counties	Communes and towns	Counties	Communes and towns
a) airports of local interest; b) public and private domain of the county; c) cultural institutions of county interest; d) public sanitary units of county interest; e) primary and specialised social security services for the victims of family violence; f) specialised social security services for elder persons; g) other competences according to the law.	a) public and private domain of the commune or town; b) road transport infrastructure of local interest; c) cultural institutions of local interest; d) public sanitary units of local interest; e) territory planning and urbanism; f) water supply; g) analysing and filtering used waters; h) public lighting; i) sewerage; j) primary social security services for child protection and elder persons; k) primary and specialised social security services for the victims of family violence; l) local public transport of passengers; m) other competences according to the law.	a) road transport infrastructure of county interest; b) special education; c) medical-social security services addressed to the persons with social problems; d) primary and specialised social security services for child protection; e) specialised social security services for disabled persons; f) community public services for civil registry; g) other competences according to the law.	a) supply with centralised-system thermal energy; b) building social dwellings and for youth; c) state upper secondary education, excepting special education; d) order and public safety; e) granting social aids to persons in difficult situations; f) preventing and managing emergency situations at local level; g) medical-social security services addressed to the persons with social problems; h) primary social security services for disabled persons; i) community public services for civil registry; j) managing the road transport infrastructure of local interest at commune level; k) other competences according to the law.	Local government authorities exert competences delegated by central government authorities on payment of allowances and fees for children and adults with disabilities.	

<sup>36</sup> Law – framework on decentralisation no. 195/2006, Chapter IV – Competences of local government authorities.

## 1.2. Functions for subordinated levels of central or regional governments\*

### 1.2.1. Introduction

*The image of the state administrative structure* represents the result of a profound development process, identifying “progressive agglomerations of territories, populations and languages”<sup>37</sup>, state where the confirmation for applying the principle of the separation of powers in the state is provided by the three powers – legislative, executive and judicial – no matter the form of the state, unitary state, composite/federal state or comprising autonomous regions<sup>38</sup>.

As subsystem of the global social system, **public administration** has got powerful political, social, economic, cultural determinations, being in a complex connection with its environment. It is known as action of the executive power<sup>39</sup>, as intervention of the public power in achieving the public action, in guiding the public affairs, executing and implementing the public policy. It comprises the public authority system that achieves the executive power, aiming to meet the public interest.

The administrative organisation in the logics of public action, results from a deductive approach, meaning to define the missions that have to be accomplished (security, development, solidarity, planning), deducting the functions that should be activated (controlling, involving, regulating, planning,

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\* presented at the “*European Forum on the Future of Local and Regional Authorities and Local Administration*”, organised by French Presidency of the European Union, Paris, France, 2008.

<sup>37</sup> Fregé, Xavier (1991), *Descentralizarea*, Humanitas Publishing House, Bucharest, p. 17.

<sup>38</sup> Marcou, G. and Wollman, H. (2008), “Europe” in “*Decentralization and local democracy in the world. First Global Report by United Cities Local Governments*”, p. 133.

<sup>39</sup> Vedel, G. and Delvolvé, P. (1988), “*Droit Administratif*” 10<sup>e</sup> edition, P.U.F., Paris, p. 56.

programming, expertise). Then, we define the tasks and attributions, distribute the competences under legal terms (decentralisation or deconcentration) in order to attain organic or procedural structures. The organisational and functional structure of the system of governmental authorities comprises in a vertical, hierarchical subordination, on each level, various authorities, achieving the activities related to the state executive function – in connection to a top authority, the Government, as central body of the executive power.

We view two dimensions of public administration, a *territorial* dimension, basis for dividing the public authorities into central<sup>40</sup>, territorial<sup>41</sup> and local<sup>42</sup> ones, depending on the area of territorial action, to which the *hierarchical structure* corresponds and a *functional* or *material* dimension, pillar to dividing the administrative authorities into authorities with general<sup>43</sup> competence and specialised authorities<sup>44</sup>, to which the *functional structure* corresponds.

Public administration is defined by two dimensions, on one hand, by „**the totality of mechanisms** (policies, rules, procedures, systems, organisational structures, personnel etc.), financed by the state budget, accountable for public affairs management of Government executive bodies and their interaction with other interested „actors”; and on the other hand by „*management*” and application of laws, rules, Government decisions and public service management.

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<sup>40</sup> Their competence covers the whole country territory (Government, ministries, central government bodies).

<sup>41</sup> The area of territorial competence covers only a part of the national territory (decentralised public services of ministries and other central bodies).

<sup>42</sup> Their competence covers a territorial-administrative unit-county, town, commune (local councils and mayors).

<sup>43</sup> They exercise the executive power in any field of activity (Government, local councils and mayors).

<sup>44</sup> They achieve public administration in a certain branch or field of activity (ministries and the other specialised government bodies subordinated to the Government or autonomous ones, their decentralised public services in the territory).

Most of the public administration systems have a „European standard model of organisation” provided by the French, English and German public administration systems, found also in other European states (except the Northern countries and Switzerland) (Ziller, 2001; Marcou, 2008; Matei, 2006; Pollitt and Bouckaert, 2000), model based on a hierarchical organisation, known as the „Weberian administration model”. The hierarchical, centralised bureaucracies, typical for 1930-1940 did not correspond to 1990s, the model being rigid and bureaucratic, strictly focused on institutional structures and processes (Osborne and Gaebler, 1992: 11-12; Hughes, 1998: 38-39), requiring modern forms of organisation, more flexible, performance-oriented. To this diversity, we add „the asymmetric models”<sup>45</sup>, and new „models” and institutional „experiments” for public administration in Central and Eastern European countries, states undergoing reforms since 1990s.

Some examples may be significant.

The hierarchical structure of administration in *France*, unitary state is determined by „administrative decoupage of the territory”, that is the division of the national territory in administrative units, representing the headquarters of the administrative authorities, at the same time empowered with object and limit for competences<sup>46</sup>. We identify *three levels*: regional (the third tier), department and commune, with clear, well defined and legislative regulated competences, having own management, defined as follows:

- **The region** is defined through the *deliberative authority* represented by the regional council, *executive authority* – the president of the regional council and *intermediary instance* – the bureau;

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<sup>45</sup> Marcou, G., Wollman, H. (2008), *op. cit.*, p. 133.

<sup>46</sup> Auby, Jean Bernard and Auby, Jean Francois (1990), *Droit des collectivités locales*, P.U.F., Paris, p. 52.

- **The department** is run by *deliberative authority* – general council, *executive authority* – president of the general council and *intermediary instance* – the bureau;

- **The commune** (title II, Charter I of the Commune Code, Art. L121 and further) has three managing bodies: *deliberative authority* – municipal council, *executive authority* – mayor and municipality.

For **Germany**, federal state, the competences and functions are distributed to administrative authorities of Landers, communes and arrondissements as local authorities, ensuring a large local autonomy. In regard of guaranteeing the autonomy of communes and arrondissements, they exercise competence under own authority (Fundamental Law of Germany, art.28.2), solving all matters of the local community.

The competences of communes are compulsory (construction and maintenance of schools, fight against pollution, supply with water and power, gas production and distribution etc.) and facultative (granting economic aids – concession of lands, credits for construction etc. –, construction of public maritime or domestic harbours, markets etc.). Certain competences (building houses, police, firemen) are exerted on the account of the federal government. The Landers exert tutelage on communes and their groupings, according to the legislative conditions of each Lander.

Public administration is applying *general or common principles*, such as principle of structural organisation, principle of unitary organisation, principle of unitary management, principle of territorial organisation, principle of functional specialization etc. *Fundamental principles, with judicial character*: principle of legality, principle of equality before administration etc. Principles with non-judicial character: for ex. principle of efficiency in the executive activity.

The territorial organisation of the public administration systems in some states in Europe is subject to the traditional model, conceived on two levels – local council (first tier) and upper level, central level (Greece, the Netherlands, Hungary, Ireland, Romania,

Denmark) and in some situations with intermediary level (table 1.2.1), levels distributing the power and functions among them, according to the criteria of operation. There are also administrations organised on three levels: local council (first tier), department/province/ county/district, region or federal council (France, Poland, Belgium, Germany, Italy, Spain).

### 1.2.2. Resizing and restructuring

Concerned by their performance, on the background of applying the principles of effectiveness and efficiency, subsidiarity, local autonomy and decentralization, the national governments *resize the intergovernmental relations with the local level*. The application of the other principles, such as accountability, participation, deconcentration etc., taking into account public service development leads to changing the borders of the public sector towards the local levels, private and non-profit sectors, groups of local communities or citizens. The European administrations reveal dimensions for *reconfiguration* of the central-local relations, a new breakdown of competences, application of regional planning instruments on contractual basis, increasing or diminishing the role of the local bodies etc.

Distributive emphasising the competences for spheres of governance, the relations of operation and representation of the government at various administrative levels, provide to the public administration the *attribute of reforming* the public sector. It emphasises the elements of the administrative reform, identified at the level of the key characteristics, such as structural, functional and cultural elements, transforming administration into a service under the requirements of the market-type mechanisms and the public into the market actor, the customer, aiming to meet the public interest, to size in a genuine way the public need, to reduce the administrative burden and to increase the public service quality.

„Public responsibilities shall generally be exercised, by those authorities which are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy” (Art. 4.3, *European Charter of Local Self-Government*)<sup>47</sup>.

▪ We assist at **territorial reforms** in some European states, reforms similar to those in 1950s, 1960s and 1970s (Marcou, 2008:129) revealing referential dimensions in 1990s, achieved from another perspective, namely:

– **The functional dimension of local governments**, strengthening the local level and developing the urban system of organisation and administrative representation in the relations with the central level, decentralization from central to local level, or *shifting authority to local government levels*. To each local territorial structure there is an own local administrative authority (Marcou, 2008:129), governing the structure, enforcing and recognising the principles of local democracy – established by the European Charter of Local Self-Government, 1985.

– Territorial reform of **regionalization**, as functional matter and not institutional matter, differing from a state to another, within the framework of the constitutional regime, involving sometimes a regional autonomy, different from the local autonomy.

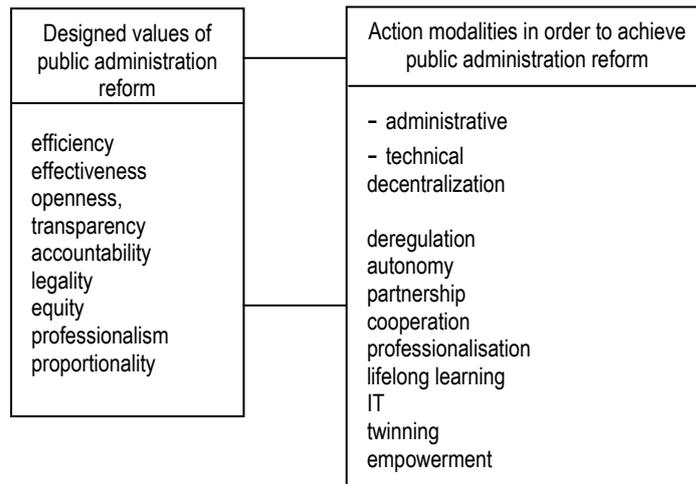
– **Developing the urban areas**, structuring them on different levels of urban organisation, responding to the functional and democratic needs, representing **metropolitan authorities** with a town as centre.

▪ **Another dimension** of reforms refers, as shown, to **management of local authorities**, their functions, powers and responsibilities in the state national context. The degree of managerial autonomy of local authorities varies from a state to another, due to laws and regulations valid for each state entity.

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<sup>47</sup>Council of Europe (1985), *European Charter of Local Self-Government*, Strasbourg.

After 1990, in Romania it took place the process to redefine the role of central government related to local government, the political and administrative competences delegated to local government, the necessary sources as well as the performance of the decentralization and strengthening the local democratic governance. 1990 represents the beginning of the construction of a decentralised system, marked by legislative, institutional, political, economical reforms. The new dimension of public administration, citizen-reoriented, responsive to its needs, is subject to reforms and continuous adaptation, process characterizing the modern democratic systems. (Figure 1.2.1).



**Figure 1.2.1.** *Dimensions of public administration reform*

### 1.2.3. Public Administration

The local organisation as administrative body, reflects the political regime, it translates the spirit and institutions on local level (Alexandru, 2008:409), based on a set of common principles (Marcou, 2007:9) for organisation and functioning of governments,

found in the European states; it is worth to mention: *principle of local self-government* – recognised by constitution and law, *nature of local powers, functions and powers* (regulation, supervision etc.) of local authorities – stipulated by the law or *procedures on protection of local self-government*.

The **public administration** in the territorial-administrative units shall be organised and function on the grounds of the *principles of decentralisation, local autonomy, deconcentration of public services, eligibility of the local government authorities, legality and consultation of citizens* in solving local matters of particular interest (art. 2.-(1), Law no. 215/2001)<sup>48</sup>.

The constitutional provisions on public administration are expressly presented in Title III – „Public Authorities”, Second section: „Local government”, art. 120, paragraph (1), specifying: „public administration in administrative – territorial units is based on the principles of *decentralization, local autonomy and deconcentration of public services*”.

The **local government** is organised on **two levels**, respectively communes and towns – as basic territorial units and counties, respectively Bucharest Municipality – as **intermediary** units between basic local communities and state.

The communes, towns, municipalities and counties are territorial – administrative units, where local government authorities shall be organised and function (Figure 1.1.1).

1. **The county level** is represented by the 42 counties of Romania, including also Bucharest Municipality. Each county has its residence at municipality level, representing the political, economic, social-cultural and scientific centre of the county. At each county level, the local government authority is exercised by a County Council – *deliberative authority*, coordinating the activities of commune, town and municipality councils and president of the county council as *executive authority*. The Government of

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<sup>48</sup> Law no. 286/2006 dated 06/07/2006, published in the Oficial Gazzette, part I, no. 621 dated 18/07/2006 for amending and completing Law on local government no. 215/2001.

Romania appoints a **prefect**<sup>49</sup>, for each county, inclusively for Bucharest Municipality; the prefects are state representatives at local level. The Prefect directs the deconcentrated public services of ministries and other central government bodies in the territorial-administrative units and holds authority of administrative tutelage for supervising the rule of law by local government authorities.

2. **The local level** comprises 2851 communes, 216 towns and 103 municipalities<sup>50</sup>. The communes, towns and municipalities have their own Local Council (*deliberative authority*) and a mayor (*executive authority*), elected after the poll organised every 4 years.

Bucharest Municipality is organised on 6 territorial-administrative subdivisions, called sectors. Bucharest Municipality has a General Council of Bucharest Municipality and General Mayor of the capital and each sector has a local council and a mayor.

In 1997 a new structuring of Romania into 8 development regions<sup>51</sup> has been proposed. The regions, which are not territorial – administrative units, are set up by gathering counties, aimed to develop European financial assistance programmes within European Union regional development policies.

#### 1.2.4. Principle of decentralization

The current decentralization process is justified by the necessity to define the role of central government related to local government, the political and administrative competences delegated to local government, the necessary sources as well as the performance of the decentralization process.

In Romania, *administrative decentralisation* is based on a community of „public interests” of the citizens belonging to a

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<sup>49</sup> In Romania the office of prefect was introduced by *Law for county councils no. 396* dated 2/14 April 1864 stipulating: ”the prefect as head of county government directs all the activities of government and executes the decisions of the county council” (art.91).

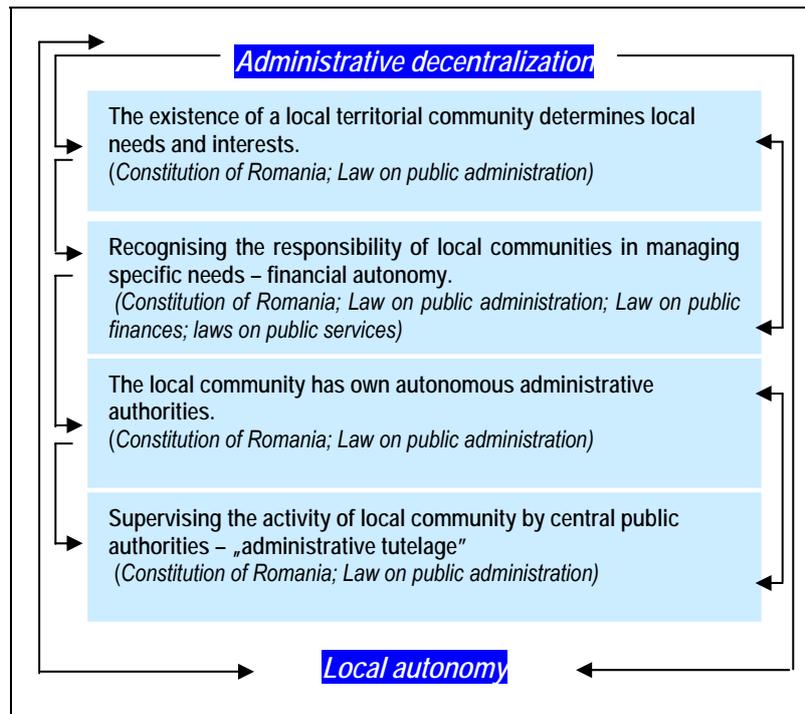
<sup>50</sup> Source: National Institute of Statistics, 31 Dec. 2005 (www.insse.ro).

<sup>51</sup> Law no. 315/2004 on development regions.

territorial-administrative unit, „recognising the local community and the right to solve its matters” and *technical and financial* decentralisation of the public services, from the „centre” to local communities, aimed to meet social needs.

**Decentralization** is a pillar for changing the structure of the intergovernmental relations and guarantor of an „efficient, responsible, effective and transparent public administration”. It should be understood as *transfer of administrative and financial competence* from central government level to local government level or towards the private sector (*Law no. 195/2006 on decentralization, art. 2 (l)*).

Decentralization ensures the climate for developing local interests in a natural manner, according to citizens’ habits and their genuine requirements, constituted in public needs; it generates the spirit of individual initiative; local freedom system, interest for community welfare, determining the development of human communities (Figure 1.2.2).



**Figure 1.2.2.** Key elements of administrative decentralization in Romania

Recognising the territorial administration units as state administrative subdivisions represents the proof for applying the principle of administrative territorial decentralization (*article 3(3), Constitution of Romania*). This issue is linked to recognising local communities and their right for administration (Matei, 2000: 43).

The **decentralization process** has not been easy, assuming a *specific legislation and an adequate organisational structure*, on one hand, and *procedures for the local autonomy*, on the other hand.

The specific management instruments have ensured *cooperation*, vertical and horizontal *coordination* of administrative territorial organisation of Romania.

The development and operationalisation of the adequate “infrastructure” and technical structure are ensured by the institutional framework of the decentralization process, comprising the Ministry of Interior and Administrative Reform, the Ministry of Economy and Finance, specialised structures, Inter-ministerial Technical Committee for Decentralisation, Committee for local public finances<sup>52</sup>, working groups for competence decentralisation, specialised bodies of central government with responsibilities in coordinating the decentralisation process. *The Committee for local public finances* represents a partnership-type structure, without legal personality, with consultation role in elaborating and implementing the financial and fiscal decentralisation policies.

The Government, ministries and the other specialised central government bodies transfer competences<sup>53</sup>, currently exercised by local government authorities at county, commune or town level. Some ministries and specialised central government bodies have organised deconcentrated public services in view to ensure a more efficient management, to reduce the central control and transfer a part to the local level, creating intergovernmental networks, with limited competences on the vertical and horizontal of organisation, exclusive, shared or delegated competences to the local authorities.

In regard to the constitutional regulations, the *Constitution of Romania modified and republished in 2003* adds the principle of *deconcentration* to the principle of decentralisation of public services (article 120). Article 123 eliminates the confusion made between decentralisation and deconcentration, as it stipulates: “the Prefect is the representative of the Government at a local level and shall direct the deconcentrated public services of ministries and other central government bodies in the territorial-administrative units”.

At *central government* level, there are *regulation authorities* – government authority entitled to issue regulations, rules, procedures and standards, aimed to public service provision. They

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<sup>52</sup>Law no. 195/2006, Chapter III.

<sup>53</sup> Art. 4, 5 and 6, Law no. 195/2006.

are responsible for *public service financing*, provide in the own budget or state budget the funds necessary for public service provision, they might be regional operators of public services and *authorities responsible for implementation*, holding the responsibility of service provision.

As shown by principles, decentralization<sup>54</sup> is a system for administrating the local, commune, town or county interests by authorities, freely elected by the citizens of the respective community. It is a system of administrative organization, enabling to the human communities or public services their self-government, under state control, awarding them legal personality, enabling them to constitute own authorities, endowing them with the necessary resources (*Law no. 51/2006, Law on community services of public utilities*).

#### 1.2.5. Principle of local autonomy

„By local autonomy one understands the right and effective capacity of local government authorities to solve and manage an important part of public affairs, according to law, on their own behalf and for the interest of local population” (*European Charter of Local Autonomy*).

The different interpretation of the concept of autonomy, accepted in the sense of „administrative autonomy” (Spain, Greece, Italy, Portugal, Romania) or in the sense of „self-government” does not prevent us to assert that *local autonomy* refers to organisation, functioning, competences and attributions, as well as resource management, resources that according to the law belong to commune, town, municipality or county. On the other hand, it represents the right and effective capacity of local government authorities to solve and manage an important part of public affairs,

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<sup>54</sup> Decentralization means: strategic approach and public policy development; developing a new legislative framework; strengthening the institutional structures; awareness campaigns; transfer of responsibilities, including those concerning financial resources; managing and monitoring the implementation process.

on their own behalf and under their responsibility, for the interest of local communities they are representing.

The principle of local autonomy, pillar of „general competence clause” of local authorities, found in the national legislation of European countries is characterised by the following dimensions: institutional dimension, expressed by election of the council and executive, decision-making freedom; dimension related to independency to exercise competences by the local authority, financial dimension, found in the budgetary competences and freedom of internal organisation (Marcou, 2007:15).

The European Charter of Local Autonomy imposed the modification of Law no. 69/1991 by Emergency Ordinance no. 22/1997, namely: „**The local autonomy** implies organisation and functioning of local government and it represents the right and effective capacity of local government authorities to solve and manage an important part of public affairs, on their own behalf and under their responsibility, for the interest of local communities they are representing”.

“The autonomy implies organisation and function of local government as well as management of the interests of communities, under its responsibility” (*Law 69/1991 on local government*).

The government authorities, by which *local autonomy* in communes and towns is achieved, are the elected *Local Councils and elected Mayors*, in accordance with the law. The *County Council* is “the government authority, coordinating the activity of commune and town councils”, with a view to carrying out the public services of county interest<sup>55</sup>. The local, county councils and General Council of Bucharest Municipality have rule-making functions and they are deliberative authorities on local level.

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<sup>55</sup>Art. 122, paragraph 1, Constitution of Romania.

### 1.2.6. Relations of the government authorities

The typology of the relations developed by the system of government authorities is identified on one hand on the vertical line of system organisation and on the other hand on the horizontal line. In this respect, the following relations are developed:

1. *relations of authority* – on the vertical line of the system determined by the hierarchical structure that develops implicitly another category of attributes, namely control attributes, so *relations of control*;
2. *relations of cooperation* – on the horizontal line of the system;
3. *relations of representation*.

1. We distinguish *the relations of authority* at the following levels:

- between the *central authority* level – Government (competence to manage the whole public administration at national level) and *local authorities* level with general competence – local councils and mayors. *The Government* has the right to issue legal acts, compulsory for the local authorities. *The prefect*, as representative of the government in the territory has the right to control the legality. The Government authority on the local councils is exercised within the legal limits, observing the functional autonomy, the principle of administrative autonomy and decentralisation and deconcentration of public services (Constitution of Romania).

- between *central authority* level (the Government is entitled to general control) and *specialised local authorities*. We refer to decentralised public services of ministries and other specialised central government bodies, where the control is achieved through the intermediary tier between the central and local level, namely county – through the prefect or the ministry concerned. The relations are established only when the Government adopts general measures on their functioning (normative acts).

2. *The relations of cooperation* may be emphasised between:

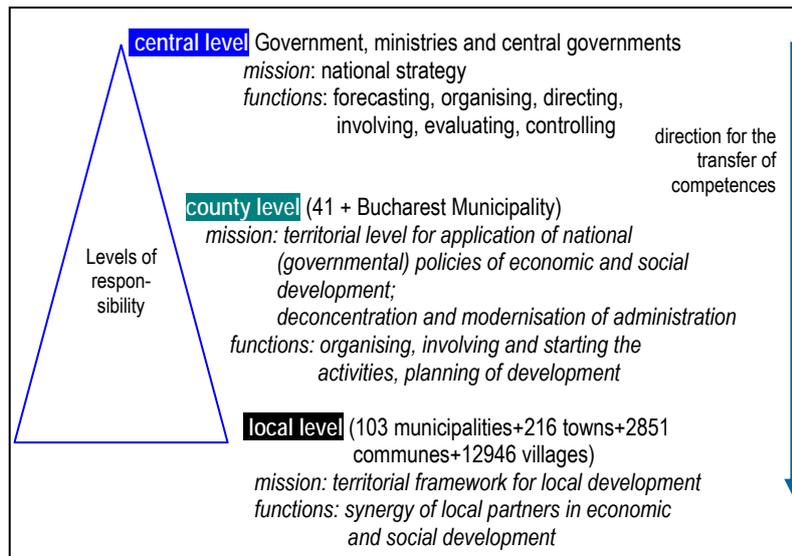
- *Ministries* and the other specialised central government bodies and local government authorities holding general competence – *local councils* (they are not subordinated to the ministries).

- At the same time, we may emphasise a *control* type relation, determined by delegation to certain ministries and central government bodies in order to control a certain activity (it is not hierarchical or functional subordination).

- *The ministries* and other specialised central government bodies and *decentralised public services* (authorities of specialised central government) establish relations of *functioning* determined by organisation and specificity of their activity. In this case there are obvious the relations of *authority-hierarchical relations* exercised through the representative of the government in the territory – the prefect, directing the decentralised public services in the territory.

#### 1.2.7. Local responsibilities

The activities concerning the development of the decentralization process have identified three responsibility levels (figure 1.2.3): central level; county level; local level, including also the private sector.



**Figure 1.2.3.** *Pyramid of responsibility levels*

**Local competence** ensures to *the deliberative authority – local council* attributions in any matter of local interest on economic-social development and environment development of the commune, town or municipality, management of the services provided to the citizens or inter-institutional cooperation on internal or external level. The Law on local government assigns to the local councils specific functions without breaking the competences of other central authorities.

*The transfer of competences* from central level to communes, towns and counties, and implicitly, the creation of new forms of organisation and coordination of national and local policies represent the major step undergone by Romania since 1990 in *decentralisation* of power, authority and decision. Decentralization, started in the moment of adopting the *Constitution of Romania in 1991*, assumed the reorganisation of competences and responsibilities at local government level,

exerting power by different actors and partial loss of the macroeconomic control exercised by the central government.

Some ministries and specialised central government bodies organise *deconcentrated* public services, most of them with headquarters in the municipality – county residence<sup>56</sup>, where on behalf of the ministry and according to its rules, the activities belonging to the area of competence in that county are managed. For example, the Government, respectively, the ministry by county inspectorates of the Ministry of Culture is managing theatres or museums, institutions with local specificity, which could be better managed by city halls. The local deconcentrated agencies of ministries have attributions concerning the control, inspection and monitoring, the attributions concerning supply or administration are transferred to county or local level, excepting those considered of strategic or national importance.

The only *decentralised public services* are those organised in *communes, towns or counties by local government authorities*.

#### 1.2.8. Competences of local government authorities

According to the law (Art. 5-(1), Law no. 215/2001), the local government authorities exercise exclusive competences, shared competences and delegated competences<sup>57</sup> (Table 1.2.1).

*Local government authorities* may be *authorities responsible for public service financing* that provide the funds necessary for public services in their own budget or the state budget; they may be regional operators of public services and *authorities responsible for implementation*, in charge with service provision.

They are public services, for which the law stipulates competences, both for local and central authorities, i.e. education or health. Transferring the attribution on establishing the price of Giga calories represents another example of decentralization.

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<sup>56</sup> It is possible that some deconcentrated public services may also have branches in other large towns in the county.

<sup>57</sup> Law no. 195/2006, *Chapter IV – Competences of local government authorities*.

*The county council* coordinates the activities of commune, town and municipal councils, aiming at carrying out public services of county interest. It has attributions on social economic development of the county, managing the patrimony of the county, the subordinated public services etc. The relations between local government authorities in communes, towns, municipalities and government authorities at county level are based on the principles of autonomy, legality, accountability, cooperation and solidarity in solving the county matters. There are no relations of subordination between local government authorities and county council or between local council and mayor. The local council exerts functions, stipulated by law<sup>58</sup>, of which we mention: local economic development, setting up and organisation of public institutions and services of local interest, according to the specificity and local needs, managing the goods belonging to its public or private ownership; the local councils of the sectors of Bucharest Municipality exert also other attributions stipulated by law or delegated by the General Council of Bucharest Municipality.

At local government level, the successful actions are as follows: decentralisation (administrative, decisional, financial decentralisation – budget, charges and taxes) at local level, accountable local development policy-making, management and provision of public services of local interest; the following actions should be enhanced: mechanisms for local governance accountability, selective modernisation of local government and cultural development of local policy.

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<sup>58</sup>Constitution of Romania, Law no. 215/2001, Law no. 195/2007, Law no. 273/2006.

**Typology and characteristics of the competences of local government authorities in Romania**

Table 1.2.1

Exclusive competences	
<i>Counties</i>	<i>Communes and towns</i>
a) airports of local interest; b) public and private domain of the county; c) cultural institutions of county interest; d) public sanitary units of county interest; e) primary and specialised social security services for the victims of family violence; f) specialised social security services for elder persons; g) other competences according to the law.	a) public and private domain of the commune or town; b) road transport infrastructure of local interest; c) cultural institutions of local interest; d) public sanitary units of local interest; e) territory planning and urbanism; f) water supply; g) analysing and filtering used waters; h) public lighting; i) sewerage; j) primary social security services for child protection and elder persons; k) primary and specialised social security services for the victims of family violence; l) local public transport of passengers; m) other competences according to the law.
Shared competences	
<i>Counties</i>	<i>Communes and towns</i>
a) road transport infrastructure of county interest; b) special education; c) medical-social security services addressed to the persons with social problems; d) primary and specialised social security services for child protection; e) specialised social security services for disabled persons; f) community public services for person evidence; g) other competences according to the law.	a) supply with centralised-system thermal energy; b) building social and youth houses; c) state upper secondary education, excepting special education; d) order and public safety; e) granting social aids to persons in difficult situations; f) preventing and managing emergency situations at local level; g) medical-social security services addressed to the persons with social problems; h) primary social security services for disabled persons; i) community public services for person evidence; j) managing the road transport infrastructure of local interest at commune level; k) other competences according to the law
Delegated competences	
<i>Counties</i>	<i>Communes and towns</i>
Local governance authorities exert competences delegated by central government authorities on payment of allowances and fees for children and adults with disabilities.	

### 1.2.9. Public service decentralization

The convergence of the objectives for public service provision regarding their quality improvement involves the decentralisation process development.

The decentralisation process as the *transfer of authority/responsibility* towards the local administrative structures relates to planning, decision-making (finance, taxation), legal responsibilities (issuing regulations, local decisions) and public service management for which the transfer is being made. Still, the persuasive style of the central government concerning the local administration control, the inadequate level of local resources and the territorial disparities in regard to the quality of services are intervention areas for improving the decentralisation effect.

The local government was not prepared for undertaking some responsibilities, and this thing generated difficulties in the provision of quality services for local communities. Another aspect that should be mentioned relates to the fact that under the pressures of budgetary deficit, the central government could not provide the necessary financial resources for the set of decentralised services.

Public service decentralisation represents the transfer of services from the “center” to the local communities, aiming to satisfy the social needs. Decentralisation allows self-government under the state control to the public services, which offers them legal personality and allows them to constitute their own authorities and have their own resources. The public service decentralisation is of *technical and financial* nature, awarding legal personality to the public service. Public service decentralisation means to *award legal personality* (creating public institutions, institutions of public utility based on state or individuals or legal persons' property), to remove the hierarchical control and to place them under the rule of administrative tutelage. So, the public service management has power of decision, financial autonomy, legal personality, patrimony and the right to stand in justice.

Public service decentralisation relates to the increase of flexibility and responsibility at different hierarchical levels, improvement of local governance by greater local autonomy and responsibility and mobilisation of resources for economic and social development. (Matei, 2004).

Public service decentralisation is not linked to absolute decentralisation, which is the transfer of all activities from the central level towards the county and local level. The public services organised at central level as public authorities (ministries, departments and divisions) do and will continue to exist at that level. The role of these services is to conceive and ensure the Governmental strategy within that sector of activity, to which one may add the practical activities of the inferior levels (county, local levels). Decentralised public services as specialised authorities are subordinated vertically to central concerned bodies, that have the competence to suspend illegal dispositions and provide compulsory indications, but they are functioning under the prefect's direct management.

Practically, some ministries and specialised central government bodies organise deconcentrated public services, most of them being placed in the municipality – county residence<sup>59</sup>.

*These territorial services of ministries and other specialised central government bodies (so state services) are deconcentrated and not decentralized services, as the 1991 Constitution stipulated. They are services outside ministries, so depending on them. As these services are directed by Prefect, as the Government's representative, they "cannot be considered as decentralized".*

*Territorial public services of ministries are deconcentrated, the only decentralized services being those organised in communes, towns or counties, by the local government authorities.*

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<sup>59</sup> However, it is possible that some deconcentrated public services have branches also in other big towns in the county.

### 1.2.10. Activities and actors of decentralisation

Decentralisation as *transfer of administrative and financial competence* from the central government level to the local government level or private sector<sup>60</sup>, represents a system for managing local, commune, town or county interests, by authorities freely elected by the citizens of the respective community.

Human communities or public services are self-governed under state control, according to the law<sup>61</sup>. In Romania, *territorial administrative* decentralisation is based on a community of „public interests” of the citizens belonging to a territorial-administrative unit, „recognising the local community and the right to solve its matters” and *technical and financial* decentralisation of the public services, namely transferring the services from the „center” to local communities, aimed to meet social needs.

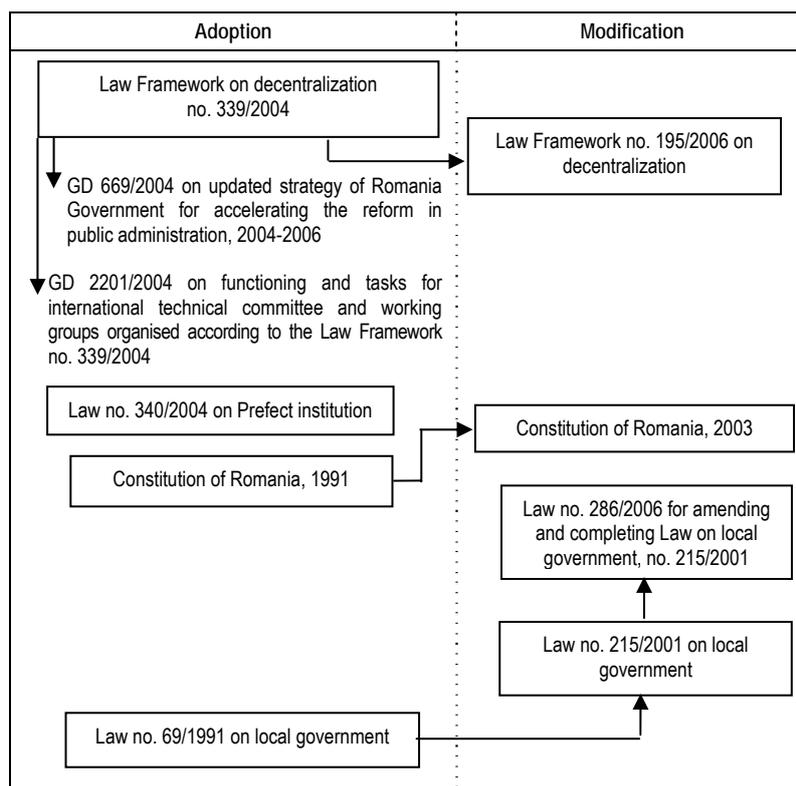
The *decentralisation* process has represented also the beginning of a process to create and strengthen new forms of *dialogue* between central and local government, represented by the Federation of Local Authorities in Romania (FALR), professional administrative corps or other associative structures of local government authorities (ACoR-Association of Communes in Romania, AOR-Association of Towns in Romania, AMR-Association of Municipalities in Romania, National Union of County Councils in Romania -UNCJR).

- *Creating, updating and completing the legislative and institutional framework on decentralization (Figure 1.2.4)*

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<sup>60</sup> Law no. 195/2006, Law – Framework on decentralisation, art. 2 (1).

<sup>61</sup> Law 51/2006 on community services of public utilities.



**Figure 1.2.4.** *Institutional framework on decentralization*

- *Clarifying the competences on different levels and structures of public administration for supporting the decentralization process.*
- *Developing new concepts: „regulation authority”, „public administrator” and „associations of intercommunity development”.*

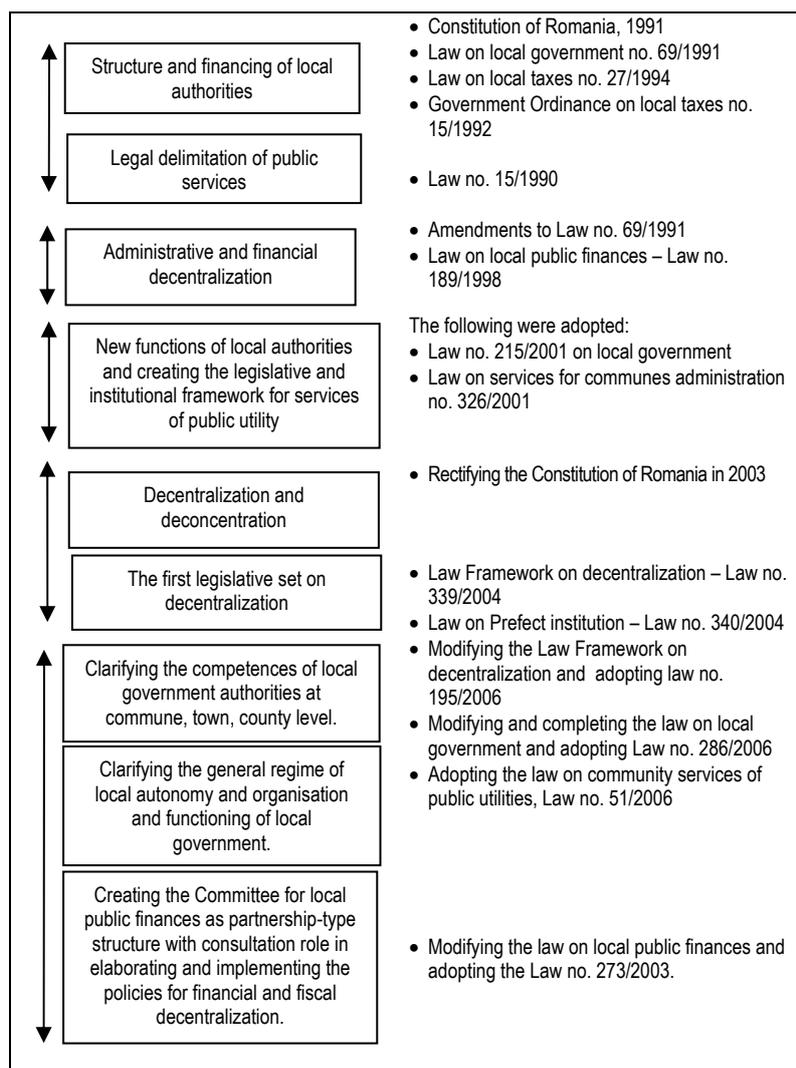
Thus, there are central authorities such as the *regulation authorities* – authority holding the right to issue regulations, rules, procedures and standards for public service provision – which are *central government authorities*.

*Local government authorities* may be *authorities responsible for financing public services* or those who provide in their own budget or state budget, the necessary funds for public service provision – regional operators of the public services and *authorities responsible for implementation*, respectively for service provision.

#### 1.2.11. From theory to practice of decentralization and autonomy of Romanian public administration

A set of laws regarding the administrative organisation, territorial planning and urbanism, finances, taxation, health services, social security, education, etc. was enacted, regulating both the political decentralisation of some public services and the territorial and administrative deconcentration through the Prefect institution.

The following stages were identified within the *decentralization process and local autonomy (Figure 1.2.5)*:



**Figure 1.2.5.** *Stages of the decentralization process and local autonomy*

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### 1.3. Dimensions of Decentralization and Autonomy in the Romanian Public Administration\*

#### 1.3.1. Background

1) Romania is a sovereign, independent, unitary and indivisible National State.<sup>62</sup> (Art. 1. (1), Title I, General Principles, *Constitution of Romania*, 2003, „Official Gazette”, Bucharest). The analysis on the text of the fundamental law of Romania enables to conclude the main features of the political regime, emphasising the following:

1. organisation of the state on the principle of separation and balance of powers – legislative, executive and judiciary powers (art. 4, *Constitution of Romania*);

2. a Parliament with two chambers, comprising the Senate and Chamber of Deputies, „where both Chambers have direct popular legitimacy” and exercise the legislative power (art. 61(2), *Constitution of Romania*);

3. The Government represents the executive power and its political accountability is exclusively before the Parliament (Chapter III, Government, *Constitution of Romania*);

4. the judiciary authority is represented by courts, Public Ministry, Superior Council of Magistrates (Chapter VI – Judiciary Authority, *Constitution of Romania*);

5. “The Constitutional Court represents the guarantor of Constitution supremacy” (Title V, *Constitution of Romania*);

6. „the ordinary and exceptional legislative delegation” enables to the Government to adopt rules for primary regulation of

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\* Presented at the international conference “The Need for Constitutional Revision in the Balkan and Black Sea Countries”, April 2007, Komotini, Greece

<sup>62</sup> The constitutional tradition emphasizes the historical development of the Romanian state since the constitution of the unitary national state to its consolidation. The 1866 Constitution defined the Romanian state as an indivisible state, that of 1923 as a unitary and indivisible state, and the Constitution from 1938 as national, unitary and indivisible state. Articles 1 and 17 of the 1948 and 1965 Constitutions, respectively art. 17 of 1952 Constitution, emphasize the feature of unitary state for the Romanian state.

the social relations by ordinances and emergency ordinances (art. 108, *Constitution of Romania*);

7. asserting the principles of decentralization, local autonomy and devolution of the public services in public administration organisation (art. 120(1), *Constitution of Romania*).

The administrative structure of Romania is organized into communes, towns and counties with the possibility to declare some towns as municipalities (art. 3(3), *Constitution of Romania*, 2003)<sup>63</sup>.

The administrative territorial organisation of Romania was established by special laws, completing the constitutional law text. Their development presents the following characteristics:

a. The 1866 Constitution is completed with the collection of laws for county and commune administrative organisation from 1874, 1882 and 1884. There were 42 counties, 320 districts, 1526 communes and 4325 villages;

b. The 1923 Constitution is completed with laws on administrative organisation from 1925, 1929 and 1936, where the administrative organisation is represented by counties and (rural and urban) communes;

c. The 1938 Constitution is completed for the administrative organisation with the law from 1938, providing that the administrative organisation comprises (urban, rural and balneal) communes and land (10);

In 1940 we find again the organisation into counties and communes.

d. Law no. 5/1950 is the new adopted law, introducing the regions, being valid during the period of the 1948 Constitution. According to the Constitution, the administrative organisation comprises communes, districts, counties, regions;

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<sup>63</sup> According to the 1886 Constitution text, art. 4, Romania territory is divided into divisions and subdivisions, counties, districts and communes that could be changed only by law. The development of the administrative-territorial organisation shows different forms, adopted by the constitutional text and special laws, namely counties and (urban, rural, or balneal) communes – 1938 Constitution, regions, districts, towns and communes – 1952 Constitution, or communes, towns and counties – 2003 Constitution.

e. The 1952 Constitution modifies the administrative-territorial organisation into regions, departments, towns and communes;

f. The 1965 Constitution, modified in 1968 stipulates the territorial organisation into counties, towns and communes and provides the organisation form by Law no. 2/1968, abrogated in 1989 and replaced by Law no. 2/1989 on improvement of administrative organisation of the territory. The most important towns were organised as municipalities and Bucharest Municipality was organised into sectors;

g. In 1990, Law no. 2/1989 was abrogated by Decree law no. 38/1990, reinforcing Law no. 2/1968;

h. The 1991 Constitution, revised in 2003 stipulates the administrative organisation of Romania into counties, towns and communes (Figure 1.3.1 – Map of Romania and Annex 1.3.1 – Statistical data about Romania counties).



**Figure 1.3.1.** *Map of Romania*

### 1.3.2. Public Administration

The public administration, defined in two dimensions, by „**totality of mechanisms** (policies, rules, procedures, systems, organisational structures, personnel etc.), financed by the state budget, accountable of public affairs management of Government executive bodies and their interaction with other interested „actors”, on one

hand; and by „*management*” and application of laws, rules, Government decisions, public service management, on the other hand.

The constitutional provisions on public administration are expressly presented in Title III – „Public Authorities”, Second section: „Local public administration”, art. 120 align. (1), specifying: „public administration in administrative – territorial units is based on the principles of *decentralization, local autonomy and devolution of public services*”.

Since the 1990s, public administration has undergone a reform process. For Romania, the public administration reform has become a genuine need, immediately after 1989, when the centralised system, quantity-oriented and less interested by quality, has started to show its weaknesses. In this context, for Romania, the year 1990 represents the beginning of the construction of a decentralised system, marked by legislative, institutional, political, economical reforms. The administrative reforms in Romania represent the response of freely elected authorities to the national interest of a sovereign and independent state. The new dimension of public administration, citizen-reoriented, responsive to its needs, is subject to reforms and continuous adaptation, process characterizing the modern democratic systems. (Figure 1.2.1)

### 1.3.3. Decentralization and autonomy: from central to local level

**Decentralization** is a pillar for changing the structure of the intergovernmental relations and guarantor of an „efficient, responsible, effective and transparent public administration”. It should be understood as transfer of administrative and financial competence from central public administration level to local public administration level or towards the private sector (*Law no. 195/2006 on decentralization, art. 2 (l)*).

Transmitting competencies to commune, town and county level and implicitly, creating new forms of organisation and coordination of national and local policies represent the major step achieved by Romania since 1990 in decentralisation of power, authority and

decision. Decentralization, started in the moment of adopting the *Constitution of Romania in 1991*, assumed the reorganisation of competences and responsibilities at local public administration level, exerting power by different actors and partial loss of the macroeconomic control exerted by the central administration.

Functioning of the **decentralization process** has not been easy, assuming a *specific legislation and an adequate organisational structure*, on one hand, and *procedures for the local autonomy*, on the other hand. The specific management instruments have ensured cooperation, vertical and horizontal coordination of administrative territorial organisation of Romania.

*The principles* for the decentralization process in Romania (*Law no. 339/2004 on decentralization*) are as follows:

- a. *principle of subsidiarity* (competencies are exerted by local public administration authorities, situated on the closest level to the citizen);
- b. *citizens' equality before local public administration authorities*;
- c. *guaranteeing the quality of public services* provided to the citizens by public administration authorities, independent of their residence place;
- d. *stimulating the competition* as means to improve public service efficiency;
- e. *ensuring a balance between administrative decentralization and financial decentralization* at each administrative – territorial unit level;
- f. *transparency of the decision-making act*, based on citizens' access to public information and their participation in decision-making;
- g. *ensuring financial decentralization based on visible rules* concerning the calculation of financial resources, allocated to administrative – territorial units.

*The rules* for the decentralization process development are as follows:

- a) *decentralization of competencies from central to local level is achieved in stages*;

b) *creating specific technical structures for achieving and monitoring each stage* within the framework of the decentralization process;

c) *establishing measures within each stage of the decentralization process only after analysis on the results of the previous stage*. The analyses and results are discussed in public at local public administration authorities level and their association structures, involved in the decentralization process;

d) *developing some pilot-stages for implementing decisions on decentralizing some competences from central to local level*, before their generalisation at national level;

e) *monitoring the results of each measure taken within the decentralization process*, based on a system of performance indicators.

As shown by principles, decentralization is a system for administrating the local, commune, town or county interests by authorities, freely elected by the citizens of the respective community. It is a system of administrative organization, enabling to the human communities or public services their self administration, under state control, awarding them legal personality, enabling them to constitute own authorities, endowing them with the necessary resources (*Law no. 51/2006, Law on community services of public utilities*).

Decentralization means:

1. strategic approach and public policies development;
2. developing a new legislative framework;
3. strengthening the institutional structures;
4. awareness campaigns;
5. transfer of responsibilities, including those concerning financial resources;
6. managing and monitoring the implementation process.

The activities on development of the decentralization process have identified three responsibility levels (Figure 1.2.3).

Decentralization ensures the climate for developing local interests in a natural manner, according to citizens' habits and their genuine requirements, constituted in public needs; it generates the spirit of individual initiative; local freedom system, interest for

community welfare, determining the development of human communities (Figure 1.2.2).

Recognising the territorial administration units as state administrative subdivisions represents the proof for applying the principle of administrative territorial decentralization (*article 3(3), Constitution of Romania*). This issue is linked to recognising local communities and their right for administration (Matei, 2000: 43).

At the same time, **the principle of local autonomy** assumes the recognition of decentralised organisation using the territorial criterion (Popa, 1991:13). „Autonomy implies both the organisation and functioning of local public administration and management of the interests of the communities, under its own accountability” (*Law no. 69/1999 on local public administration*).

„By local autonomy one understands the right and effective capacity of local public administration authorities to solve and manage an important part of public affairs, according to law, on their own behalf and for the interest of local population” (*the European Charter of Local Autonomy*). The Charter imposed the modification of Law no. 69/1991 by Emergency Ordinance no. 22/1997, namely: „**The local autonomy** implies organisation and functioning of local public administration and it represents the right and effective capacity of local public administration authorities to solve and manage an important part of public affairs, on their own behalf and under their responsibility, for the interest of local communities they are representing”.

The elected local councils and elected mayors represent the authorities of administration for achieving local autonomy in communes and towns, according to the law. The county council represents „the public administration authority for coordinating the activity of commune and town councils”, aimed to achieve the public services of county interest (*art. 122, align. 1, Constitution of Romania*).

The decentralization process has represented the beginning of a process for creating and strengthening new forms of dialogue between central and local administration represented by the Federation of Local Authorities in Romania (FALR), the professional administrative corps or other association structures of

local public administration authorities (AcoR – Association of Communes in Romania, AOR – Association of Towns in Romania, AMR – Association of municipalities in Romania, UNCJR – National Union of County Councils in Romania).

The current decentralization process is justified by the necessity to define the role of central administration related to local administration, the political and administrative competences delegated to local administration, the necessary resources as well as the performance of the decentralization process.

#### 1.3.4. Public service decentralization

The convergence of the objectives for public service delivery regarding their quality improvement involves the decentralisation process development.

The process of decentralisation as the transfer of authority/responsibility towards the local administrative structures relates to the planning, decision-making (finance, taxation), legal responsibilities (enactment of regulations, local decisions) and public service management for which the transfer is being made. Still, the persuasive style of the central administration concerning the local administration control, the inadequate level of local resources and the territorial disparities in regard to the quality of services are intervention areas for improving the decentralisation effect.

The local administration was not prepared for undertaking some responsibilities, and this thing generated difficulties in the process of delivery of quality services for local communities. Another aspect that should be mentioned relates to the fact that under the pressures of budgetary deficit, the central administration could not provide the necessary resources for the services it has decentralised.

The public services decentralisations are represented by the transfer of services from the “center” to the local communities, with the aim of satisfying the social needs. Decentralisation allows to the public services their self administration under the state control, which gives them legal personality and allows them to constitute their own authorities and have their own resources. The public services decentralisation is of technical and financial nature, awarding legal

personality (by creating the public institutions, institutions of public utility based on state property or that of individual or legal persons), removing the hierarchical control and placing them under the rule of administrative tutelage. So, the public service management has power of decision, financial autonomy, legal personality, patrimony and the right to stand in justice.

Public services decentralisation relates to the increase of flexibility and responsibility at different hierarchical levels, (Figure 1.1.1) improvement of local governance by greater local autonomy and responsibility and mobilisation of resources for economic and social development. (Matei, 2004).

The decentralisation of public services is not linked to absolute decentralisation, which is the transfer of all activities from the central level towards the county and local level. The public services organised at central level as public authorities (ministries, departments and divisions) do and will continue to exist at that level. The role of these services is to conceive and ensure the Governmental strategy within that sector of activity, to which one may add the practical activities of the inferior levels (county, local levels).

Laws regarding the administrative organisation, territorial planning and urbanism, finances, taxation, health services, social security, education, etc. were enacted and are currently regulating both the political decentralisation of some public services and the territorial and administrative devolution, represented by the Prefect institution.

In regard to the constitutional regulations, the *Constitution* from 2003 adds the principle of *deconcentration* to the principle of decentralisation of public services (article 120). Article 123 eliminates the confusion made between decentralisation and deconcentration, since it stipulates: “the Prefect is the representative of the Government at a local level and shall run the deconcentrated public services of ministries and other bodies of the central public administration in the territorial-administrative units”.

More concrete, some ministries and central bodies of the specialised public administration have deconcentrated public services, mostly of them being placed in the municipality – county residence<sup>64</sup>.

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<sup>64</sup> However, it is possible that some deconcentrated public services have branches also in other big towns within the county.

*These territorial services of ministries and other specialised bodies of the central public administration (state services) are deconcentrated and not decentralized services, as the 1991 Constitution stipulated. They are services exterior to ministries, so dependent to them. Since these services are ruled by Prefect, as the Government's representative, they "cannot be considered as decentralized".*

*Territorial public services of ministries are deconcentrated, the only decentralized services being those of communes, towns or counties, by the local public administration authorities.*

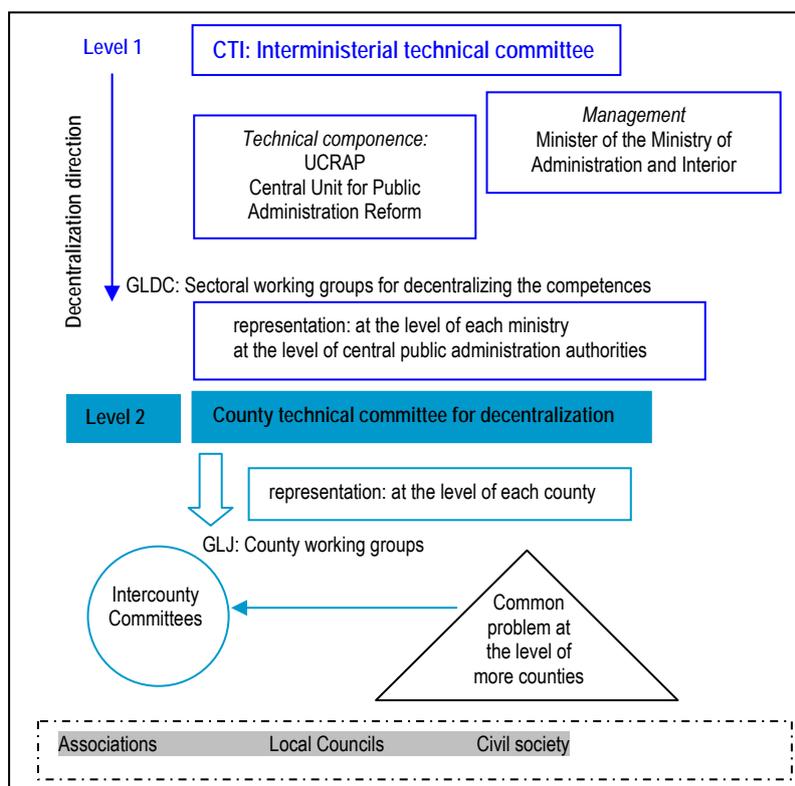
Thus, *Law no. 215/2001* regarding local public administration states that *public services of commune and town are created and organized by the local council in the principal areas of activity, according to the specificity and local needs, observing legal provisions and in the limits of financial means in hand (article 87). These are the pure decentralized services.*

No.	COUNTY LEVEL Public service	LOCAL LEVEL: COMMUNES AND TOWNS Public service
1	Utilities	Emergency situations
2	Civil registry	Utilities
3	Health	Civil registry
4	Education	Order and public safety
5	Social security	Health
	– elder persons	Education
	– child protection	Social security
	– persons with disabilities	– elder persons
	– family protection	– child protection
6	Culture	– persons with disabilities
7	Other fields	– family protection
	– guarding service for objectives of county interest	– social aids granted to certain categories of persons
8		Culture

**Figure 1.3.2.** *Typology of public services under competence of local levels*

### 1.3.5. Technical structure for decentralization

- Developing and making operational the „infrastructure” and technical structure, adequate for decentralization (Figure 1.3.3).



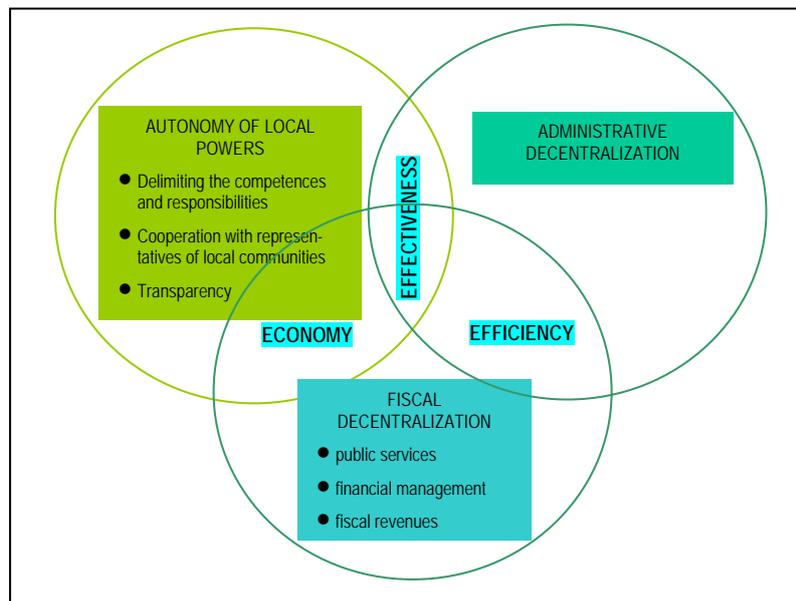
**Figure 1.3.3.** Configuration of the technical structure

The decentralization process has been sustained by the national public managerial support<sup>65</sup>, on one hand, and by the

<sup>65</sup> The decentralization process represents a priority within the Programme of Governance for 2005 – 2008, mentioned at Chapter 11, Public Administration Reform.

projects with international funding<sup>66</sup>, on the other hand, the actions being focused on the following objectives (Figure 1.3.4):

1. Autonomy of local powers;
2. Administrative decentralization;
3. Fiscal decentralization.



**Figure 1.3.4.** *Priorities of decentralization*

In achieving and monitoring decentralization, observing the adequate legislative texts and specific objectives of public administration reform, there have been involved representative

<sup>66</sup> PHARE RO2004/IB/OT/01 – “Coordinating the decentralization and devolution process by central administration”; PHARE RO2004/IB/OT/02 – „Strengthening the financial autonomy of local authorities by continuing the process of fiscal and financial decentralization; PHARE 2003 – RO 2003/2005-551.03.01 „Support for the reform process of public administration in Romania”; PHARE 2002/000-586.03.02 – „Decentralization and development of local public administration” (July 2004 – June 2006).

actors of central and local administration, private sector, civil society in Romania, as follows:

1. National/central level: ministries, central public administration authorities;
2. County level – decentralized level.

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## Annex 1.3.1

**Statistical data about Romania counties**

No	County-Symbol	Inhabitants	Area (km <sup>2</sup> )	Density	Municipalities / Towns/Communes	Total	Villages
1	Alba (AB)	390000	6242 (2.62%)	62.48	4 / 7 / 66	77	658
2	Arad (AR)	460000	7754 (3.25%)	59.32	1 / 9 / 68	78	273
3	Arges (AG)	650000	6826 (2.86%)	95.22	3 / 4 / 95	102	577
4	Bacau (BC)	705000	6621 (2.78%)	106.48	3 / 5 / 85	93	491
5	Bihor (BH)	600000	7544 (3.16%)	79.53	4 / 6 / 90	100	435
6	Bistrita Nasaud (BN)	310000	5355 (2.25%)	57.89	1 / 3 / 58	62	235
7	Botosani (BT)	450000	4986 (2.09%)	90.25	2 / 5 / 70	77	336
8	Braila (BR)	375000	4766 (2.00%)	78.68	1 / 3 / 40	44	140
9	Brasov (BV)	590000	5363 (2.25%)	110.01	4 / 5 / 49	58	149
10	BUCURESTI (B)	1925000	238 (0.10%)	8,088.24	1/0/0	1	0
11	Buzau (BZ)	495000	6103 (2.56%)	81.11	2 / 3 / 82	87	482
12	Calarasi (CL)	325000	5088 (2.13%)	63.88	2 / 3 / 48	53	160
13	Caras Severin (CS)	335000	8520 (3.57%)	39.32	2 / 6 / 69	77	287
14	Cluj (CJ)	705000	6674 (2.80%)	105.63	5 / 1 / 75	81	420
15	Constanta (CT)	715000	7071 (2.97%)	101.12	3 / 9 / 58	70	189
16	Covasna (CV)	220000	3710 (1.56%)	59.30	2 / 3 / 39	44	122
17	Dambovita (DB)	540000	4054 (1.70%)	133.20	2 / 4 / 83	89	361
18	Dolj (DJ)	735000	7414 (3.11%)	99.14	3 / 4 / 104	111	380
19	Galati (GL)	620000	4466 (1.87%)	138.83	2/2/60	64	180
20	Giurgiu (GR)	300000	3526 (1.48%)	85.08	1/2/51	54	166

21	Gorj (GJ)	385000	5602 (2.35%)	68.73	2/7/61	70	414
22	Harghita (HR)	325000	6639 (2.78%)	48.95	4 / 4 / 59	67	236
23	Hunedoara (HD)	485000	7063 (2.96%)	68.67	7 / 7 / 55	69	457
24	Ialomița (IL)	295000	4453 (1.87%)	66.25	3/4/57	64	121
25	Iasi (IS)	815000	5476 (2.30%)	148.83	2 / 3 / 91	96	422
26	Ifov (IF)	300000	1583 (0.66%)	189.51	0/8/32	40	102
27	Maramures (MM)	510000	6304 (2.64%)	80.90	2 / 11 / 63	76	226
28	Mehedinti (MH)	305000	4933 (2.07%)	61.83	2/3/59	64	344
29	Mures (MS)	580000	6714 (2.82%)	86.39	4 / 7 / 91	102	466
30	Neamt (NT)	555000	5896 (2.47%)	94.13	2 / 3 / 76	81	339
31	Olt (OT)	490000	5498 (2.31%)	89.12	2/6/104	112	378
32	Prahova (PH)	830000	4716 (1.98%)	176.00	2/12/89	103	405
33	Salaj (SJ)	250000	3864 (1.62%)	64.70	1 / 3 / 57	61	287
34	Satu Mare (SM)	365000	4418 (1.85%)	82.62	2 / 3 / 58	63	226
35	Sibiu (SB)	420000	5432 (2.28%)	77.32	2 / 9 / 53	64	163
36	Suceava (SV)	690000	8553 (3.59%)	80.67	5 / 11 / 96	112	396
37	Teleorman (TR)	435000	5790 (2.43%)	75.13	3/2/92	97	231
38	Timis (TM)	680000	8697 (3.65%)	78.19	2 / 8 / 85	95	317
39	Tulcea (TL)	260000	8499 (3.57%)	30.59	1/4/46	51	133
40	Valcea (VL)	415000	5765 (2.42%)	71.99	2/8/80	90	550
41	Vaslui (VS)	455000	5318 (2.23%)	85.56	3/1/71	75	449
42	Vrancea (VN)	390000	4857 (2.04%)	80.30	1/4/59	64	331
	TOTAL	21680000	238391 (100%)	90.94	102/212/2824	3138	13034

Source: <http://www.comune.ro>

## 1.4. The Romanian Public Administration facing the Challenges of Integration into the European Union\*

### 1.4.1. The European general context

#### 1.4.1.1. Theoretical aspects of Europeanization

The problems that the public sector in generally and public administration, in particular encounter, are demography, IT or globalization and *Europeanization*. The *Europeanization* process points toward a variety of attitudes and social-economic and cultural behaviours that interpret, assimilate and use the regulations, best practices and communitarian norms in a different social and temporal context.

The spectre of significations [1] is impressive: starting with the *Europeanization* as a *trans-national process* (diffuse of Western norms, styles and behaviours inside the Western Europe), continuing with an *Europeanization* as *institutional adaptation* to the EU requirements and getting to an *Europeanization* as a *counterbalance* to globalization or even a *specific strategy for conflict solving* in the world. Amongst these, the “*Europeanization – institutional adaptation*” approach, particularly relevant in the case of public administration has created several and mostly debated meanings of the Europeanization term.

In parallel or contrastively with the *Europeanization* process, the **European integration** constitutes a political process of adoption, by the national actors, of the new mechanisms and communitarian norms.

In its extent, the *Europeanization* is about both normative and adaptation driven (contextual) actions. It is accepted as arena of the thematic debates approaching public policies, international relations, political parties. The process of *Europeanization*

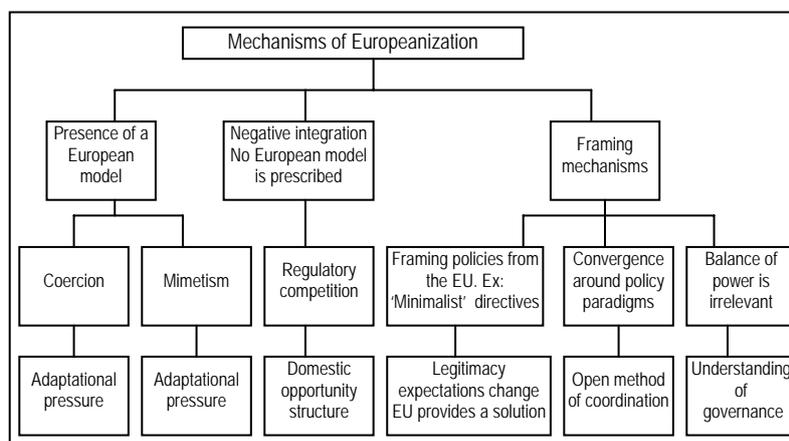
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\* Published in “THEMIS project – Transformation of the role of the judiciary within a European integrated context”, European Public Law Series, Volume LXXXV, Esperia Publications LTD, London, 2006.

comprises also other fields of the social life, such as those of governance, culture, national administration or civil society.

Starting from the reality of the European Union's construction, the literature, studies and relevant specialised reports underline two complementary sides of the Europeanization:

1. *Europeanization by deepening*, present inside the European Union and equivalent with the mutual impact of the EU and Member States on the national orders.



**Figure 1.4.1.** *Mechanisms of Europeanization [Featherstone / Radaelli (2003:41), adapted]*

2. A different approach for the Europeanization is the *Europeanization by enlargement*, which, different from the deepening type, an endogenous part of the communitarian system, has an original substance derived from the need of balance in a space of diversity, such as the communitarian one. The Europeanization by enlargement [2] corresponds to the contracting of the Member States for exogenous models of institutional and/or valuable change, including their adaptation to the candidates' national orders.

In regard to the public administration, the Europeanization may be seen as a two level process: *the European level* that refers to a distinct evolution for each particular governing system, a new set of public structures and processes which interact with those already established for the *Member States* that form the *second level*.

For the current period of time, focused on the last decade of the 20<sup>th</sup> century, the theoretical and empirical studies [3] stress on “the role and interaction of different actors, both European (the European Commission, the European Parliament, the European Court of Justice, the Committee of Region, the EU stakeholders) and national (governments, stakeholders, regions) in establishing the European policies. The Europeanization is an *independent variable* which impacts upon the national processes, policies and institutions”.

Most of the studies are based on two main theoretical directions:

1. *the dependence on resources* – that points to the European system of governance as a system of political opportunity that change the distribution of power resources amongst the national actors, and

2. *the institutional adaptation* – in which the national actors adopt and internalize new rules and practices. This second direction uses the organization theories of the institutional change.

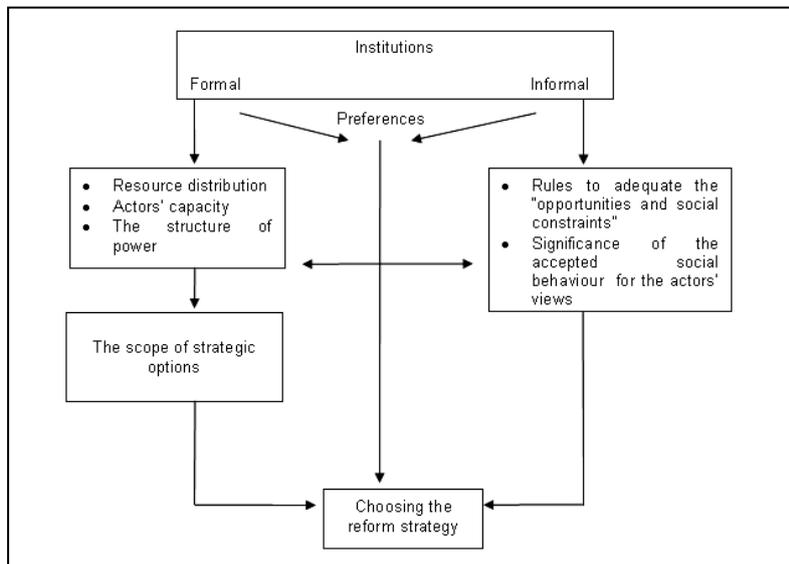
The modern approaches, typical for the year 2000, combine several discourses, such as:

- The rational choice and the sociological institutionalism;
- The dependency of resources and institutional adaptation.

		<i>Rational Institutionalism (RI)</i>	<i>Sociological Institutionalism (SI)</i>
Level of analysis	<i>Macro/ Institutional structure</i>	I. European institutions exert pressures on national institutions and actors	III. European institutions influence the construction of identities and interests of national and trans-national actors
	<i>Micro structure/ Actor</i>	II. Faced with institutional constraints or opportunities, actors react through strategic interaction	IV. Normative and cognitive adaptation of the actor in response to institutional change

**Figure 1.4.2.** *Typology of research on the impact of European integration [Jacquot / Woll (2003)]*

The *model of the institutional dependency (M.I.D.)* treats the actors from the point of view of utility – action for maximizing their preferences. Not excluding the possibility for switch of preferences, the model assumes that national actors have an essential interest in the organizational survival, autonomy and development, and that their preferences are mostly shaped by institutions. The interdisciplinary synthesis assumed by M.I.D. assures the specific difference with the institutionalism of rational choice, underlining the fact that institutions do not include only norms, but social norms as well, regulating the behaviour of actors and assuring the social adequacy of their actions. M.I.D. uses a systemic approach for several factors while acknowledging the sociological, economic, political or legal framework etc. We can conclude that choosing a strategy reform is not a problem regarding the available resources and the cost – benefit analysis of the expected utility, but also a function of preferences and the strategic options of the actors (Figure 1.4.3).



**Figure 1.4.3.** *The model of the institutional dependency (M.I.D.)*

#### 1.4.1.2. The practical aspects of Europeanization

Without further arguments in favour of the Europeanization, and by confining the analysis at the level of national public administration, we may conclude, as subsidiary domains of the Europeanization, the following issues:

- Europeanization of national administrations through implementation and practice of the European legislation;
- Europeanization of civil service by means of a *negotiation decision and implementation process* at European and national level;
- Europeanization of administration and national civil service by means of administrative cooperation;
- Europeanization of legislation regarding the civil service and the national personnel policies, by means of the European Court of Justice' jurisprudence and networking.

The enlargement depends on three factors: the internal preparation of the candidate countries and the accession negotiations. The main instrument consists in the European conditional elements imposed for accession into the EU, defined by the accession criteria.

The studies and analyses [7] of the period 1994-2004 define the managerial dimensions of EU enlargement toward Eastern Europe:

- Legislative harmonisation with the *acquis communautaire*;
- Focusing the accession negotiations on the practical aspects related to undertaking the *acquis communautaire* by the candidate state;
- The new members integrated into the EC institutional structure by a progressive adaptation commit to achieve a broader reform after enlargement;
- The problems are solved by creating new instruments that overlap with the existent ones and not by a fundamental reform that should eliminate or diminish the inconsistencies of the existing instruments.

By the Treaty establishing the European Constitution the above analysis is deepened, making the distinction between:

1. The Europeanization of the basic principles (“democracy”, “citizenship”, “efficiency”, “effectiveness”, “rule of law”) and the development of the general principles of the public administration (“good governance”, “openness”, “fight against maladministration”, etc.);
2. The Europeanization of the national civil services, thanks to the strict interpretation of the freedom of workers and the restriction regarding the public function (cf. Art. 39.4 EC);
3. The Europeanization by implementation and practice of the secondary legislation (of regulations regarding the equality, cf. Art. 137 and Art. 141 EC etc.);
4. Europeanization in regard to the strict interpretation of the Article 10 EC and European Court of Justice’ jurisprudence;
5. Europeanization by impact of the competition rules of Article 86 EC and privatization of the former services and public enterprises.

#### 1.4.1.3. European conditionality

More often the term of conditionality is used when we speak about integration into the EU. The European conditionality is identified with an institutional arrangement, a rule, a standard of behaviour that enables the achievement of the connections between the benefits of membership to a regional economic union, such as the EU, observing the exigencies and principles imposed by the quality of member. As shown by the studies [8], the European conditional elements induce institutional changes regarding the contents of the public policies on the Member State level whenever there are disagreements between rules, the framework for adoption and the contents of the policies at national and European level.

The observance by Romania of the conditional elements imposed through the four accession criteria from Copenhagen means:

1. the political criterion – guaranteeing the state of law;
2. the economic criterion – existence of a functional market economy that should enable the candidate state to face the competition pressures and the market forces within EU;

3. the legal criterion – acquiring the *acquis communautaire* in force at the moment of accession;

4. the administrative criterion – ensuring the stability of the institutions and the capacity to take the obligations derived from the quality of being European Union Member State.

One of the most important accession criterion is the legal one, namely to undertake the *acquis communautaire*, with direct impact as it imposes priorities, objectives, the contents and a uniform institutional framework for adopting and implementing the public policies, related to the EC model.

#### 1.4.2. Aspects of the Romanian administrative system

##### 1.4.2.1. General and particular issues

Indeed, Romania's local administration reform, as is the case in other countries in the region, must go beyond partial changes of territorial or functional attributes and limited modernisation. From the Romanian experience so far, several key critical issues to improve local governance can be identified [9]. For example:

- Administrative capacity;
- Finding the right balance for discretionary power, in such a way that the responsiveness and effectiveness, through a legitimate judgment that takes into account regional, local and individual particularities, does not turn into arbitrary judgments, structured by personal values, interests or stereotypes, leading to systematic discrimination and, finally, to a lack of effectiveness in dealing with established objectives;
- Accountability mechanisms within local government;
- Another critical issue is lack of management skills among elected officials at the local level and administrative personnel;
- Lack of communication between public institutions, both horizontally and vertically, together with the ambiguous delineation of roles within and between organizations;

- The inadequacy of structures, poor correlation between responsibilities and resources (human, financial, physical) and insufficient transparency and delegation of responsibility;
- The lack of effective decentralization of public services and the ambiguous role of the state (at all levels) in the management of public services; and
- Fiscal decentralization and financial autonomy.

#### 1.4.2.2. Change and reform

##### ***A. At central public administration level***

###### *A.1. On legislative level*

For example some of the most important pieces of legislation related to local governance after 1994 were:

- Law No.189/1998 on local public finances, which provided a new framework for local finance mechanism and to enhance local financial autonomy;
- Law No.27/1994 on local taxes and charges, which specified the conditions for local governments to establish, collect and administer certain taxes and fees;
- Law No.213/1998 on public domain and its legal regime, which addressed the issue of asset allocation between central and local levels and the distinction between public property and private domains;
- Law No.219/1998 on concessions, which established the general framework for concessions at the local government level; and
- Law No.103/1998 on autonomous regies reorganization and Law No.44/1998 on commercial companies' privatization, which transformed autonomous enterprises into commercial companies, transferred shares of local utilities to local government units and set up rules for their privatization.

The year 1998 marked a turning point for local governance and public administration in Romania, particularly to begin to address financial and economic issues. The EU integration process

had a trigger effect for the whole public administration reform strategy and actions. As a result, Law No. 69/1991 was replaced by Law No. 215/2001 and, as already mentioned, the 1991 Constitution was reformed in 2003. The new Constitution of 2003 enumerated guiding principles for local governance, which were "decentralization, local autonomy and devolution of public services" (Article 120.1). On the legislative side, from 2001 to 2003, a series of legislative modifications and the enactment of new laws created a more "friendly" and enabling environment for local governance and public administration, with a strong emphasis on financial decentralization and improvement of public administration.

The changes in the new Constitution regulate a series of aspects concerning public administration:

- Public administration from the administrative-territorial units is based on the principles of decentralisation, local autonomy and devolution of the public services;
- The County Council represents the authority of the public administration for the coordination of the activity of commune and town councils aimed to achieve the public services of county interest.
- The Government appoints a prefect in each county and in Bucharest Municipality.
- The prefect is the Government's representative on local level and he leads the devolved public services of the ministries and other bodies of central public administration from the administrative-territorial units.

The prefect's assignments are established through organic law. There are no subordination relations between prefects, on one hand, local councils and mayors, county councils and their presidents, on the other hand.

Some of the most important laws during this period are as follows:

- Law on the Statute of the Civil Servants no. 188/1999;
- Law concerning the ministerial accountability no. 115/1999;

- Law no.326/2001, regarding community public services;
- Government Ordinance no. 86/2001 regarding services related to local transportation of passengers;
- Government Ordinance no. 84/2001 regarding community public services for civil registry;
- Government Ordinance no. 87/2001 regarding local sanitation;
- Government Ordinance no. 88/2001 regarding community public services for emergency situations;
- Emergency Ordinance no. 202/2002 regarding cross-cutting management of coastal zones;
- Government Ordinance no 21/2002 regarding sanitation management of rural and urban areas;
- Government Ordinance no. 32/2002 regarding local water distribution and sewerage system;
- Government Ordinance no 71/2002 regarding organization and functioning of public services for management of public and private domains of local interest;
- Law on public finances no. 500/2002;
- Emergency Ordinance no.45/2003 regarding local public finances;
- Law no. 161/2003 concerning some measures to ensure transparency in exercising the public dignities, the civil services and in the business environment, preventing and sanctioning corruption.
- Law no. 315/2004 regarding regional development in Romania (replacing the Law no.151/1998)
- Law no.339/2004 regarding decentralization;
- Law no.340/2004 regarding the Statute of the Prefect.

*The Government adopted at the same time a series of normative acts, namely Government Decisions or Emergency Ordinances that have ensured the implementation of the measures provided in the legislation on public administration:*

- *Government Decision no. 1006/2001 to approve the Government Strategy for speeding up the reform in public administration*
- *Government Decision no. 1007/2001 to approve the Government Strategy concerning the introduction of IT in public administration.*
- *Government Decision no. 1209/2003 concerning the organisation and development of the civil servants' career;*

*In the area of public administration, the Ministry of Administration and Interior monitors the application of the provisions comprised in the reform and restructuring strategies and programmes of the central and local public administration, elaborated on the basis of the Programme of Governance, according to the European Union standards and internal legislation and ensures the achievement of the strategies and programmes in its field of activity.*

Government Decision no. 856/2003 concerning the establishment of the Project Management Unit for the Public Administration Reform, provides the creation of a structure at governmental level ensuring the World Bank project management for the future loan of programming adjustment (PAL), aiming public administration reform.

#### *A.2. On institutional level*

**In June 2003 a new reorganisation of the public administration authorities** took place. Taking into account the practice of European countries with modern administration, on the basis of the experience accumulated on political and governmental level, it has been decided the **significant reduction of the number of ministries** – even under the European average. Thus, the **structure of the Government comprises 15 ministries, eight** that maintain their previous statute: The General Secretariat of the Government, is not a ministry, it functions as a structure within the

working apparatus of the Prime Minister, according to the Government Decision no. 747/2003, Ministry of Foreign Affairs, Ministry of European Integration, Ministry of Public Finances, Ministry of Justice, Ministry of National Defence, Ministry of Culture and Religious Affairs, Ministry of Communication and Information Technology and **seven new ministries**, set up through merging or other forms of reorganisation: Ministry of Administration and Interior – merging the Ministry of Public Administration with the Ministry of Interior; Ministry of Labor, Social Solidarity and Family – which undertakes from the former Ministry of Health and family the structures concerning family protection and handicapped persons; Ministry of Economy and Commerce – by merging the Ministry of Industry and Resources with the Department for Foreign Trade under the subordination of the Prime Minister; Ministry of Agriculture, Forests, Waters and Environment – by merging the Ministry of Agriculture, Food and Forests with the Ministry of Waters and Environment Protection; Ministry of Transport, Constructions and Tourism – by merging the Ministry of Public Works, Transport and Houses with the Ministry of Tourism; the Ministry of Education, Research and Youth – by merging the Ministry of Education and Research with the Ministry of Tourism and Sport; Ministry of Health – with a limited activity area related to the former Ministry of Health and Family.

### ***B. At local public administration level***

#### *B.1 On legislative level*

- **Law of local public administration no. 215/2001**, with the future changes that regulate the general regime of local autonomy, defines the assignments and competences of local authorities and strengthens the responsibility of the elected officials toward the citizen;
- **Law on community public services no. 326/2001**, with the further changes that establishes the unitary legal framework concerning the establishment, organisation, monitoring and control

of the community public services in counties, towns and communes;

- **Law on territory endowment and urbanism no. 350/2001** that defines territory endowment as a global, functional, prospective and democratic activity;

- **Law no. 1/2000 for reconstituting the property right on agricultural, forestry lands required according to the provisions of the Law on land fund no. 18/1991 and Law no. 169/1997;**

- **Law on land fund no. 18/1991, with further changes and supplementations**

- **Law no. 544/2001 concerning the free access to public interest information**, regulates one of the fundamental principles of the relations between persons and public authorities;

At the same time, a series of normative acts were adopted in order to complete the **secondary legislation**:

- **Government Decision no. 1206/2001** concerning the rules that apply the provisions of the right of the citizens belonging to national minority to use mother tongue in local public administration.

**Other normative acts in the area of local public administration:**

- **Government Ordinance no. 35/2002** in order to approve the Framework Regulation for organisation and functioning of the local councils, approved by Law no. 673/2002;

- **Government Ordinance no. 53/2002** concerning the framework Statute of the administrative – territorial unit, approved with modifications by Law no. 96/2003;

- **Government Decision no. 1019/2003** concerning the organisation and functioning of the prefectures; the institution of the prefect will be regulated by organic law, according to the new constitution;

- **Government Emergency Ordinance no. 45/2003** concerning the local public finances establishes the principles, the general framework and procedures concerning the creation,

administration and use of local public funds as well as the responsibilities of the local public administration authorities and public institutions involved in the area of local public finance.

### ***C. Some practical aspects***

*Law no. 544/2001 concerning the free access to information of public interest:* organisation of departments of information and public relations according to the law.

*Argument:* Concerning the modality to elaborate the law and rules for application, it is a *model of public debate* of a problem with public importance.

The law and rules represent the product of the social negotiation, of a public debate attended by political persons, journalists and representatives of non-governmental organisations. NGOs showed, even at symbolic level, how useful is the involvement of the civil society in elaborating rules useful for the whole society.

### ***Main data***

In 2003, 662447 requests of information of public interest were addressed at national level, out of which 644679 were solved favourably (97%).

From the total of the requests, 89% were addressed at local level and 11% at central level; 80% were addressed by individual persons, and 20% by legal persons; 21% were addressed in written form, 73% verbal, and 6% in electronic format.

The requests aimed: the modality of achievement of the assignments by the public institutions – 29.5%; normative acts, regulations – 24.5%; use of the public money – 8.8%; the application of Law no. 544 – 5.7%; activity of the public institutions leaders – 4.5%; other information specific to each public institution – 27.1%.

The administrative complaints were 713, out of which 489 were solved favourably (68.5%); 115 were rejected (16%); 109 on the roll (15.5%). The number of complaints in the instance counted

424, out of which 81 were solved favourably (19.1%); 106 were rejected (25%); 237 are on the roll (55.9%).

*Law no. 52/2003 on decisional transparency in public administration*

*Argument:* The Law on decisional transparency is part of a larger legislative package regarding the institutionalization of transparency in administration and fighting the corruption. It is actually placed next to other regulations such as access to information, political party financing, IT procurement, wealth statement, declaration of existing conflict of interests and incompatibilities.

There are three essential prerequisites for reforming the relation between the administration and citizen and institutionalizing the transparency:

- access to information;
- consultation;
- civic participation.

These prerequisites are met both in the norms of international organizations (European Union, Council of Europe, OSCE, OECD), and in the practice of democratic countries (especially those in North – American, Anglo – Saxon and more recently, new Baltic democracies). The law is inspired from the American Sunshine Law and the OECD regulations.

The Law addresses to all citizens and associative forms, but the main beneficiaries as seen by the legislator are the associations of business men, trade unions and non – governmental organizations. The Law applies to ministries and non – governmental agencies, autonomous public authorities, decentralized public services, mayoralties, county and local councils.

This is a fundamental change in the optics and practice of the relation between administration – as a manager of the public money and citizen – as a tax payer, from the principle of “we know to decide what’s better for you” to that of “we consult you and decide with you”. It is not about the direct democracy, but a

participatory democracy where the responsibility of managing the administrative act is not replaced, but increased.

The responsibility for the content of normative acts or the decisions taken belongs entirely to those elected and nominated to manage the public institutions.

***Main data***

In 2003, at national level 47 766 normative acts were adopted, of which 2809 using the emergency procedure (5.8%).

46 431 announcements of drafts for normative acts were published, of which 11% on the public web site of the public authorities and institutions, 77 % at the headquarters of the actors involved and 12 % via media. There were also 2557 projects sent for consultation, on demand, of which 51 % to legal persons and 49 % to associations of business men or other legally constituted associations.

3716 recommendations of civil society regarding the normative acts were received (2 recommendations to 3 normative acts sent for consultation), of which 2310 were included in draft laws (62.1 % of the total).

The number of the meetings organized at the demand of legally constituted associations for debating the draft normative acts were 821.

The public meetings were 12995 in number, of which 11268 (78 %) were announced by posting at the public institutions' headquarters, 908 (6%) by publishing on the web site, and 2260 (16%) in the press. Public debates met a participation of 130728 persons, which means an average of 10 persons per public meeting. According to the provisions of law, 177 public meetings were not opened to public.

During the public meetings, 5584 suggestions and recommendations were made, of which 2841 (0.8%) were included in the decisions taken.

The actions brought in justice against the public authorities for not respecting the legal provisions regarding the Law 52/2003

amounted 40, of which 13 were rejected, 13 favourably solved and 14 on the roll.

*Argument:* The definition of corruption is given within the framework of the Global Programme against corruption, delivered by United Nations: “the essence of the phenomenon of corruption consists in the abuse of power, achieved with the purpose to obtain a personal profit, directly or indirectly, for himself/herself or other person, in the public or private sector”.

The independent audit of the National Anticorruption Strategy 2001 – 2004, achieved by Freedom House Washington Inc. states the following:

“During 2000-2004, Romania has created an impressive arsenal of legal instruments for transparency, accountability and anticorruption, and it seems that some of them have generated positive results”. At the same time, the following issues have been identified as main obstacles for the efficiency of the fight against corruption:

- low implementation of the legislation on anticorruption;
- limited use of the administrative instruments for the fight against corruption;
- insufficient coordination between the control structures and the bodies of criminal inquires in the area of corruption;
- lack of real autonomy of the prosecutors;
- legislative and institutional inflation in this area.

At the same time, both the Independent Audit and the last National Report on Corruption of the Romanian Association for Transparency states: there are necessary improvements in the anticorruption legislation, indicating the necessity to adopt some legislative clarifications concerning, for example, the conflict of interests, the mechanisms for checking the declarations of wealth and interests, as well as the regime of incompatibilities.

### 1.4.3. Actuality and continuity

The Romanian modern judiciary system defined in the „National Anticorruption Strategy on 2005-2007” means to observe the following principles:

1) the principle of **the rule of law** which states the supremacy of law, all citizens are equal before law; it means to respect the human rights and the separation of the powers;

2) the principle of **good governance** means to establish clear, efficient actions based on well-established and quality objectives, to have the capacity and flexibility to respond quickly to the social requirements;

3) the principle of **accountability** means: the governmental accountability to formulate public policies, their implementation and evaluation;

4) the principle of **preventing** the achievement of the corruption acts;

5) the principle of **efficiency** in the fight against corruption;

6) the principle of **cooperation and coherence** between the actors involved in the fight against corruption;

7) the principle of **transparency, consultation of the civil society and social dialogue**, which means: transparency of the decision-making and consultation of the civil society;

8) the principle of **the public-private partnership** which promotes forms of collaboration with the civil society in concrete activities for the implementation of the measures to prevent corruption.

1.4.3.1. The application of the reform policies in the area of public administration will take into account the following conditions:

- defining inside the legislation for setting up and organisation of a public authority the principles of communication, transparency, efficiency, accountability, participation, coherence, proportionality and subsidiarity, regulation of the application mechanisms;

- splitting the responsibilities between public authorities in the area of public policies, financing and provision of public services;
- introducing a simple and clear mechanism of public policies in order to elaborate and apply programmes, projects, action plans and draft laws;
- separating the level of elaborating the public policies from the implementation level;
- establishing a number of civil servants related to the definition of a public service and an adequate quality standard for this service;
- monitoring and evaluation.

1.4.3.2. The anticorruption policies will be applied starting with the observance of the following conditions and principles:

- institutional evaluation, in order to be able to identify, define and apply fairly the measures of the fight against corruption and not only to introduce chaotically new regulations under external pressure;
- ensuring the political neutrality for the application of the anticorruption measures as well as enacting independent mechanisms for monitoring and evaluation;
- transparency of the public authorities activity in elaborating policies and their application process, including the non restrictive access to public information;
- achieving the partnership with the civil society, by elaborating the institutional mechanisms that ensure the broadest citizen participation in evaluating the dimension of corruption, influencing them directly, as well through civic organisations participation;
- integrated approach by exact definition of the sources generating corruption, as well as through the coordination of the policies and elaboration of common mechanisms to ensure the collaboration of the public authorities and clear delimitation of competences, instead of the confusion of competences, as it is for

the time being and hinders the effective application of the in force laws;

- result-orientation, by introducing the monitoring and evaluation mechanisms.

1.4.3.3 The common principles of the public administration in the European Union Member States represent the conditions for a "European Administrative Space". In order to implement the *acquis communautaire* in all fields, Romania must have a modern, efficient and effective public administration. This target can be reached only by including these principles in institutions and administrative procedures at all levels.

The most important principles that Romania, in its capacity as candidate state, must observe and include in all enactments regulating the field of public administration can be grouped on the following categories:

- **trust and predictability** – the principles included in this category are: administration by law, principle of proportionality, principle of deadlines in the decision making process;
- **openness and transparency;**
- **responsibility;**
- **efficiency and effectiveness.**

The Romanian Government's strategy for speeding up the public administration's reform is focused on three targets:

- **the reform of the civil service;**
- **the process of decentralization/ devolution;**
- **the elaboration of public policies.**

In the area of public administration the Government of Romania will apply a national strategy during 2004-2008, that will have three objectives:

- reform of basic public services and public utilities of local interest;
- consolidating the process of administrative and fiscal decentralisation;
- strengthening the institutional capacity of the structures in central and local public administration.

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### 1.5. The European Public Space Identity – Communication Resource in Central and Eastern Europe\*

**Abstract.** The construction of a united Europe, strengthening and extending the current process outline new concepts and phenomena, designed to support the affirmation of European values.

The creation and strengthening of the European public space, as space of free, democratic expression of the fundamental rights and freedoms of the European citizens become a *sine qua non* condition of efficient European governance.

Of course, we may speak about national public spaces, spaces with stronger or weaker connections with the European public space.

Their construction and the assurance of systemic convergence mean for each EU Member State a complex of actions and methods, based on communication, transparency and citizen participation.

A multicultural Europe marked of original historical and democratic developments, different development levels desires, through its citizens' will to convergence towards common structural and functional values, values that could assert within the framework of the European public space.

**Key-words:** Democracy, European public space, Identity, Communication.

Trying to reveal what *Robert Schuman* wanted to express almost 60 years ago, when he stated: „*Europe means putting into application a generalised democracy*”, we ask ourselves the following questions:

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How can we bring Europe closer to citizens? How can the European and national institutions achieve a genuine dialogue with the general public?

How can a political community with over 25 states, with a population recording more than 500 million speakers of over 20 different languages make known the European public space identity? And what is the European public space?

### 1.5.1. Theoretical premises

#### 1.5.1.1. Democracy

The Athenian democracy, acknowledged from ancient times due to the affirmation of two principles: *equality* of all members of the civic community in front of law and *liberty*, enabling each person to live, think, provides now, in the third millennium the new dimensions of democracy, which we recognise in *dialogue, debate and membership to a political community, where the individual rights and freedoms are rigorously protected by law*. The democracy concept refers to the existence of the citizens' rights and obligations and the existence of the guarantees related to the exercise of these rights.

The democracies should create the conditions necessary for active exercise of the citizen's statute. The citizens' participation to the public debates, priority of good governance means to assure good information based on authenticity of the transmitted information, free of charge information, actual information and political or economic independence of the information actions.

#### 1.5.1.2. The European Public Space

*The European Public Space represents the space of free, democratic expression of the fundamental rights and freedoms recognised to European citizens. We may locate it as a concept comprising and describing in a systematic manner the mechanisms, processes and phenomena governing the public systems development, emphasising the administrative, economic, social or political connections and determinations. It is a space of the public*

action, by which the European citizens can understand and participate to EU management process, challenging permanently the traditional dimensions of old entities, conditioned by sovereignty<sup>67</sup>. The European public space has its own values and rules, it exerts sustained control on behaviours and it promotes the European citizen's identity, offering the participation key factors to EU management process. An active European public space becomes a *sine qua non* condition of governance legitimacy at European level. Consequently, the European public space will represent an interface between the European Community governance processes and the European citizen.

#### 1.5.1.3. Identity

*The identity represents the totality of the ways through which an organisation presents itself.* The organisation's image is defined by the citizen's perceptions about it.

The identity outlines the answer at four questions: who are you? what are you doing? how are you doing? where do you want to be?

The fundamental idea of an identity programme is focused on the following issue: everything the organisation is doing, having and producing should outline *a clear idea about what is the organisation and its aims.*

All organisations are unique. Their history, structure, strategy and the personalities they have created and dominated them, their successes and failures are those shaping and making them what they are.

#### 1.5.2. Communication

The communication – main instrument to form the identity – may constitute a strategic instrument of governance in a democratic state. The information and communication policies in the latest years were subject to major changes, determined by:

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<sup>67</sup> P. Muller, Y. Surel, 1998, *L'analyse des politiques*, Paris: Montchrestien, pp. 97-98.

demographic developments, growing expectations from citizens, emergence of new technologies, individualisation, delegation and decentralisation, financial pressures and internationalisation trends. In this respect, the beginning of the 21st century, as Europe century, bearing in mind that the 19th century was USA century, will start with a Europe whose identity is facing new pressures and incentives:

- Globalisation of good and capital markets and the dimensions of the structural changes;
- Increased competition in a world where the forces of change are acting;
- Macroeconomic stabilisation through currency and budget;
- Promoting change and developing the adaptation skills;
- Defining a "security network" aimed to make acceptable the social cost of change.

The citizens' transformation into actors of European changes, active participants in political debates and decision-making processes is possible by improving the information flow at EC and intra-EC level and its increased accessibility. In this context, a new requirement from citizens is shaping, namely to ensure the transparency of policies and decision-making process. The technological changes, the Internet and new ICT applications influence the thinking about practice and organisation of public debates, enabling new opportunities of interactive dialogue between those governing and those governed, checking managerial and organisational methods that support a genuine dialogue between EC institutions and the general public.

The main development directions of the information and communication policies promoted by European institutions, underlined in a study<sup>68</sup> carried out by N. J. Thogersen, B. Caremier and J. Wyles (2001) are supported by the following actions:

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<sup>68</sup> N. J. Thogersen, B. Caremier, J. Wyles, „*Broadening and enriching the public debate on European matters*”, in *European Governance, European Communities*, 2002.

- Developing an informational partnership between the European Commission and Parliament. „The European Houses” were created, hosting representatives of both institutions. The theme of the partnership was conceived on five areas of interest: citizens, common construction of Europe, euro, future of Europe and the enlargement process.

- In 1993, the European Commission launched the information strategy for 1993-2000, accompanied by a reform of information and communication services in 1999.

- In Europe, 800 centres for EC information distribution and dissemination were created.

- The *Europa* Internet site was transformed into an information instrument, being daily accessed by hundreds of thousand of visitors.

The design and development of communication strategies and policies about EU have encountered many obstacles during their application, being situated on a broad range of topics: lack of a participative political culture in EU; linguistic diversity (over 20 foreign languages in 25 Member States); cultural diversity; governance and new created European institutions for an enlarged Europe; public management; lack of a communication culture and inter-institutional consultation; influence of national approaches on the European ones, supported by Members of the European Parliament etc. The coordination and communication systems are usually evaluated from the efficiency and ability of penetration point of view.

### 1.5.3. The Romanian Public Space – Subspace of European Public Space

#### 1.5.3.1. The Inter-ministerial Communication on European Matters

In Romania, the institutional development of coordination of the EU affairs, as in other European countries could be explained by the play of the logic of efficiency in a context of rapid changes in a relatively short period of time.

Given the importance of the integration process in Romania and the need to take immediate actions in order to fulfil the commitments of accession to the European Union, Romania has chosen the solution of “top-down management approach” or „top-down management” in matters of European affairs. Consequently, all different points of view of central public institutions responsible for the European integration process are settled by the Prime Minister and central bodies invested with the necessary power.

On the executive level, the European model of the management of the process was transferred from foreign affairs departments and ministries of Foreign Affairs to the line ministries, while the role of the main coordinator in many Central and Eastern European states and the candidate ones, as Romania, was granted to special institutions functioning within the Government.

We appreciate that at European level there is a common procedure and thus the adoption of the most important decisions in the formulation and achievement of the European policy was transferred to the competence of Prime Ministers, which meant the maximum possible political support for the process and at the same time greater efficiency.

In Romania, the Ministry of European Integration assumed the main role in conducting European policy, being mandated to carry on the internal preparation and negotiation of the accession process, while the Ministry of Foreign Affairs was charged with the diplomatic matters.

The main institutionalised bodies, responsible for inter-ministerial communication in European matters are the following:

*A. The Executive Committee for European Integration* is chaired by the Prime Minister, and includes the Ministers of Finance, European Integration, Foreign Affairs and the Minister for coordination of the General Secretariat of the Government. The Committee has had weekly meeting since its establishment at the beginning of December 2002; guests, senior officials are invited to participate according to the approached topic.

The agenda of the Committee is planned about one month in advance, and materials are prepared for each meeting by the relevant ministries. The meetings are organized by the Cabinet of the Prime Minister, and its decisions are recorded as brief instructions and they are distributed to ministries. In support of the Committee, a department under the coordination of the Prime-Minister Chancellery has been established in September 2004, chaired by a State Counsellor for European Affairs of the Prime Minister.

The agenda of the Committee focuses on specific issues related to Romania about European integration, approaching topics, such as:

- Elaborating policies and measures in order to achieve Romania accession to EU;
- Analysing and harmonizing the positions sustained by Romania in the process of accession to the EU;
- Monitoring and evaluating the status of negotiations for Romania accession to the EU;
- Coordinating the application of the internal and external communication strategy for accession to the EU;
- Solving the different point of views of ministries concerning the application of measures and policies related to Romania accession to the EU.
- Issuing the formal positions and harmonising the diplomatic actions of the members of the Government and its subordinated structures;
- Aspects of strategic policy (for ex. the fiscal policy, privatisation, public administration reform).

We may appreciate that this Committee operates very much like a strategic inner cabinet, and it provides a forum of debate for the country's policies and strategies to the Prime Minister.

*B. The Inter-ministerial Committee for European Integration* represents a body which coordinates analyses and debates concerning the documents elaborated by the national public

institutions with specific responsibilities in the process of accession to the European Union.

The members of this Committee are State Secretaries responsible for European Integration field from each ministry and the civil servants from other public institutions.

The agenda of the Committee is structured on specific issues related to solve punctually the problems regarding the application of the programmes necessary to achieve the Romania accession to EU and to achieve the current and perspective planning of these activities, such as:

- Planning and contracting the PHARE funds;
- Reports on the progress made in the preparation for accession to the EU;
- Applying and monitoring the Action Plan for the priorities set for European integration.

The activity of this Committee is organized in plenum meetings or working groups and the President – the Minister of European Integration may invite ministers, representatives of the social partners and civil society, involved in the approached topics.

*C. The Permanent Secretariat for European Affairs* was set up in September 2004 within the Prime Minister Chancellery. Its main purpose is the inter-ministerial coordination of the European affairs field in Romania and it has the following assignments:

- Management of the executive and secretariat activities for the Executive Committee for European Integration;
- Supervising the accomplishment of the measures adopted in the Executive Committee for European Integration;
- Providing support to solve the different opinions of ministries regarding the policies for the preparation of Romania accession to EU;
- Ensuring consultancy to the Prime Minister on European affairs related issues;
- Drawing up periodical reports for the Prime Minister about relevant aspects in European affairs;

- Informing periodically the Government about European normative acts that influence the Romanian legislation.

The Permanent Secretariat for European Affairs is coordinated by the Counsellor for European affairs of the Prime Minister.

D. *The European Integration Advisers Body* was established in April 2003 under the direct coordination of the Minister of European integration. There are 500 European integration advisers with specific responsibilities in designing programs and reforms in order to achieve Romania accession to the EU.

Even if this structure is established in the Ministry of European Integration, the members of the European Integration Advisers Body are working in ministries, in the Romanian central public administration, providing the necessary expertise in order to improve the European integration process of Romania.

#### 1.5.3.2. The Legislative Support on Information and Communication

The public administration authorities and the institutions responsible for citizens' information and communication are obliged to provide to the citizens the opportunity to benefit of clear, genuine, friendly and understandable information. Recently, both on European and national level, the focus has been on achieving the transparency of the elaboration process for various policies and of the decision – making process, adopting many acts granting the access to official documents, normative projects.

Before adopting the law on decisional transparency, studies<sup>69</sup> were achieved about the citizens' consultation modalities and involvement of the civil society in the decision-making process, emphasising the following issues:

- There is no practice of civil society consultation and involvement in the decision-making process and normative acts adoption process.

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<sup>69</sup> See the study of Transparency International Romania, 2002, <http://www.transparency.org.ro>

- The cooperation of the public institutions with the civil society is reflected in the lack of transparency and their genuine dialogue.
- The civil society participation to the decision-making processes was the result of its initiatives and the persons from the management of the public institutions.
- The dialogue between authorities and the civil society has been promoted at the principles level and not at the concrete decisions level.

The encouragement and development of a communication culture are possible whenever the institutions propose the maximisation of transparency in their decision-making processes. Supported by activities to adopt a citizens' information and consultation policy, involving the public organisations managers and organising the consultancy sessions with specialists outside the respective institutions, the public administration authorities achieve a real dialogue with citizens through their participation in meetings, public debates and hearings, meetings in community, electronic consultation (for ex. The Constitutional Forum, [www.forumulconstitutional.ro](http://www.forumulconstitutional.ro)).

*The Law no. 52 from 21 January 2003 on decisional transparency in public administration* ensures the achievement of the dialogue with the citizens through their participation to the regulations drafting process, on one hand, and to the decision-making process on the other hand, providing suggestions addressed to public administration authorities. The law enforcement means the existence of two dialogue partners: the public administration authorities, as issuer and promoter of the normative draft and the beneficiaries (citizens, NGOs etc.) of the regulations.

a. *The adoption procedure* of the regulations according to this law imposes to the issuers of the normative draft to publish them before their adoption, the beneficiaries having the opportunity to formulate suggestions and recommendations concerning the regulations proposed in that draft. The suggestions are analysed by the issuer who plays also the role of decision-maker concerning their insertion into the final text.

b. *The participation procedure* of the citizens to the decision-making process is specified in the law text under the form of the possibility to participate and express the opinions in the public administration authorities meetings. The Law on transparency specifies the modalities to attack in the administrative contentious, whenever it is not respected. The institution of the administrative contentious represents a guarantee of the citizen to the abuses of the public authorities, a very important sensor of the democracy.

Thus, the new regulations (Law no. 554/2004 of the administrative contentious) regard not only to match the provisions with the Constitution but also a correspondence between the administrative contentious institution and the Ombudsman or the Public Ministry, in order to strengthen the legal system as a guarantee to the citizen's rights against the abuse of the public authorities, officials, civil servants' abuses.

*Law no. 554/2001 concerning the free access to public information* enables the citizens' access to public information managed by various public institutions.

#### 1.5.3.3. Communication on European Values

The knowledge and understanding of the values represented by the European Union (EU), as well as their correspondence at the Romanian values level impose the achievement of permanent information and communication actions concerning the European values. In this respect, the Delegation of the European Commission in Romania is promoting its own communication strategy, information and communication actions concerning EU values; EU position on topics such as: political, economic and legislative developments related directly to the criteria of accession to the European Union, implementing the pre-accession support in Romania; EU policies.

In 1999, in Bucharest, the Delegation of the European Commission in Romania has set up an Information Centre, aimed to provide information to Romanian citizens, this centre becoming a model for similar centres from Bulgaria and Turkey. Improving

the public information degree on main aspects of integration into EU (*objective 1* of the communication strategy), improving the communication capacity of the potential „successors” (*objective 2.a* of the communication strategy) represented pillars of the Information Centre in its first years, now completed with the pillar on stimulating the public debate concerning the European values (*objective 1.a* of the communication strategy).

The objectives of the Information Centre are designed in order to ensure:

- the public interface of the Delegation with the citizens;
- provision of general information on EU policies, institutions and funds, European integration process of Romania;
- recommendations for other information sources to the public;
- support to the activities related to the network of European information multipliers;
- achievement of some information products.

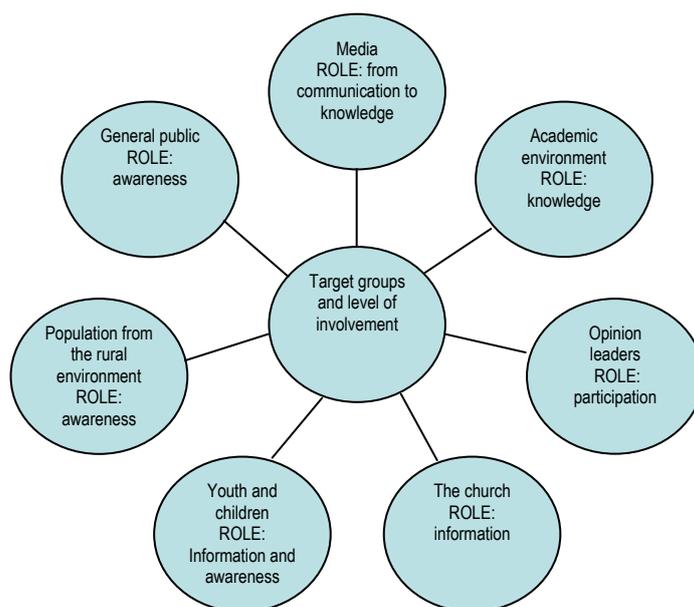
#### 1.5.4. The Society and the European Public Space

##### 1.5.4.1. Training for European Integration

A society where its citizens are not involved in the democratic exercise cannot respond to the challenges of this century. The communication strategies achieved by specialists are often based on researches, tending to be proactive and reactive. Thus, the national education systems are playing an important role in creating and maintaining the European political culture. The youth need for information is sharp, being focused both on cultural, historical or geographical topics and political ones. The reform of pre-academic curricula, aimed to place the knowledge about EU within the disciplines in Romanian schools and high schools, as well as the training and specific development of the teaching staff support the education of the young generation for an enlarged Europe. At the same time, the traditional structures of education, the journalism schools provide to the students and young

journalists the opportunity to get familiar to the new idea of Europe. The inter-institutional exchange programmes, the scholarships, the virtual places dedicated to creating a European conscience represent means of information and communication actions to youth, journalists.

The communication and information partnerships between important actors, with specific responsibilities for national education systems and those who belong to networks of professionals in communication, beneficiaries or partners of EU programmes contribute to achieving the involvement degrees of the target groups from awareness, information, communication, knowledge, participation, involvement, commitment to taking responsibility.



**Figure 1.5.1.** *Actors of the European Public Space*

The media supports and multiplies the actors involved in citizens' information and communication, promoting a new type of

information by Internet, thus eliminating the barriers imposed by the borders of the nation-states.

The advantages of the Internet related to the traditional information channels for the public become genuine arguments in developing the partnerships between European institutions and various political and economic actors, involved in the EC construction, either nongovernmental organisations, local authorities or citizens. The potential to create online communities, virtual cities or thematic portals provides useful and various information to the citizens.

#### 1.5.4.2. Citizen Participation

In Romania, the NATIONAL ASSOCIATION of COUNSELLING OFFICES for CITIZENS (NACOC) is operational, promoting a communication strategy on European themes for citizens. At local community level, the counselling offices for citizens are operating. This strategy on information and counselling field, concerning the citizens' rights and responsibilities, deriving from Romania accession to the European Union is elaborated for two years (February 2005 – January 2007) and it responds to the citizens' needs of information concerning the application of the provisions of *acquis communautaire*. NACOC mission is to inform and provide counselling to Romanian citizens, future European citizens, about the exigencies of European identity, with the advantages and related costs from economic, financial, political and administrative point of view.

#### 1.5.4.3. Actions and Instruments

*The actions and instruments are aimed to achieve information by the Delegation of the European Commission in Romania in 2005*

Target group	Actions and instruments	Schedule
Youth	Website (contests, interactivity, discussions) Contests on web or organised by 15-25 network Debates „Europe in high school” Competition Publications	Jan. – Oct. 2005 Jan. – Oct.2005  Jan. – Oct.2005 Dec.2004-May 2005 Jan. – Oct.2005
The academic environment	Contest of essays on the theme: „European Values” „Team Europe” events	Nov.2004 – May 2005
Opinion leaders	Discussions Research on the theme of values	Monthly
Media	The competition: „European Reporter” Opportunity to access the network instruments: priorimail, infoeuropa newsletter, direct mailing, analyses of the contents Training courses for trainers, European funded projects dedicated to journalists Press conferences, press releases, interviews, briefing sessions on certain topics  Special training sessions on financing and regional development issues	Jan. – Oct. 2005 Permanently  Jan. – Oct.2005  Depending on necessities and public events  January 2005 Timișoara, Iași, Ploiești, Craiova February 2005 Constanța, Cluj, Tg. Mureș March, April, June 2005, Bucharest
Citizens	Research Publications Video short movies Contest of essays on the theme: „European Values” „Team Europe” events www.infoeuropa.ro with the sections: financing programmes, archives of media and news, contact persons, publications, frequently asked questions Discussions on the main themes: EU funding, EU values, EU policies and institutions, developments in the integration process. Special events (exhibitions, first presentations of books, information sessions)	Jan.-Feb. Permanently Jan.-Feb. Nov.2004-May 2005  Permanently  Permanently  On request
Population from rural environment	„The European village” competition (rural communities promoting the European values): – „The European Village” publication – 6 areas of rural observation	Jan. – Oct.

	<ul style="list-style-type: none"> <li>- Short movies presenting pre-selected rural communities</li> <li>- TV programme about winner rural communities</li> </ul>	
Children	<ul style="list-style-type: none"> <li>„Stars for Europe” TV Serial</li> <li>www.descoperaeuropa.ro,</li> <li>section dedicated to children</li> <li>Publications</li> </ul>	Each Saturday, at 10.30, on TVR 2, since 23 Oct.
Artists	Visual Eurobarometer: contest dedicated to contemporary visual art	Jan. – May 2005
The church	Meetings	

### 1.5.5. Conclusions

The current paper tries to identify relevant issues concerning the construction of the European public space and the role of the European and national institutions within its framework.

The main factor focuses on communication, under various forms, including the technological support and its free access.

We remark the fact that a construction of the European public space means bringing into line the European and national authorities' efforts, on one hand, and harmonising the national structures and mechanisms that should transcend the traditional barriers and enable free access to the attributes of the new European identity, on the other hand.

Although we have not broadly referred in this paper, we should mention the fact that the European public space appears, in a systemic vision, as the outcome of the systemic emergence among other spaces, more or less asserted in EU construction: the legal, administrative, economic, social spaces.

Thus, we sustain that the above spaces represent the support of the public space, as the full movement and communication freedom can be accomplished only under their settlement and development.

For the Central and Eastern European countries, the issue of the European public space acquires specific dimensions, due to their efforts in order to meet the accession standards and criteria and to overcome the traditional historical and cultural barriers.

## 1.6. Challenges for the Central and Eastern Europe: Euro-regional Cooperation\*

### 1.6.1. Cross-border Cooperation

“A cross-border region is a virtual region, geographically, historical, ecological, ethnic and economically marked, but blocked by the sovereignty of the border states” [1; p. 13]. Defined as a system very well shaped by the border lines, the region is formed by a certain number of human communities and subsystems of economic, cultural or political nature.

Cooperation amongst regions represents a form of a virtual closeness. Euro-regions [3; p. 273] are by nature, equivalent to the local territorial communities’ associations, formed outside the country, as a well-defined space of common interests and particularities. The Euro-region [H. Oberdoff, p. 53] identifies the geographical solidarity, ignoring the states’ frontiers and underlining a new space for decentralized cooperation in Europe. The decentralized cooperation is conceived as “supra-border working communities”, *stricto sensu*, or cross-border cooperation institutions.

The classical typology of the area for cooperation development enumerates six fundamental categories [1; pp. 43-53]

1. Environment and territorial planning
2. Transport and communication
3. Economy and employment
4. Tourism
5. Education and culture
6. Border populations

The cooperation domains or fields of activity are formed of different sectors that offer the application space suited for

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\* presented at the International Seminar on “Euro-regional Development”, November 2003, Bucharest, published in “Euro-regional Development. Cooperation Programmes in Central and Eastern Europe, Friedrich Ebert Stiftung, 2004.

economic, social, cultural policies in different border regions that have been united into a transitional area by an interactive exchange of information and practices.

1. *The sectors of environment, agriculture and territorial planning* support the development of a real partnership, meant to accomplish the common objectives of the cross-border regions, and to have a positive impact regarding the pollution and the weathering and optimal use of soils. In this regard, there are different actions that might be developed at each sector level, successfully employed along with the national policies for border areas.

2. *The sectors of transport, security and telecommunications* imply the existence of some activities that are focused over one area and that cover the main problems of transportation in general and the across border transport, in particular, security assurance and fluidity of road or train cross-border traffic, etc.

3. *The sector of economy and employment* underlines the role of economic public and private actors in the cross-border cooperation, by making the distinction between the economic categories like: production and income; consumption, investment and savings; import, export in the context of free trade of goods, services, capital and persons. The specific actions for this sector may be grouped in accordance with their targeted topic, such as, general – e.g. the coordination and exchange of information in the social-economical statistics – even the completion of common statistics; regarding the employment and the cross-border workers; the enterprises and industry; or implying technology or touristic outcomes.

4. *The sector of cross-border population:* social security and health – which holds as a particular aspect the partnership of the areas that concern the social security issue of cross-border population in general, that of the cross-border workers and health infrastructure.

5. *The sector of education, research and culture* are dominated by the activities such as regional micro integration; here is the place where culture manages to transcend the border concept,

education becomes the factor of development and permanent support for the enlargement of the “cross-border credits” meant to mutual recognize the academic degrees and develop the distinct systems of “bridge” training, etc.

### 1.6.2. The stages of cross-border cooperation

The Additional Protocol to the 1980 European Convention<sup>70</sup> on cross-border cooperation of territorial communities and authorities, stipulates the „rights” of the border regions to develop neighbouring relations, thus completing their series of rights „that the Council of Europe used for eracting a pluralist and democratic Europe” [1; p.83].

History notes the existence of interstate relations within the 19-th and the 20-th centuries, as the basis of the emergence of the authentic cross-border regions. This evolution has implied the development of the decentralization as well as the subsidiarity principle – or, in our case, the “cross-border subsidiarity”<sup>71</sup>, that assures the economic rebalancing, the strengthening of the competencies and regional identity “that functions from top to bottom and from bottom to top”.

The European experience in regard with the cross-border regions, inspired by the Bordeaux Declaration of January 1978, when it had been spoken, for the first time of the regionalisation in Europe [1, p.83], „the right of every European to his or her religion is one of the rights to different elements”, reveals the following steps in the cross-border relations:

a) *Exchange of information*, seen as a knowledge procedure of local communities, unofficial meetings, written exchange of information;

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<sup>70</sup> Adopted at Madrid, 21 May1980, The Convention came into force at 22.12.1981. Romania signed the Convention in 1996 (27 February), and ratified it by means of Law no. 78 per 11 May 1999.

<sup>71</sup> Charles, Ricq (1994), *L'Europe horizontale et la subsidiarité transfrontalière*, International Colloquium of the Prefects, Rome, 7-9 July.

b) *Concertation*, represented by the informative and mutual consulting (unofficial) activities of partners, regarding the possible consequences of the implementation of the agreed measures;

c) *Cooperation*, seen as the proper answer to the “let’s do it together” imperative<sup>72</sup>;

d) *Harmonization*, not yet completely shaped in any of the cross-border space, not even the one belonging to the European Union; this is because one seldom talks of harmonization of the systems, and more often about “the systems’ convergence”;

e) *Integration*, the last step in the “regional, integrated development”.

### 1.6.3. Factors to stimulate the cross-border cooperation

The success of the regional cooperation lies within a global vision for development, a synergy and a partnership of development fully acknowledged in their dynamic, a concentration of actions of structure and phase-structural process, and last, but not the least, a regional balance of endogen resource use and exogenous resource attraction.

The theory of “institutional analysis” stresses the two positions held by cross-border institutions – that of an accelerator and that of a brake. The accelerator, the push factor of cross-border cooperation is supported by its very outcomes [1; p. 60]:

1) Development of a relation-based system of actors that cooperate, in the area of culture, education, health, economy and environment;

2) Underline of the un-official cooperation relations that have emerged in a first phase of cross-border cooperation (e.g. Regio Basiliensis, Euregio);

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<sup>72</sup> Knowing the concertation and cooperation organisms, Regio Basiliensis, the working community of the Western Alps’ regions and cantons (COTRAO), the Working Community of Jura (CTJ), the Leamn Council, the Working Community of Pirinei, as the consultative institutions, the participants behavior is very similar to that existent within the classical intergovernmental organizations that assure a real cooperation [1; p. 56].

3) Creation of cross-border institutions and work communities and their development by means of synergy (e.g.<sup>73</sup> the case of ARGE – ALP, Alpen Adria, Work Community of Jura or the one of Pirinei).

The “action” theory applied to the cross-border cooperation demonstrates the role of the “political will” of local and regional authorities in developing the cross-border areas, the role of dialogue and concertation, as such, of the political factor.

Along with the political factors, the social-economic, cultural, administrative and institutional factors’ actions denote the real cross-border subsidiarity – in its dynamic: ascendant and descendant. The typology of the factors that imply action may be shaped by the following activities:

1) **Socio-economical factors:**

- Accomplishment of economic and social cross-border cohesion;
- Identification of regional policies for eradicating the unbalances of the communities closely related at border;
- Creation of an institutional framework (Economic and Social cross-border Councils, cross-border Unions of the Commerce Chambers, Agriculture, etc.) and of a normative one for promoting the regional economic promotion (e.g. EU REGIO, COMREGIO, The Atlantic Arch<sup>74</sup>).

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<sup>73</sup> ARGE – ALP (Community of work for länders and alpine regions) founded in 1972 and comprising 3 Austrian länds, 3 Swiss cantons, 1 German länd, 1 Region and the two autonomous Italian regions; ALPEN – ADRIA (Work Community of the Eastern Alps) founded in 1978, comprises 5 Austrian länds, 4 Italian regions, 1 German land, Croatia and Slovenia (as federal states of the former Yugoslavia, in the reconstruction time), 4 Hungarian comitates, meant to cooperate in the area of territorial planning, environmental protection, transport, culture, information, economy, agriculture, youth, health, hygiene; The Work Community of Pirinei, created in 1983 from 4 Spanish autonomous communities, 3 French regions and Andorra. The Work Community of Jura, created in 1985, is formed out of a French region and 4 Swiss cantons. Source 3, p. 275.

<sup>74</sup> EU REGIO, created in 1978, regroups the commune communities of the Netherlands and Germany. COMREGIO, created in 1989, comprises communes, associations of communes, communes’ syndicates, districts and comparable institutions of the Great Region Saar – Lor – Lu – Rhenania – Palatinat. The

**2) Cultural factors:**

- Educational exchange and degree recognition;
- Generalization of educational curricula and improving the language skills of the neighboring population;
- Regional cross-border information flow;
- Facilitating the creation forms, diffusion and cross-border reception of cultural works.

**3) Administrative factors:**

- Facilitating the cross-border cooperation
- Exchanges and cross-border training sessions for public servants.

**4) Institutional factors:**

- Facilitating the creation of specific structures, common to the cross-border communities;
- Definition of the models or dialogue spaces for the public and private factors;
- Creation of contractual “bridges”<sup>75</sup> for cross-border local communities.

**1.6.4. Limits and barriers of cooperation**

The genesis of the barriers and limits to the cross-border cooperation is very clearly defined as economic unbalances, cultural distinctions and institutional maladjustment.

*Economic unbalances* are identified in the regional “space” as different levels or unequal rhythms of economic development, stopping caused by exacerbated competition, inexistence of cross-border connections between social and economic partners, labor market dysfunctions, fiscal and custom problems.

*Cultural and Linguistic or Psychological Disparities* are reflected by the weak manifestation or by the inexistence of the

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Atlantic Arch, association of 28 European maritime regions coming from Scotland to Andalusia, by regrouping 50 millions of inhabitants. Source 3, p. 276.

<sup>75</sup> Forms that may be taken by the different „bridges” – associations of private law, consultative committees, mix economic societies, etc, represent the advantage of the flexibility and pragmatism. Source: 1, p. 63.

cross-border reflexes<sup>76</sup>, existence of negative national or/and stereotypes, linguistic barriers, lack of credibility of the inter-regional cross-border cooperation organisms.

*Institutional maladjustments*<sup>77</sup> may be found at the level of public institutional management, to be more precise, in the systems of distribution of competences on the two sides of borders. The lack of competent structures in the area of cross-border cooperation, even the absence of their specific services, the existence of the cooperation organisms with no juridical personality, may be regarded as obstacles in the cooperation of the border regions.

“All the cross-border organisms are but consultative and often they must function following the rule of unanimity so as the “advice-decisions” to be applied by all their members, under the command or with the support of the states” (C. Ricq, 1996, p.71).

#### 1.6.5. National regulations regarding the Euro-regions

To support the balanced regional development of the country, and to respond to an economic, social and cultural current need of the European regions, Law no. 151/1998 regarding the regional development in Romania, stipulates the institutional framework, the principles, objectives, competences and instruments that are specific to the regional development.

Law no. 151/1998 regarding the regional development in Romania regulates, in Article 3 (d) that stimulating the inter-regional cooperation inside and outside the country, and that of cross-border and European nature, represents one of the main objectives of the regional development policies in Romania. As

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<sup>76</sup> Borders are, on one hand, a political phenomenon, and on the other, a “civilisation issue, an issue of culture” [A. Miroglio (1970), p. 276]. and, “just a true cross-border complementarity will make possible the birth of a non cultural phenomenon – that of the emergence of a true cross-border conscious” [C. Ricq (1996), p. 74]

<sup>77</sup> The majority of the cross-border regions deal with the lack of proper institutional structures and specific services for cross-border cooperation.

stipulated in Article 11 (f), The national council for Regional Development is meant to follow the way the objectives of the regional policy are implemented, including those regarding the external cooperation of the developing regions, cross-border regions and Euro-regions.

The participation of local councils and county councils coming from administrative-territorial units situated close to the border areas to cross-border cooperation activities, with similar authorities of the neighboring countries is regulated by Law 215/2001, regarding the Local Public Administration, Article 13. The same Law (Article 11) stipulates that the local public authorities are entitled to “The local and county councils from the border administrative-territorial units can contract with the similar public authorities from the neighbor countries, cross-border cooperation agreements, within the framework of the law”.

The increasing interest of the border regions for the accomplishment of the action plans regarding the integrated regional development, the optimization of the “needs – resources” ratio, of the objectives to be reached, the necessary means for increasing the regional economy’ competitiveness, the “cross-border competency” represent a priority of the national regional policies [2; p. 86].

In this regard, the Romanian legislation (Law 151/1998) “stimulates the inter-regional, internal and international cooperation, the cross-border cooperation and that concerning the Euro-regions, the participation of the development regions at the works and projects of the European structures and institutions, that promote their economic and institutional development, and that are closely connected with the international agreements that Romania has signed so far”.

#### 1.6.6. Romanian participation in the regional cooperation

The two European normative instruments: the **European Convention on cross-border cooperation of territorial communities and authorities**, adopted in Madrid, the 21<sup>st</sup> of May

1980 and the **European Charter of Local Self-Government**, adopted in Strasbourg, the 15<sup>th</sup> of October 1985, ratified by Romania by means of Emergency Ordinance no. 120/1998, and Law no. 199/1997 create the normative framework for taking action in the area of cross-border cooperation by our national local authorities and communities.

So far, Romania has participated within the cross-border cooperation framework, in nine Euro-regions:

1. “*Carpatica*” Euro-region;
2. “*Dunare – Mures – Cris – Tisa*” Euro-region;
3. Cross-border Cooperation Association “*Dunarea 21*”
4. “*Giurgiu – Ruse*” Euro-region;
5. “*Dunarea de Sud*” Euro-region;
6. “*Danubius*” Euro-region;
7. “*Dunarea de Jos*” Euro-region;
8. “*Prutul de Sus*” Euro-region;
9. “*Siret – Prut – Nistru*” Euro-region.

#### 1.6.7 Agreements and Conventions

As cross-border cooperation agreements that Romania has signed, one should enumerate:

- a) in the area of transport and traffic

Agreement between Republic of Bulgaria and Romania regarding the Development Program of the United Nations for the border pass point Rousse – Giurgiu, September 1993;

- b) environment, waists, residual waters, water supply

Convention of the Government of the Republic of Bulgaria and Government of Romania, for cooperation in the area of environmental protection, December 1991;

*Convention for the protection of the Black Sea against the pollution between Romania, Republic of Bulgaria and Russian Federation, April 1992;*

The Conventions and Agreements of the Council of Europe ratified or signed by Romania, denote our country's preoccupation for the cross-border cooperation. They are:

1) Agreements ratified by Romania:

- *European Convention on cross-border cooperation of territorial communities and authorities (11.05.1999)*

- *European Charter of Local Self-Government (28.01.1998)*

2) Agreements signed by Romania:

- *European Social Charter (4.10.1994)*

- *European Convention on cross-border television (18.03.1997)*

- *European Charter of regional or minority languages (17.07.1995)*

- *Additional Protocol to the European Convention on cross-border cooperation of territorial communities and authorities (05.05.1998)*

- *Protocol no.2 to the European Convention on cross-border cooperation of territorial communities and authorities, regarding inter-territorial cooperation (05.05.1998)*

### Selective references

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- [3] Popescu C.-L., *Local autonomy and the European integration*, All Beck Publishing House, Bucharest, 1999

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## Chapter 2

# Governance and Local Development in the context of the European Integration

### 2.1. Current and Future Developments on Public Services in Romania \*

#### 2.1.1. Sectoral Terminological and Legal Framework

##### 2.1.1.1. Conceptual Issues

Public services represent useful activities designated to meet a social need. The laws and regulations empower the activities of public services, without indicating the motives for public services.

The public services, understood in broad sense, represent ensembles of persons and things, created in order to satisfy a public need by a public community, under its authority and control.

The diversity of social requirements determines us to make distinction between public service and service of public interest. The distinction relates to the fact that the public service is organized by a state organization and the service of public utility is accomplished by a non-state organization.

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\* presented at the Workshop on “Public Services on Local and Regional Level”, February, 2003, Budapest.

Beyond the state services (central and external), in various countries there are services provided by intermediary communities (regions, departments, provinces, counties).

For a public service, it should exist a public authority in charge with its organization. Organisation means the following: determining the rules of organization and operation, assignments, right to exploit, control on conditions for exercising this right.

Some services are adequate to be delivered on local level, other on central or intermediate level. Urban services and services for distribution (water, gas, electric power) are more adequate for a system with local responsibility. The large networks of transport, social insurance, energy production are under national competence.

#### 2.1.1.2. Legislative Framework

##### *Law on Local Public Administration no. 215/2001*

The Law on Local Public Administration no. 215/2001 represents the general framework of regulation for local public services. In section 2, chapter IV of this law, entitled “Public services of commune, town and own specialized body of local public administration authorities”, emphasizes two categories of local public services:

- public services organized by local public administration authorities;
- public services subordinated to local public administration authorities.

The first category comprises public services organized as autonomous regies, trading companies or other public or private forms that deliver a public service for commune or town.

The second category comprises only those public services from the organizational chart of local council. Only for this situation, the local council approves the regulations of organization and operation for public services, it establishes the competence and salaries for staff, under the conditions stipulated by law.

According to Law on Local Public Administration, the local and county councils may contract, under the terms of law, works

and services with public utility, under the limit of the amounts approved by local and county budget.

At the same time, the local public administration authorities may decide on concession or renting services of local interest, as well as participation, with registered capital or goods in trading companies in order to achieve works and services of local public interest, under the terms of law.

*Law on Local Public Finance 189/1998*

Law 189/1998 ensures a large autonomy in local public finance, aiming to solve the following shortcomings:

- Insufficient financial resources, related to necessary expenses.

- Lack of a system that should stimulate local public administration authorities to discover new resources aiming to increase the own revenues and to rationalize the expenses.

- Deficiencies in administrating the local budgets, determined especially by late approval of state budget and implicitly, the transfers to local budgets.

- Inadequate criteria and means for a quality, efficient, effective management in public services sector.

- Lack of specialized staff (tax, technical etc.).

The law aims to develop the role of local public administration authorities according to principles of local autonomy and mechanisms of market economy, to establish financial resources of local public administration in order to comply to obligations of administration.

*Law on regime for concession 219/1998*

The law ensures the regulation and organization of the regime of concession for:

- a) goods in public or private ownership of the state, county, town or commune;

- b) activities and public services of national or local interest.

Concession is based on a contract, the conceder transmits on a determined period, (no more of 49 years) the right and obligation

to exploit the goods, activities or a public service to the concessionaire, who acts on his risk and accountability, in exchange of a fee.

The law stipulates the object of a concession, namely the goods, activities or public services from the following fields:

- a) public transport;
- b) highways, bridges, tunnels with pay-roll;
- c) road, rail, harbor infrastructures and civil airports;
- d) construction of new water power stations, their exploitation, including those under preservation;
- e) postal services;
- f) range of frequencies and networks of transport and distribution for telecommunication;
- g) economic activities related to natural and artificial waters, works for administrating the waters, power plants and equipment for hydrological, meteorological, water quality measurements, and fishery endowments;
- h) lands in public ownership, beaches, quays and free zones;
- i) transport and public distribution networks for electric and thermal power;
- j) transport networks by pipes and distribution networks for oil and gas;
- k) transport and public distribution networks for drinking water;
- l) exploitation of mineral deposits and solid and fluid substances;
- m) exploitation of thermal sources;
- n) natural resources of maritime economic zone and continental plateau;
- o) sport places, entertainment places, professional institutions for shows;
- p) medical-sanitary units, their sections or labs as well as auxiliary medical services;
- q) economic activities related to historical monuments and sites;
- r) collecting, depositing and turning into account the waste;

s) any other goods, activities or public services that are not forbidden by special organic laws.

The concession represents a modality to attract budgetary funds, as the fee is considered revenue to the state or local budget.

The concession of a good, activity or public service is achieved by public tender or direct negotiation, according to the provisions of law. The concession contract represents the key element of management delegation.

*Law 213/1998 on public ownership and its legal regime*

Law 213/1998 stipulates the following: the right of public ownership upon the goods belongs to the state or administrative-territorial units, goods that are of public use or interest, according to law or by their nature; the state or administrative-territorial units hold, use or dispose of those goods that form the public domain, under the limits and conditions of law.

The law stipulates the modalities for obtaining public ownership, namely:

- a) on natural way;
- b) by public procurement under the conditions of law;
- c) by expropriation for the cause of public utility;
- d) by acts of donation or legal acts accepted by Government, county or local council, if that good is in the public domain;
- e) by transferring some goods from the private domain of state or administrative-territorial units to their public domain for the cause of public utility;
- f) other modalities stipulated by law.

The legal feature of the above goods is regulated, they are inalienable, non-perceptible, non-prescriptible.

The goods in public domain may be given, either to regies autonomous, or to prefectures, central and local public administration authorities, other public institutions of national, county or local interest.

Other laws for local public services:

*Law 326/2001 on public services of communal housing*

This law stipulates provisions related to the principles governing local public services:

1. sustainable development;
  2. local autonomy;
  3. decentralizing the public services;
  4. accountability and legality;
  5. citizen participation and consultation;
  6. inter-communal association and partnership;
  7. correlating requirements with resources;
  8. protection and preserving the natural or built environment;
  9. efficient administration of public goods of administrative-territorial units;
  10. ensuring the competition environment;
  11. publicity and free access to public information;
  12. universality
  13. security;
  14. fair charging;
  15. service quality, established by competent public authority;
  16. effectiveness;
  17. democratic control, transparency and accountability;
  18. concertation of involved factors.
- *Government Ordinance 32/2002 on organization and operation of public services for providing water and sewerage*
  - *Government Ordinance 21/2002 on managing the urban and rural localities*
  - *Government Ordinance 87/2001 on public services for sanitation of localities*
  - *Government Ordinance 88/2001 on setting up, organization and operation of community public services for emergency situations*

- *Government Ordinance 84/2001 on setting up, organization and operation of community public services for civil registry*
- *Government Ordinance 86/2001 on services for local public transport*
- *Government Ordinance 16/2002 on contracts of public-private partnership*

According to in force legislation (Law on local public administration 215/2001, Law 326/2001 of public services for communal housing, Law 189/1998 on local public finance), the main public services managed by local authorities are as follows:

- *Service of security, ensured by the corps of public guardians;*
- *Public service of civil protection;*
- *Service for authorizing the constructions;*
- *Public service for register of birth, death and marriages;*
- *Public service of distributing the thermal power;*
- *Public service of providing water and sewerage;*
- *Public service of passengers' transport;*
- *Public service of maintaining the green areas;*
- *Public service of sanitation;*
- *Maintaining, repairing and exploiting the public roads;*
- *Organization and operation of markets for agricultural products and food;*
- *Service of exploiting the public parking;*
- *Organisation and operation of cemeteries;*
- *Public service for knackery;*
- *Public service for cultural activities.*

The general responsibilities for providers and beneficiaries of public services related to those of central, local administration are as follows:

Involved parties	Responsibilities
1. Central public administration	<ul style="list-style-type: none"> <li>- to formulate national policy on local administration</li> <li>- to formulate and to propose for approval laws on local public administration</li> <li>- to establish economic and technical standards</li> <li>- to ensure the application of in force laws and regulations</li> <li>- to ensure counseling for local authority</li> <li>- to control local public administration</li> </ul>
2. Local public administration	<ul style="list-style-type: none"> <li>- to formulate local policy and to establish strategic plans on long and short term, according to in force laws</li> <li>- to formulate strategies and programmes, guidelines, to create public services and to plan the development of public services</li> <li>- to approve local norms, regulations, development studies</li> <li>- to ensure financing of public services</li> <li>- to establish taxes and charges and to approve or validate tariffs for services under local authority</li> <li>- to enable collaboration with providers of public services, stimulating competition in order to obtain the best rate quality/cost of services</li> <li>- to monitor how the public services are ensured</li> <li>- to administer the contracting and authorization of public services</li> <li>- to control the public services</li> </ul>
3. Service providers	<ul style="list-style-type: none"> <li>- to ensure services at qualitative levels established by local administration</li> <li>- to observe in force laws and norms</li> <li>- to observe the basic principles and rules of public services</li> <li>- to deliver services according to regulations and contract clauses</li> <li>- to maintain, develop the services, according to the delegation and approvals given by governing authority</li> <li>- to manage efficiently the human, financial and material resources</li> <li>- to fulfill the contractual obligations</li> <li>- to inform quickly and fairly the local authority</li> <li>- to respond prompt to beneficiaries' complaints and to solve their problems in due time</li> </ul>
Beneficiaries (consumers)	<ul style="list-style-type: none"> <li>- to observe in force laws as well as the decisions of local administration</li> <li>- to be informed about the new regulations</li> <li>- to pay in time the services provided</li> <li>- to maintain and supervise the own equipment for service</li> <li>- to enable provider's access to the equipment for the services.</li> </ul>

## 2.1.2. Administration as Service. Citizens as Clients

### 2.1.2.1. Public Administration Reform

Remarking the above-mentioned legal framework, we notice that the main acts were recently issued, especially due to central role played by public services in the preoccupations for public service reform.

The current Strategy of public administration reform comprises clear objectives on reforming the public services:

- *profound restructuring of central and local public administration*

- modernization and adaptation of public administration to realities of Romanian economy and society, meeting at the same time the exigencies in European Union and maintaining the valuable traditional elements of Romanian public administration;

- reducing the governmental expenses;

- developing the management capacity of local authorities;

- *changing the essence of the relationship between administration and citizen*

- strengthening and extending the framework for civil society participation in decision-making;

- transparency of administrative acts and effective communication with citizens.

- *decentralising the public services and strengthening administrative and financial local autonomy*

- decentralization of public services and overtaking the tasks of administration and financing of some activities by local administration authorities;

- transfer of corresponding activities and resources from the state budget to local public authorities for financing public services for local communities: health, culture, community police, firemen, civil defense;

- reorganizing the system of local taxes and charges.

- *gradually demilitarisation of community services*

- transferring the register of population to local and county councils.

- transferring to prefectures the activity of issuing and registering the simple passports, and organising this activity as community service;

- organizing community services for emergency situations (fires, floods, earthquakes etc), that will undertake the current tasks of firemen and civil defense;

– setting up the community police for public order at the level of each administrative unit, by undertaking specific assignments from Police Inspectorates.

#### 2.1.2.2. Modernising the Public Services

*The strategy on modernization and development of public services is based on the following key objectives:*

- decentralizing the public services and improving the accountability of local authorities on the quality of public services delivered to population;
- extending the systems for basic services and increasing the degree of access to those services;
- restructuring the mechanisms of social protection for less-favored persons and reconsidering the relation price/quality;
- promoting the principles of market economy and reducing the degree of monopolization;
- attracting the private capital in financing investments in local infrastructure;
- institutionalizing the local credit and extending its contribution to financing communal services;
- promoting measures for sustainable development.

#### 2.1.3. Providers of Public Services – Actors of Change

##### 2.1.3.1. Types of Ownership and Main Characteristics of Public Services Companies

###### *a) Autonomous regies*

By Government Decision 597/1992, autonomous regies and trading companies with total state capital are under the authority of the local councils, providing public services of local interest. The Ordinance 13/1993 provides measures for restructuring the activity of autonomous regies in order to make them more efficient, to observe the financial discipline, to manage the goods in public domain, to regulate the relations between authorities and regies.

Law 135/1994 (to approve the Ordinance 69/1994) establishes the number and object of activity of autonomous regies of local interest.

The Emergency Ordinance 30/1997, on reorganization of autonomous regies provides the establishment of public services of local interest that will be under the authority of administration in the respective territorial administrative unit.

*b) Trading companies*

Features of trading companies under the authority of local councils:

- The decision of local council sets up the trading company, stipulating: legal form, name and headquarters, subscribed registered capital and its structure.
- The decision stipulates also the approval for the statute of organization and operation of trading company
- The main aim of trading companies providing services is not to obtain profit, but to develop the quality and quantity of services for citizens.

*c) Public institutions*

▪ A public service is organized and operates as an institution with distinct legal status related to state or local communities. In other words, it represents a public law person, created specially to ensure the meeting of general interest. Therefore, public institutions have their own patrimony, budget and may conclude contracts on their behalf.

▪ The establishment of public institutions is subordinated to principles of administrative law, thus the public institutions of local interest are set up by decision of local council (county/municipality) and public institutions of national interest are set up by the Government.

*d) Specialised economic agencies*

The local public administration authorities may ensure the delivery of some services by agencies set up in a special field.

In this respect, the Law on local public administration stipulates: “ Local or county councils may decide to set up, under the terms of law, trading companies, associations, agencies and

may organize other activities aimed to achieve works of local interest, with registered capital, comprising the contribution of councils or other legal and individual persons". Key features for creating the economic agencies:

- the agencies are set up under the terms of law;
- the agencies may be set up in order to achieve some works of local interest;
- the agencies are operating with contribution to registered capital brought by local councils;
- the specialized economic agencies are set up by local/county public administration.

#### 2.1.3.2. Public – Private Partnership

The advantages of public service delivery by private companies are obvious:

- reducing the local budget with the expenses necessary with the organization and delivery of public service;
- improving the efficiency of service delivery and reducing the costs;
- achieving investments, developing the endowments on the expenses of private sector;
- possibility to regulate the private sector by norms issued by public administration (quality standards, licenses, facilities for those that are making investments in public domain etc);
- possibility of local public administration to withdraw anytime the public service management under the conditions that the provider does not achieve his obligations.

#### 2.1.4. Financing Public Services on Local Level

The legislation in this area comprises the following:

- Law 189/1998 on local public finance;
- Law no.500/2002 on public finance;
- Government Ordinance 61/2002 on collecting the budgetary receivables;

- Government Ordinance 36/2002, republished, on local taxes and charges.

The financing for current and capital expenses of local interest is ensured:

- a) totally from the local budget (depending on subordination);
- b) extrabudgetary incomes and subsidies granted from the local budget, and
- c) totally from extrabudgetary incomes

The own revenues may derive from charges, rents, cultural events, studies, projects, turning into account some products, own or auxiliary activities, service delivery and others.

Financing the local public service is different, depending on the organization and type of service.

Thus, the public services with state feature are financed generally from the local budget, the urbanistic public services and commercial public services are self-financed, while for the public services providing cultural activities there is a mixed approach.

### 2.1.5. Monitoring the Public Service Sector

In order to improve the monitoring process of public services, we should take into account the following issues:

- Elaboration of secondary legislation necessary to implement the new Law of public services.
- Setting up Commissions to give licence to providers.
- Stimulating the measures for re-organisation and re-grouping of agents-providers.

At the same time, the civil society participation is encouraged to service delivery, especially by transferring the activities of monitoring to volunteers (ex. citizen consultative groups)

Various types of information for service monitoring are important, some on them are now developing:

- Client information –surveys, focus groups, consultation;
- Management information;
- Information of controlling bodies – recently, high attention is paid to audit activities.

## 2.1.6. CASE STUDY - Public Services of Social Assistance

### 2.1.6.1. Romanian Legislative System on Public Services of Social Assistance

*Law no. 705/2001 on national system for social assistance* promotes the strengthening of social cohesion, by developing the spirit of social solidarity in the community for the most vulnerable categories of persons, according to *Council Recommendation 92/441/EEC on common criteria for sufficient resources and delivery in the social protection system*. That law creates one unique framework aimed to organise, co-ordinate the area for family, children, aged persons, handicapped persons' protection. At the same time, the objectives proposed by law orient the social policy, aiming the harmonisation to EU key objectives, stipulated by *Council Recommendation 92/442/EEC on convergence for social protection objectives and policies*.

- For social aid, emergency aid, birth allowance:
  - Law no. 67/1995 on social aid;
  - Government Decision no. 125/1996 on establishing measures for granting the social aid, as well as for changing and completing the Methodological Norms aimed to apply the provisions of Law no. 67/1995;
  - Government Decision no. 295/1999 on some measures of social protection for state social assurance pensions, military pensions, agricultural persons pensions and other incomes of the population during 1999.
- For state allowance for children:
  - Law no. 61/1993 on state allowance for children;
  - Government Decision no. 591/1993, republished, on measures for applying the provisions of Law no. 61/1993 on funds management, establishing and payment of state allowance for children;
  - Methodological Norms on establishing and payment of children allocation, provided by art.1, align.1, let. „a” from Government Decision no. 591/1993, issued by Ministry of Labour and Social Solidarity, no. 1303/1994;

- Government Decision no. 1075/2000 on establishing the amount for state allowance for children.
  - For additional allowance for families with more children:
    - Law no. 119/1997 on additional allowance for families with more children;
    - Government Decision on norms for establishing and payment of additional allowance, as well as measures to apply the provisions of law no. 119/1997 on additional allowance for families with children;
    - Government Decision no. 495/1997 on contents, issuing and updating the book of family;
    - Government Decision no. 961/1999 on updating the amount for additional allowance for families with children.
      - For social assistance granted to aged persons:
        - Law no. 29/1990 on administrative courts;
        - Law no. 215/2001 on Local Public Administration;
        - Law no. 16/2000 on setting up the organisation and operation of National Council for Aged Persons;
        - Law no. 17/2000 on social assistance for aged persons;
        - Government Decision no. 886/2000 for approving the national grid aimed to evaluate the aged persons' needs;
        - Government Decision no. 1021/2000 for approving the Methodological Norms on establishing the monthly average cost in special houses for aged persons.
          - Stimulating the involvement of civil society in achieving some actions of social assistance for community, supported by:
            - Law no. 34/1998 on granting subsidies for associations and foundations, with legal status, that set up and administer units of social assistance;
            - Law no. 129/1999 on setting up the Social Development Fund;
            - Law no. 336/2001 for approving Government Emergency Ordinance no. 118/1999 on creating and using the National Solidarity Fund.

### 2.1.6.2. Organising the Public Services of Social Assistance on the Local Council of Galați Municipality

The actual social assistance system in Galați Municipality (Figure 2.1.1), supported by Local Council (LC) comprises the following departments and offices:

- (1) Department for Social Aid and Emergency Aid;
- (2) Department for Tutelary Authority;
- (3) Department for Social Assistance for Aged Persons;
- (4) Department for Monitoring, Re-socialisation, Assistance;
- (5) Office for Partnerships and Conventions with Civil Society.

#### 2.1.6.2.1. Department for Social Aid and Emergency Aid

##### *A. Assignments*

1. Receiving and recording the demands for awarding social aid for families and persons without or with low incomes;
2. Receiving and recording demands for awarding emergency aid to families or persons in case of force majeure, due to natural disasters, fires, accidents or other causes, soundly justified;
3. Receiving and recording demands for awarding birth allowance, starting with the second birth;
4. Receiving and recording demands for awarding state allowance for children;
5. Receiving and recording demands for awarding additional allowance to families with children;
6. Recording and solving the related correspondence.

##### *B. The documents elaborated by Department for Social Aid and Emergency Aid*

- Provisions concerning the establishment, change, suppress, cease of social aid;
- Provision on rejecting the right to social aid;
- Official releases on the establishment, change, suppress, cease of social aid;
- Official release on rejecting the right to social aid;

- Responses to petitioners who submitted their letters to Galați Municipality Mayor or other state institutions, requiring various aids;
- Certificates, issued on demand for persons, necessary to other institutions;
- Provision concerning the right to birth allowance for mothers, starting with the second birth, accompanied by table annex;
- Social investigations, fundamenting the right to social aid;
- Social investigations, in order to grant the emergency aid.

#### 2.1.6.2.2. Department for Social Assistance for Aged Persons

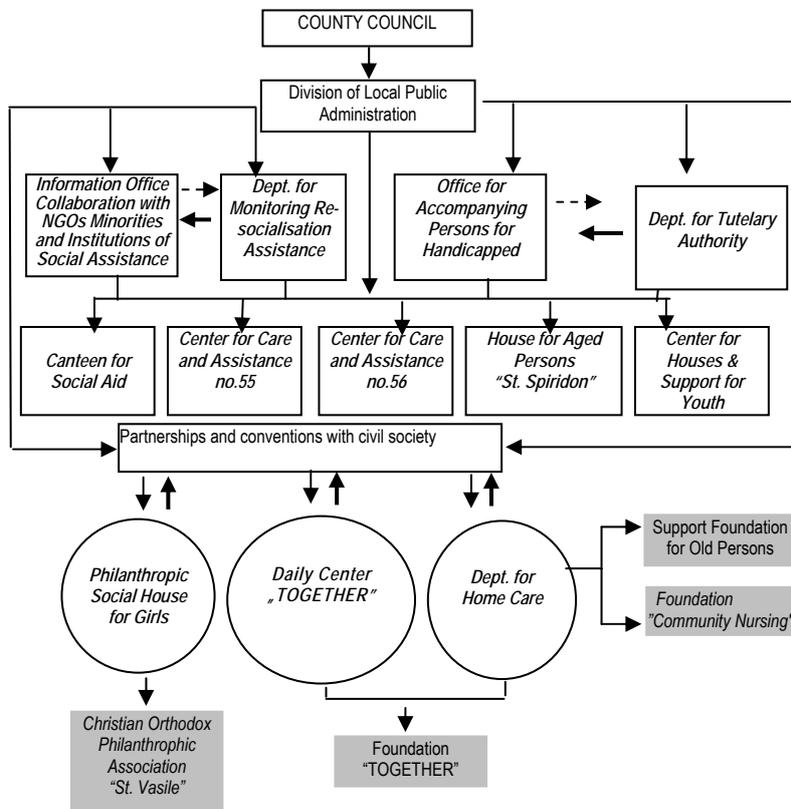
##### *A. Assignments*

1. It receives and records the requests of aged persons in the area of Galați Municipality, aimed to conclude a legal act to alienate with free or onerous title the owned goods for his care and keeping;
2. It draws up social investigations, after field research and check for aged persons for granting social assistance;
3. It issues responses at the received requests, before the deadline stipulated by law;
4. It discusses with the citizens within the framework of the established work programme;
5. It collaborates with the Department for Tutelary Authority and Department of Social Aid;
6. It ensures links with the Ministry of Work and Social Solidarity, Ministry of Health and Family, Courts and other bodies that provide activities in this specific area.
7. It applies measures for social assistance, social-medical and medical assistance to persons, evaluated according to national grid for assessing the aged persons' needs.

##### *B. Documents elaborated within the framework of Department for Social Assistance for Aged Persons*

- Social investigations for aged persons, on the basis of data concerning:
  - Diseases that require special care;

- Capacity for managing the household and complying to the adequate requirements of daily life;
- Conditions for housing;
- Effective or potential incomes, considered minimum in order to ensure the achievement of current life needs.
  - Social investigations aimed to ensure the aged persons' protection.



**Figure 2.1.11.** Diagram with Relationships for Social Assistance Services under Local Council Authority

**2.1.6.3. SWOT Analysis**

SWOT analysis of South-East Development Region (Figure 2.1.2), that comprises also Galați county, offers the necessary information to formulate some considerations on public service system of social assistance in Galați Municipality.

STRENGTHS	WEAKNESSES
<ul style="list-style-type: none"> <li>▪ Existing network of basic facilities for children and adults</li> <li>▪ Financial support for children welfare, awarded by church and other organizations (foundations), complementary to state activities</li> <li>▪ Improving the awareness for state and civil society involvement in state social services</li> <li>▪ Decisional autonomy</li> </ul>	<ul style="list-style-type: none"> <li>▪ Low training in social services, especially in rural area</li> <li>▪ Insufficient knowledge about social public service system</li> <li>▪ Insufficient assistance granted to unemployed, marginalised groups and social excluded groups</li> <li>▪ Increased number of abandoned persons number (children and adults)</li> <li>▪ Lack of workshops and employment facilities for mental sick or disabled persons</li> <li>▪ Low incomes for staff</li> <li>▪ The region is situated much under the national average of beds in hospitals for 1,000 de persons</li> </ul>
OPPORTUNITIES	THREATS
<ul style="list-style-type: none"> <li>▪ New forms of social services have to be encouraged</li> <li>▪ Better organisational capacity and monitoring</li> <li>▪ Legislative system</li> </ul>	<ul style="list-style-type: none"> <li>▪ Increased mortality rate</li> <li>▪ Ageing population</li> <li>▪ Increased number of poor people</li> <li>▪ Economic stagnation</li> <li>▪ Increased unemployment rate</li> </ul>

**Figure 2.1.2.** *SWOT Analysis of South - East Development Region*

STRENGTHS	WEAKNESSES
<ul style="list-style-type: none"> <li>▪ Existence of organisational structure at LC level with operational specialisation;</li> <li>▪ Capacity to transform into information and coordination center for county public services;</li> <li>▪ The social assistance services promoted by local authority are diverse and cover many social categories;</li> <li>▪ The civil society sector is developed in the social area;</li> <li>▪ Allocating funds from local budget and supporting services for social protection of aged persons, orphans, families in difficulty, persons in emergency situations;</li> <li>▪ The local authority has partnerships with civil society sector and other local institutions;</li> <li>▪ Availability of local authority to involve and grant support for creating other units of medical assistance;</li> <li>▪ Responsive work staff at new working methods, adjustment and change in order to respond to social needs of persons in difficulty.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Limited own resources;</li> <li>▪ Lack of motivation for employees in public sector;</li> <li>▪ Difficult access to information of social interest</li> <li>▪ Insufficient new IT introducing</li> <li>▪ Endowments in public units of health and medical assistance do not cover the city needs;</li> <li>▪ Insufficient daily centers for children in difficulty;</li> <li>▪ No centers for social recovery and rehabilitation;</li> <li>▪ Insufficient places in protection units (hostels);</li> <li>▪ No social units for protection, support and therapy for children and handicapped persons;</li> <li>▪ No protection/support units for mental diseases persons</li> </ul>
OPPORTUNITIES	THREATS
<ul style="list-style-type: none"> <li>▪ Concluding viable forms of partnership;</li> <li>▪ Legislation that enables financial support of NGOs sector with social / medical profile;</li> <li>▪ Possibility for supplementing the financial resources allocated ;</li> <li>▪ Existing financial sources/programmes designed to develop the social and medical assistance services</li> </ul>	<ul style="list-style-type: none"> <li>▪ Standards for public service quality;</li> <li>▪ Low communication system with public service beneficiaries;</li> <li>▪ Existence of social cases that cannot be found in actual legal documents;</li> <li>▪ More diseases and the gradual ageing of population;</li> <li>▪ Legislation in ongoing change;</li> <li>▪ Correlating the system on local level;</li> <li>▪ Elaborating coherent strategies and local priorities;</li> <li>▪ Increased number of children / aged persons in difficulty;</li> <li>▪ Instituting support forms for emergency situations;</li> <li>▪ Necessity to extend home-care services</li> </ul>

**Figure 2.1.3.** *SWOT analysis of public service system of social assistance at Local Council*

The SWOT analysis (Figure 2.1.3) of public service system of social assistance emphasises the following issues:

- Reorienting the financial local resources, both material and human in order to solve the problems of less favoured categories (see Table 2.1.1.A and Table 2.1.2);
  - Supporting the development of partnership with NGOs (table 2.1.1.B);
    - Organisation and regulation of the activity of Department for Monitoring, Re-socialisation, Social Assistance, aimed to reduce the duration for solving a social aid file, improving the system for documentation elaboration, check and evaluation and involving a number of volunteers (Table 2.1.3 and Table 2.1.4);
      - Developing some projects of social, local interest, i.e. „Center for housing and support to youth”, aimed to grant residence and counselling to the youth coming from protection institutions (Table 2.1.5).

In order to analyse the social public service for social aid and emergency aid, the group “families in difficulty” during the period 2000-2003, we shall use the indicators (Table 2.1.5):

- Total operational cost of public service in various working points;
- Operational expenses on each working point and service;
- Average waiting time;
- Absolute variation (  $V = C_2 - C_1$  );
- Growth rate (  $R = \frac{C_2 - C_1}{C_1} \times 100$  );
- Coefficient of variation (  $C = 1 + \frac{R}{100}$  )
- *Absolute variation*

Table A

	V <sub>C</sub>	V <sub>R</sub>	V <sub>B</sub>	V <sub>CT</sub>	V <sub>cp</sub>	V <sub>CM</sub>	V <sub>S</sub>
1	300	250	200	2,980,111	529,700	7000	1600
2	6800	6800	2351	36,637,848	22,370,813	235,00	800
3	0	0	984	18,299,831	7,746,301	120.000	900

V<sub>C</sub> - Absolute variation of requests  
 V<sub>R</sub> - Absolute variation of responses  
 V<sub>B</sub> - Absolute variation of number of beneficiaries  
 V<sub>CT</sub> - Absolute variation of total operational costs  
 V<sub>cp</sub> - Absolute variation of expenses with the payment of deliveries  
 V<sub>CM</sub> - Absolute variation of material expenses  
 V<sub>S</sub> - Absolute variation of monthly average wages

- *Growth rate between two consecutive years*

*Table B [%]*

	R <sub>C</sub>	R <sub>B</sub>	R <sub>cp</sub>	R <sub>CT</sub>	R <sub>CM</sub>	R <sub>S</sub>
1	30	29.41	55.15	39.68	87.5	50
2	523.07	224.43	1501.39	349.26	1566.66	16.66
3	0	32.46	32.46	38.83	48	16.07

R<sub>C</sub> - Growth rate of requests between two yearsR<sub>B</sub> - Growth rate of number of beneficiaries between two yearsR<sub>cp</sub> - Growth rate of expenses related to payment of deliveries between two yearsR<sub>CT</sub> - Growth rate of total operational costs between two yearsR<sub>CM</sub> - Growth rate of material expensesR<sub>S</sub> - Growth rate of monthly average wages

- *Coefficient of variation:*

*Table C [%]*

	C <sub>VC</sub>	C <sub>VB</sub>	C <sub>Vcp</sub>	C <sub>VCT</sub>	C <sub>Vs</sub>	C <sub>VCM</sub>
1	1.3	1.294	1.551	1.396	1.5	1.87
2	6.23	3.444	16.01	4.492	1.16	16.66
3	1	1.324	1.324	1.388	1.16	1.48

C<sub>VC</sub> - Coefficient of variation of requestsC<sub>VB</sub> - Coefficient of variation of number of beneficiariesC<sub>Vcp</sub> - Coefficient of variation of expenses related to payment of deliveriesC<sub>VCT</sub> - Coefficient of variation of total operational costsC<sub>Vs</sub> - Coefficient of variation of monthly average wagesC<sub>VCM</sub> - Coefficient of variation of material expenses

The development of some indicators (the absolute variation, the rate growth between 2 consecutive years, the coefficient of variation) emphasises the direct dependency of social services on the degree of economic-social development of Municipality.

The following factors determine the diversification of social services (Tables 2.1.3 and 2.1.4): downsizing of economic activity in Municipality, increase of unemployment rate, increase of degree of coverage for poor population, ageing population.

The increase of the number of beneficiaries of social services for social aid and emergency aid, during the analysed period, presents a maximum point in 2002 (3031 beneficiaries), the absolute variation of the „beneficiaries” category is 2351, and the growth rate records 244,43%.

The explication consists both in the correlation with high number of recorded requests, respectively 9300 only in 2002 and the various financial incentives, derived from local and national budget. In

this respect, 2002 represents the year when 947 requests for aids related to home heating were recorded, all being favorable solved.

The increase of number of recorded requests was accompanied by the increase of expenses related to wages from 3,200 thousand lei in 2000 to 6,500 thousand lei in 2003, increase that influenced the value of total operational costs for the respective analysed service. For this last indicator, the maximum point was recorded in 2002, with an absolute variation of 36,637,848 thousand lei. The registered values had a remarkable increase also due to the influence of annual inflation rate.

While the number of requests and beneficiaries is increasing, the average waiting time (solving) is the same – 30 days, excepting 36 days in 2000. The correlation between the number of recorded requests that were solved and the average waiting time should be interpreted as depending also on the number of employees. This dependency is reflected by reducing the number of days for solving the request from 36 days in 2000 to 30 days in 2001, 2002, 2003 due to the increase of number of employees from 8 in 2000, to 15 in 2001, 25 in 2002 and 29 in present.

Taking into account the above mentioned issues as well as the fact that public administrations are focused to achieve the main mission, i.e., production of services that are not goods<sup>1</sup>, designed to community, the public consumption is measured not related to „outputs”, but to „inputs”, respectively as sum of expenses for public service delivery.

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<sup>1</sup> Jaques Généreux, *Macroéconomie et compatibilité nationale*, Hachette Livre, Paris, 1996.

**Re-orienting the financial resources for the group families in difficulty**

Table 2.1.1.A

Services ensured by	Number of beneficiaries				Payments of social deliveries [thousand lei]				Total annual operational cost from state budget [thousand lei]			
	2000	2001	2002	2003*	2000	2001	2002	2003*	2000	2001	2002	2003*
City Hall:	680	880	3031	4015	960,300	1,490,000	23,860,813	31,607,114	7,509,877	10,489,988	47,127,836	65,427,667
1												
2	530	775	1858	3200	120,456	231,452	2,601,200	4,480,000				
3	2420	2510	2506	2515	-	-	-	-				
4	670	661	520	540	-	-	-	-				
5	980	807	667	630	7,156,780	8,681,488	19,882,346	19,947,511				
Canteen :	1200	1164	424	410	-	-	-	-	7,512,890	7,287,259	5,895,643	6,230,115
6												

**Structure of the total costs on ensured services**

Table 2.1.1.B

Services ensured by	Total annual operational cost from state budget [thousand lei]				Monthly average wage [thousand lei]				Operational expenses [thousand lei]			
	2000	2001	2002	2003*	2000	2001	2002	2003*	2000	2001	2002	2003*
City Hall:	7,509,877	10,489,988	47,127,836	65,427,667	3,200	4,800	5,600	6,500	8,000	15,000	250,000	370,000
1												
2												
3												
4												
5												
Canteen :	7,512,890	7,287,259	5,895,643	6,230,115	2,100	2,661	3,854	4,970	295,600	359,454	453,340	583,276
6												

**Legend :**

- 1- Department for social aid and emergency aid;
- 2- Department for birth allowances;
- 3- Department for state allowance;
- 4- Department for additional allowances;
- 5- Department for wages to personal assistants taking care of handicapped;
- 6- Canteen;
- \* forecast;

**Re-orienting the financial resources for the group *old persons in difficulty***

Table 2.1.2

Services ensured by	Number of beneficiaries				Total annual operational cost from state budget [thousand lei]				Monthly average wage [thousand lei]				Annual operational expense [thousand lei]			
	2000	2001	2002	2003*	2000	2001	2002	2003*	2000	2001	2002	2003*	2000	2001	2002	2003*
City Hall:																
A																
1	95	103	107	115	3,450,75	3,970,027	4,625,846	5,110,180	2,230	2,936	3,685	4,215	1,790,314	2,420,596	2,445,120	2,530,744
B																
2	70	83	86	90	5,274,461	6,372,576	7,415,748	7,960,666	2,745	3,228	3,930	4,437	1,500,870	2,186,944	2,979,388	3,214,835
C																
3	153	172	160	164	4,520,037	5,218,500	5,643,000	5,840,075	2,150	2,704	3,519	4,126	2,940,063	3,539,000	3,979,874	4,079,370
D																
4	247	326	434	480	610,711	810,000	648,100	720,792	2,810	3,773	4,532	4,936	7,200	10,000	15,000	18,000

Legend :

- 1- Department for care and residence for aged persons;
- 2- Department for care and residence for aged persons with somatic chronic diseases;
- 3- Department for care and residence for aged persons;
- 4- Department for home assistance, material aid and other services for aged persons;
- A- Center for care and assistance no. 55
- B- Center for care and assistance no. 56
- C- Home for aged persons " Sf. Spiridon"
- D- Foundation for Supporting the aged persons

**Development of the number of requests and responses for the group *families in difficulty***

Table 2.1.3

Services ensured by	Number of recorded requests				Number of annual responses				Waiting time [days]			
	2000	2001	2002	2003*	2000	2001	2002	2003*	2000	2001	2002	2003*
City Hall :	1,000	1,300	8,100	8,100	950	1,200	8,000	-	36	30	30	30
1												
2	1,000	1,100	1,200	1,300	900	1,000	1,000	-	36	30	30	30
3	980	1,100	500	600	980	1,100	500	-	36	30	30	30
4	1,900	2,510	2,506	2,700	1,900	2,510	2,506	-	36	30	30	30
5	500	661	520	600	500	661	520	-	36	30	30	30
6	60	103	176	200	60	170	176	-	36	30	30	30
Canteen :	500	575	361	400	410	373	214	-	36	30	30	30
7												

Legend :

1. Department for social aid
  2. Department for emergency aid;
  3. Department for birth allowances;
  4. Department for state allowances;
  5. Department for additional allowances;
  6. Department for wages for personal assistants taking care of handicapped persons;
  7. Canteen for social aid;
- 2003\*= forecast

**The development of number of requests and responses for the group aged persons in difficulty**

Table 2.1.4

Working point	Services ensured by:	Number of recorded requests				Number of annual responses				Waiting time [ days]			
		2000	2001	2002	2003*	2000	2001	2002	2003*	2000	2001	2002	2003*
A	1	32	21	14	17	21	17	26	26	36	30	30	30
B	2	18	17	19	19	11	6	10	14	36	30	30	30
C	3	80	74	76	76	41	38	26	26	36	30	30	30
D	4	75	80	141	150	21	12	34	37	30	10	15	15

Legend :

1. Department for care and residence for aged persons;
  2. Department for care and residence for aged persons with somatic chronic diseases;
  3. Department for care and residence for aged persons;
  4. Department for home assistance, material aid and other services for aged persons;
- A- Center for care and assistance no. 55  
 B- Center for care and assistance no. 56  
 C- Home for aged persons " Sf. Spiridon"  
 D- Foundation for Supporting the aged persons  
 2003\*- forecast

**Variety and dynamics of indicators**

Table 2.1.5

Requests	2001	2002	2003
Absolute variation	300	6800	0
Growth rate %			
Coefficient of variation %			

Responses	2001	2002	2003
Absolute variation	250	6800	0
Growth rate %	-	-	-
Coefficient of variation %	-	-	-

Beneficiaries	2001	2002	2003
Absolute variation	200	2351	984
Growth rate %	29.41	244.43	32.46
Coefficient of variation %	1.294	3.444	1.324

Expenses for payment of deliveries	2001	2002	2003
Absolute variation	529,700	22,370,813	7,746,301
Growth rate %	55.15	1501.39	32.46
Coefficient of variation %	1.551	16.01	1.324

Total operational costs	2001	2002	2003
Absolute variation	2,980,111	36,637,848	18,299,831
Growth rate %	39.68	349.26	38.83
Coefficient of variation %	1.396	4.492	1.388

Material expenses	2001	2002	2003
Absolute variation	7,000	235,000	120,000
Growth rate %	87.5	1566.66	48
Coefficient of variation %	1.5	1.16	1.16

Wages	2001	2002	2003
Absolute variation	1,600	800	900
Growth rate %	50	16.66	16.07
Coefficient of variation %	1.87	16.66	1.48

**2.1.7. Recommendations for Future Changes**

*Decentralisation* and *privatisation* represent two key issues within the framework of public service reform.

*Decentralisation* is often considered a way to improve effectiveness and quality of public services. The communities

choose to privatize the services under various forms, mainly due to insufficient financial resources.

Some specialized studies reveal the importance of de-engagement or decentralisation by market mechanisms, except political, administrative and budgetary decentralisation. De-engagement or decentralisation by market mechanisms means to assign some functions to a public person, private or non-governmental institutions, aiming the public interest, and with the public person's participation. It involves service sub-contracting, deregulation or total privatization.

Privatisation of public services:

The term *privatisation* is associated with the transfer of assets – ownership, management, resources, control – from the public sector to private sector. Strictly, it means selling of goods from private domain of state or local communities.

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- [5] \*\*\* Law 326/2001, Law on Public Services for Communal Housing

## 2.2. Partnership and local governance in Romania\*

### **Abstract**

As subsystem of the global social system, public administration has got powerful political, social, economic, cultural determinations, being in a complex connection with its environment. Defining the principles of functioning for society, distributive emphasising the competences for spheres of governance, the relations of operation and representation of the government at various administrative levels, provide to the public administration the attribute of reforming the public sector. Preoccupied by their performance, the national governments, on the background of applying the principles of effectiveness and efficiency, subsidiarity, local autonomy and decentralisation, are resizing the intergovernmental relations with the local level. In the context of public service development, the application of the other principles, such as accountability, participation, devolution etc. leads to changes of the borders of the public sector towards the local levels, private and non-profit sectors, groups of local communities or customers.

We witness experiments and good practices of decentralization from the central to the local level, or shifting the authority to local governance levels.

We assist at adopting the instruments used by the private sector in order to deliver the activity more efficiently, entrusting some services of public interest to organisational structures, situated on other levels than the national one, such as the regional, local levels. Coordination and adjustment of policies to the local conditions, participation of society and business environment to achieving local public services represent the attributes of local governance, expressed in partnerships between institutions from the public sector and organisations from the private or third sector. The relations of partnership between authorities and the local

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actors are required by the success and improvement of the local governance.

In this context, we remark the positioning of local governance on advantageous positions for the citizen, community, closer to local needs and interests, i.e., very suggestive are the approaches: „open administration”, „administration controlled by community”, „decentralised administration” or „anticipative administration”.

The paper aims to emphasise the utility of an *instrument of local governance*, namely the *public-private partnership*. Based on the theoretical approaches resulted from the specialised literature and experiences of some countries from the European Union, we shall elaborate a study on the public – private partnership in delivering a local public service at the level of a municipality in Romania.

### 2.2.1. Introduction

Defining the principles of functioning for society, distributive emphasising the competences for spheres of governance, the relations of operation and representation of the government at various administrative levels, provide to the public administration the attribute of reforming the public sector.

As subsystem of the global social system, public administration has got powerful political, social, economic, cultural determinations, being in a complex connection with its environment.

The preoccupation of the executive powers to transform administration into a « service » under the requirements of the market-type mechanisms and the public into the market actor, «the customer », aiming to meet the public interest, to size in a genuine way the public need, to reduce the administrative burden and to increase the public service quality represent causes of change and premises of public sector reform started in the last decades of the 20<sup>th</sup> century.

We witness experiments and good practices of decentralization from the central to the local level, or shifting the authority to local or lower governance levels.

In this context, we remark the positioning of local governance on advantageous positions for the citizen, community, closer to local needs and interests, i.e., very suggestive are the approaches: „open administration”, „administration controlled by community”, „decentralised administration” or „anticipative administration”.

On the background of applying the principles of effectiveness and efficiency, subsidiarity, local autonomy and decentralization, the national governments *resize* the intergovernmental relations with local level. In the context of public service development, the application of the other principles, such as accountability, participation, devolution etc. leads to changes of the borders of the public sector towards the local levels, private and non-profit sectors, groups of local communities or customers. We assist at adopting the instruments used by the private sector in order to deliver the activity more efficiently, entrusting some services of public interest to organisational structures, situated on other levels than the national one, such as the regional, local levels.

Coordination and adjustment of policies to the local conditions, participation of society and business environment to achieving local public services represent the attributes of local governance, expressed in accomplishing some forms of association between institutions from the public sector and organisations from the private or third sector, association of „decisions, public and private means within the same action system, aimed to meet simultaneously the consumers’ and citizens’ expectations”, or within an agreement between two or more bodies, in view to achieve an objective with positive impact on the local development and local labour force market.

The relations of partnership between authorities and the local actors are required by the success and improvement of the local governance.

*The promotion of the partnership between public authority/power and the private partner enables to the former to redefine its role from owner and operating entity to regulation and control entity.* This role will enable to the public authority/power to focus on its prerogatives, to promote efficient services, to identify the exigencies of the public service, to orient on meeting the demand and respective costs, thus to ensure a „social profit”, awarded by the social dimension of the public service. Therefore, in this concept the local authority assumes co-responsibility and co-property in provision of public services together with the private sector.

#### 2.2.2. From traditional to innovation

The studies and analyses demonstrate that the public sector, sized as a multiform sector is the „generator” of weak performance, the public services are not innovative, not enough flexible, they are over-regulated, too slow and they are not customer or citizen-oriented; the organisational structures typical for the public sector – such as the forms of hierarchical organisation, the bureaucratic structures – are rigid.

The traditional public service imposes through stability and rigidity, while the practices of the private sector favour innovation, flexibility, adaptability and change (Table 2.2.1).

The need to introduce the theories and practices used in the private sector in view to increase the quality of the public services, to reduce the budgetary allowance for the public services, to be citizen friendly, to increase efficiency and effectiveness of the public sector is supported by «best practices» from developed countries.

**Public and Private Sector Features**

Table 2.2.1

Public Sector	Traditional Approach
<ul style="list-style-type: none"> <li>▪ public choice</li> <li>▪ the need of resource budget allocation</li> <li>▪ public action opening</li> <li>▪ monopoly</li> <li>▪ public markets</li> <li>▪ single public supply sovereignty</li> </ul>	<ul style="list-style-type: none"> <li>▪ anonymous client</li> <li>▪ service standardisation</li> <li>▪ advertising undifferentiated on client/service segments</li> <li>▪ dialogue with the user</li> <li>▪ market segmentation</li> <li>▪ local community = target group</li> </ul>
Private Sector	Managerial Approach
<ul style="list-style-type: none"> <li>▪ personalised/individual choice on the market</li> <li>▪ demand and price</li> <li>▪ opacity against public action</li> <li>▪ market equality</li> <li>▪ market satisfaction</li> <li>▪ competition</li> <li>▪ client sovereignty</li> </ul>	<ul style="list-style-type: none"> <li>▪ “segmented” personalised client</li> <li>▪ personalised supply</li> <li>▪ individual advertising</li> <li>▪ dialogue with the client</li> <li>▪ client segmentation</li> <li>▪ niche</li> </ul>

The architecture of local partnerships and new forms of local governance based on the methods „lent” from the private sector, are complex and subject to the pressure of the change such as: political mandate, accountability, performance, funds allocation, decisions, rules and laws. The models promoted by developed countries can be considered experiences (OECD, 2001; 2003); they differ from a public service to another, from a city to another, from a country to another, requiring contextual, cultural, economic, social adaptations. There is no unique solution or a single model that could be reproduced.

**2.2.3. The Public-Private Partnership**

The concept of public-private partnership was developed on one hand due to the need to stimulate the private investments in developing the internal infrastructure of the towns in the 1960s in United States of America (Fosler, 1986: 364-365), and on the other hand due to the need to support the local communities in order to solve the problems specific in the area of public utility services in

some European states in the beginning of 1980s (OECD, 2001:15). It became in time an instrument of local governance, representing the pillar of the public sector reforms and public services in many developed countries.

The studies reveal that a large part of the partnerships between the public and private sector are characterised by common elements of conceptuality and operation, specifying the own framework for their development, different from one country to another; this framework is defined by: cultural environment and traditions, an own political-administrative system (Pollitt and Bouckaert, 2004).

The specialised literature provides a series of definitions for partnership. The partnerships, in their conceptual development, have suffered transformations concerning the contents of activities, number of partners, occurrence of new institutional structures to define the problems of coordination – horizontal (between partners) or vertical (between partners and central governance) –, to establish the partners' roles focused on capacity of managerial innovation of partnership or those related to assuming the risk.

Nowadays, we recognise the partnership as a cybernetic system, with inputs and outputs taking into consideration the fact that it is a genuine functional concept based on a relation of association between minimum two actors, representatives of the two sectors, public and private sectors, aimed to participate in solving the problems of the local community (Matei, 2000; OECD, 2003).

Developed as structures powerful in time, we can emphasise the following common features of the public-private partnership:

- It is based on realist, clear objectives, supported by well formulated strategies, demonstrating the compliance to the realities of the economic local environment, to resources and markets of services and local public goods, revealing strengths and weaknesses of the local community.
- The term related to projection of the life cycle for public-private partnership is marked depending on long term local

resources (human, financial, physical-material) of the local community;

The specialised literature provided a series of definitions for the partnership, characterised by a certain typology of the partners and own management. Linder (1999) identified six different meanings for the term of public-private partnership:

1. as a management reform;
2. as a problem of conversion;
3. as a moral regeneration;
4. as a changing risk;
5. as restructuring of the public service;
6. as a shared power.

The local partnership is characterised by the relation of association that could be established between the actors of local development, defining their part of contribution and participation to problem-solving in the local community. Understood as an agreement of preferential cooperation, the partnership imposes the consensus between different types of public, private organisations.

The formal partnership is based on a contract, a form of association or another structure that formalises the activities of the partnership. The chosen structure identifies:

- roles (attributions, tasks, competences) and actions for each partner;
- each partner's contribution to achieving the partnership objectives (human, natural, financial resources, etc.);
- working procedures and achieving the partnership balance;
- way of communication and partnership management;
- distribution of risks and benefits between partners.

The chosen structure should not limit flexibility. It should reflect the capacities, responsibilities of each partner in the legal context (*Law no. 215/2001 on local public administration*).

The representativeness and functionality of the partnership offer an open character, expressed at the level of the relation of association between partners, who jointly accept, based on empowerments, to have dialogue on problems of joint interest,

contributing to solve them in the benefit of the community. We understand the common character, on one hand through representativeness of the partnership for local community: actors of the local development – representatives of administrative, intermediary and microeconomic level, through promotion of the strategies integrating the aims of the local development for the partners, and on the other hand, through a constructive, positive, cooperative atmosphere inside the partnership (Matei, 1999: 97-103).

The good operation of the partnership means to achieve the exchange of information and cooperation, based on the hypothesis that there is wish to have open dialogue, to negotiate, to be flexible in dialogue, to create simultaneously a climate of intense interaction, to understand properly the advantages of optimum operationability for the local partnership system.

Communication, flexibility and innovative spirit represent the components of a successful partnership. The structure of a partnership can be formal or informal. The partnership with an informal structure will be based on trust and non-contractual agreement between partners.

The decision at the local partnership level means collective consultation and confrontation, as well as individual contribution in its application. It is based on a very large volume of information, with economic, technical, social components etc.

The public-private partnership is well operating where there is an explicit political commitment about the private sector involvement in public sector projects on making efficient the latter etc. It can be an instrument to finance investments when the private sector is involved, beyond the public property.

The advantages of the public-private partnership (EC, 2005: 11-12):

1. easier access of the public sector to qualifications of the private sector, responsible within the partnership with provision of public utility services, more efficient, effective, with lower costs;

2. assuming some risks by the private sector, which traditionally would have been under the incidence of the public sector – public procurement;

3. responsibility of a single decisional centre – respectively the agent from the private sector, accountable for service provision, management, financing etc. of the entire package.

#### 2.2.4. The Romanian conceptual and legislative framework for local governance

We interpret local governance as the process by which the local authorities situated at another level than the national or central one, exert the executive prerogatives at local level, according to the law. The significance of the term of local governance differs from a state to another; it is frequently used in the relations focused on exerting the powers at the level of provinces, regions, departments, counties, prefectures, districts, towns, municipalities, communes. In Romania, *local governance*, represented by the 42 counties including Bucharest Municipality that has the rank of county, 319 municipalities and towns and 2851 communes, is responsible for provision of local public services, identified as real needs of the local communities.

Decentralisation as *transfer of administrative and financial competence* from the central public administration level to the local public administration level or private sector (*Law no. 195/2006, Law- Framework of decentralisation, art. 2 (l)*) represents a system of managing local, commune, town or county interests, by authorities freely elected by the citizens of the respective community.

Human communities or public services are self-governed under state control, according to the law (*Law 51/2006 on community services of public utilities.*). In Romania, *territorial administrative* decentralisation is based on a community of „public interests” of the citizens belonging to a territorial-administrative unit, „recognising the local community and the right to solve its problems” and *technical and financial* decentralisation of the

public services, namely transferring the services from the „center” to local communities, aimed to meet social needs.

The *decentralisation* process has represented also the beginning of a process to create and strengthen new forms of *dialogue* between central and local administration, represented by the Federation of Local Authorities in Romania (FALR), professional administrative corps or other associative structures of local governance authorities (ACoR-Association of Communes in Romania, AOR-Association of Towns in Romania, AMR-Association of Municipalities in Romania, National Union of County Councils in Romania -UNCJR), involved in partnership contracts of the local authorities.

*Local autonomy* refers to organisation, functioning, competences and attributions, as well as managing the resources that, according to the law, belong to commune, town, municipality or county. On the other hand, it represents the right and effective capacity of local governance authorities to solve and manage, on their own behalf and under their responsibility, an important part of public affairs, for the interest of the local communities.

*The administration authorities*, by which *local autonomy* in communes and towns is achieved, are the elected Local Councils and elected Mayors, in accordance with the law. The County Council is “the public administration authority that is coordinating the activity of commune and town councils”, with a view to carrying out the public services of county interest (*Art. 122, paragraph 1, Constitution of Romania*). The local, county councils and General Council of Bucharest Municipality have legislative functions and they are deliberative authorities on local level.

The ministries and other specialised bodies of central public administration transfer competences (*Art. 4, 5 and 6, Law no. 195/2006, Law- Framework of decentralisation*), currently exerted by local public administration authorities at county, commune or town level.

The local governance authorities exert exclusive competences, shared competences and delegated competences. Any transfer of competences without the observance of a minimum

set of principles and rules is going to be a failure and it produces effects against the idea of decentralization. The final objective is to integrate the efforts of each ministry within a coherent, systematic and efficient decentralization policy, and law enforcement will lead to an integrated and consistent decentralization process.

The most important requirements that should be accomplished by the factors involved in the transfer process of new competences from central to local level are as follows:

- Transfer of competence is achieved to the closest local governance level, on the condition that it holds the administrative capacity to adequately provide the respective public service.
- Transfer of competence concerning public service provision should be compulsory accompanied by the necessary human, financial, technical, patrimony and informational resources, as well as the rights of decision of the local governance authority related to their allocation.
- The national amount of financial resources allocated to the local budgets for exerting the decentralised competences should be at least equal to the value of the resources used to accomplish the same competences previous to decentralization.
- The local governance authorities are accountable for provision of decentralised public services at quality standards according to the law.
- The establishment of the local governance level to which competences are transferred has to observe the criteria of geographic area of beneficiaries and scale economies.
- The allocation of responsibilities for each administrative level in exerting the shared competences, especially implementation and financing, should be clear and complete.
- The specialised bodies of central governance keeping the right to regulate the decentralised services should implement monitoring systems for provision.

### 2.2.5. Central-local relations

After 1990, Romania has undergone the process to redefine the role of central administration related to local administration, political and administrative competences delegated to local administration, necessary sources, as well as the performance of decentralisation process and strengthening democratic local governance.

*The transfer of competences* from central level to communes, towns and counties, and implicitly, the creation of new forms of organisation and coordination of national and local policies, *decentralisation* of power, authority and decision represent the key elements of public governance in Romania.

Some ministries and central bodies of specialised public administration organise *devolved* public services, most of them with headquarters in the municipality, county residence<sup>2</sup>, where on behalf of the ministry and according to its rules, there are managed the activities belonging to the area of competence in that county.

The only *decentralised public services* are those organised in *communes, towns or counties by local public administration authorities*.

*Local governance authorities* may be *authorities responsible of public service financing* that provide the funds necessary for public services in their own budget or the state budget. They may be regional operators of public services and *authorities responsible for implementation*, in charge with service provision.

The county council coordinates the activities of commune, town and municipality councils, aimed to achieve the public services of county interest. It has got attributions on economic-social development of the county, management of county patrimony, subordinated public services, etc.

The relations between local governance authorities in communes, towns, municipalities and county governance

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<sup>2</sup> Some devolved public services may also have branches in other large towns of the county.

authorities are based on the principles of autonomy, legality, responsibility, cooperation and solidarity in county problem-solving. There are no relations of subordination between local governance authorities and county council, or between the local council and mayor.

The functions exerted by the local council are established according to the law (*Constitution of Romania, Law no. 215/2001, Law no. 195/2007, Law no. 273/2006*): economic-local development, set up and organisation of institutions and public services of local interest, according to the specificity and local needs, administration of goods of public or private property; the local sectors of Bucharest Municipality, exert also other attributions according to the law or delegated by the General Council of Bucharest Municipality.

At local governance level, it is worth to mention the following successful actions: decentralization (financial- budget, charges and taxes) at local level, accountability of local development policy making, management and provision of public services of local interest; the mechanisms of local governance responsibility, selective modernisation of local governance and development of local policy culture represent issues to be developed.

#### **2.2.6. Stakes of the local partnership**

The partnership object is to de-multiply the possibility to provide quality public services, gathering the resources from the public and private sectors.

The diversity of the solutions adopted by local public authorities within the framework of the public-private partnership supports the feature of uniqueness of each partnership, the role of the local communities and it confirms the fact that the partnership will not be identified with “the principle of association and division” of objectives, benefits and risks ( Matei, 2005).

Ensuring the quality of the public service represents a stake of the partnership. The public authority through partnership seeks an improvement of public service quality and the private operator seeks a partner profit with the invested capital, its competences and risks.

While the public power seeks to achieve a service on long term, supported by the power to own public infrastructure and to diminish the public funds for the respective service, the private partner builds the objectives on short and medium term, expressed by the tasks from the concession contract in the case of concession of the public service of supply with water and sewerage and seeks to maximise the financial gains.

In our case, the public authority has the responsibility to offer to the local community a public service in a network and a private operator can ensure the economic provision of the service. This type of public services is developed on local level - in our case, sectors of Bucharest Municipality and on regional level - Bucharest Municipality area, providing the ideal model for management delegation.

The achievement of the public-private partnership means the existence of a stable „action framework”, well defined through an institutional, legislative ensemble, rules and practices with specific role in the development of the concession contract and in regulation.

The regulation may function on two levels: continuous technical supervision and, regulation achieved by a specialised authority, its role is to supervise the contractual commitments, to achieve the statistic comparisons, to provide assistance to the local public power – partner in the contract, to offer support to the public power in adapting the rules and the institutional framework, necessary for a good development of the public-private partnership.

The capacity of adaptation and flexibility of the „action framework” should react at a changing reality, in the case of an unexpected event, most often the laws are changing.

*Water – important social stake.* The control of the public authority/power on the water resources is compatible with a delegated management of the services of water and sewerage. The public power remains the owner of the installation and it delegates the service, on a determined period of time and grants the right to use the respective infrastructure. The controls specified to be achieved continuously for observing the rules of quality and standard levels concerning the public service of water and sewerage complete the contents of the contracts with the private partner.

Any contract has risks for the partners, the risks may be limited and distributed between partners. We identify these risks in the following stages:

1. conception of the contract;
2. construction;
3. development.

The risks have got political, economic, financial, legal, macroeconomic features.

They should be distributed between the partners during the whole period of the contract and diminished, the partners of the contract interfering whenever it is necessary.

*From the public monopoly to the private monopoly.* Through the concession contracts for the public service, the public authority takes the risk of not observing the basic principles of the public service: continuity, adaptability, transparency and equal access, encouraging the creation of a „private monopoly” in the provision of a public service. The balanced distribution of the risks remains the core notion of the partnership.

### 2.2.7. Case study: the partners' profile in the public interest service

#### 2.2.7.1. The general framework of the organisation and functioning of the public service of supply with water and sewerage

The public services of supply with water and sewerage are organised at the level of communes, cities, municipalities or counties under the management, coordination, responsibility of local government authorities (according to the *Law no.51/2006 on communautaire services of public utilities, Law no.215/2001 on local public administration*).

#### 2.2.7.2. Stakeholders

The water is not a commercial good, it represents a patrimony that should be protected, approached and defended as such (EC 2000).

The service of water supply represents an indispensable service for the population, without it the comfort of life decreases. The essential characteristics of the service are supported by the existence, in general, of a local monopoly, as the effect of the network and the importance of the local links are making inefficient the functions of the market-type mechanisms. At the same time, the flow of the activities of production, supply and use of this service sustains the thesis that the service meets the conditions of management delegation, allowing a greater economic and technical transparency, and thus a financial risk, easier to be controlled. The control done by the public power on the water resources is compatible with the use of delegated management for the service of water and sewerage, the public power remaining the owner of the infrastructure and delegating only the service, granting to the private company the right to use the respective infrastructure on a determined period of time.

It is well known the fact that at the beginning of the 1990s, the management delegation in the area of water and sewerage has developed on a large extent all over the world. International institutions, especially the World Bank, have supported it, fact

confirmed also in Romania case, by co-financed programmes, assistance granted to preparing actions concerning concession of the service of water and sewerage or those for concluding the delivery of the concession contracts.

In Romania the situation is described below.

According to the data of the last census in 2002, from a total of around 21.7 million inhabitants, 14.7 million persons benefit of drinking water (68%), out of which 11.3 million persons in the urban area (77% of the population supplied with water and 98% of the urban population) and 3.4 million persons in the rural area (representing 23% of the population supplied with water and 33% of the rural population).

Observance of the main principles of the public services that ensure their common regime: continuity, equality, mutability, establishes and guarantees the fact that they meet the public need/public interest expressed by the citizens. The stakeholders in functioning and achieving with conformity this service at the level of Bucharest Municipality are emphasised in the matrix of the stakeholders, namely political, economical, social, technological, environmental factors (Table 2.2.2). Thus, there are factors with global responsibility (involved ministries - environment and water management, finance, health, authorities of local government) or partial responsibility (private economic agents, citizens, NGOs) in water resources, approaching all the legal and regulation problems and aspects, both on qualitative and quantitative level, with responsibility in economic, financial areas, investments, tariffs and charges, development strategy etc.

## Matrix of stakeholders

Table 2.2.2

No.	Stakeholders	Their role in public services	Impact of concession on stakeholders	Stakeholders' influence on the public service of supply with water and sewerage								
				Laws	Management	Charges Tariffs	Investment	Water supply	Quality	Preparing pcc	Implementing pcc, cc	Evaluating pcc cc
1	GCBM Local Councils	Organisation, Coordination, Management	5	5	5	3	4	5	5	5	3	3
2	GRWB	Organisation	5	2	4	4	5	5	5	5	4	3
3	SC Apa Nova Buc.		5	1	4	3	5	5	5	1	5	4
4	MESD	Organisation, Control Strategy for water resources	2	5	5	3	2	2	4	1	1	2
5	NARW	Managing the water resources	5	5	4	3	2	4	4	3	3	3
6	RAW		4	3	3	3	2	4	5	3	3	3
7	MEF		4	5	2	2	2	1	1	2	2	2
8	MIAR	Analysis, Decision, National Strategy of communautaire services		5	5	2	2	1	4	4	4	4
9	MPH		2	4	4	2	2	1	5	3	4	4
10	NARCSPU	Set up, Organisation, Coordination, Control, Self-regulation	5	4	5	3	3	4	5	5	5	5
11	MT		2	4	3	2	3	1	2	2	3	3
12	Assoc. of owners		4	2	1	1	2	1	1	2	3	3
13	NGO		3	3	1	3	2	2	1	2	3	3
14	ARSLWC	Regulation Monitoring	5	3	3	4	2	1	5	4	4	5
15	NACP		3	2	2	4	2	1	3	3	3	3
16	Citizens		4	2	1	1	2	1	1	2	3	3

Legend:

■ GCBM- General Council of Bucharest Municipality; GRWB - General Regies of Water Bucharest; MESD-Ministry of Environment and Sustainable Development; NARW- National Administration Romanian Waters; RAW - Romanian Association of Waters; MEF - Ministry of Economy and Finance; MIAR- Ministry of Interior and Administrative Reform; MT-Ministry of Transport; MPH - Ministry of Public Health; NARCSPU- National Authority of Regulation for Communautaire Services of Public Utilities; NACP- National Association for Consumers Protection; ARSLWC- Agency for Regulation of Service Levels Water - Canal in Bucharest Municipality. ■ 1 corresponds to a low level and 5 corresponds to maximum level ■ project of the concession contract (pcc)

### 2.2.7.3. A public private partnership in the center of the public service supply service of supply with water and sewerage in Bucharest Municipality

#### 2.2.7.3.1. Normative dimension

We should accept concession as the relation developed between the public and the private sector, on a limited period of time with horizon on medium or long term; this relation is based on granting or entrusting an activity of the public or private sector. This relation is legitimated through a contractual arrangement on the basis of the general and specific laws for the area of activity. The two parts of the contract, the conceder and the concessionaire establish their roles, share the risks and gains, turning into account the expertise, competences for the success of partnership in the public service.

The contract for concession of services holds the characteristics of an usual contract of services, the difference consists in the fact that for the services provided, the contractor, as concessionaire receives from the contracting authority, as conceder, the right to exploit the services on a determined period of time.

*The legislative framework of the contract:* Constitution of Romania, Law no. 69/1991 on local public administration, Government Decision no. 597/1992, Law no. 213/1998 on public property and its legal regime, Law no. 219/1998 on regime of concessions.

#### 2.2.7.3.2. Initiating characteristics

In this general framework, the public-private partnership in the water area at the level of Bucharest Municipality has been achieved through a *concession contract*, where we identify three main actors: **the conceder**, **the concessionaire** and **the consumer**, with distinct and interdependent responsibilities and roles. The stakeholders in provision of water service, having also the quality of partner in the contract of concession in this case are presented in Table 2.2.3.

a. *The tender process* was organised according to the decisions of the General Council of Bucharest Municipality (GCBM) and provisions of Law no. 219/1998 on the regime of concessions, the *tariff being the unique selection criterion*.

### The stakeholders of the public service of water supply and sewerage

Table 2.2.3

Name	Description	Role	Power and influence	Objectives
SC Apa Nova SA	The company assigned with water supply and sewerage in Bucharest (subsidiary of the French company Veolia Water). This company has won the auction for RGAB privatisation	The company dealing with the water and sewerage service management.	High	Water supply and sewerage in Bucharest
RGAB	The former water and sewerage company in Bucharest	The former company dealing with the water and sewerage service management.	Before becoming Apa Nova, it held the monopoly in Bucharest	Water supply and sewerage in Bucharest
Companies	Different companies of the Town of Bucharest. Before disbranching, the companies with large debts were state-owned.	Consumers	Medium. Some companies consider that the delivery-notes are incorrectly computed	Rebranching
End users	Users in Bucharest, without the lodgers associations	Consumers		Rebranching
Lodgers/ owners associations	People associations	Consumers	Social groups with a weak influence	Rebranching
Bucharest municipality	Generic title signifying the involvement of Bucharest Town hall and its other stakeholders	Supervising the processes	The highest	The quality of the water and sewerage service
The General Council of Bucharest Municipality	Council whose members are the parties' representatives	The institution with the highest role; it deals with supervising the processes. The council has a veto right on some Apa Nova decisions. It also represents the Municipality that owns the infrastructure.	Veto right on some Apa Nova decisions.	Improving the citizens' quality of life. Guarantying the service quality. Supervising the prices.
The Mayor of Bucharest	The most important person in the town hall	He led the meeting with Apa Nova and he is the person with the biggest influence	The most influential person, he has the right to decide upon some EU funds.	Quality services for the citizens.
International Finance Corporation	Organisation belonging to the World Bank, promoting the investments in the private sector in the developing countries.	Consultancy form the World Bank on Municipality request. Its recommendations were made in the form of a written report.	Support from the World Bank.	Ensuring transparency.
National Authority of Public Service Regulation	Public institution of national interest with its own legal status, being under the coordination of the Ministry of the Interior and Administrative Reform.	It regulates, monitors, and controls the community service management.	Direct access to Government's decisions	Ensuring the legal framework for a good development of the field activities.

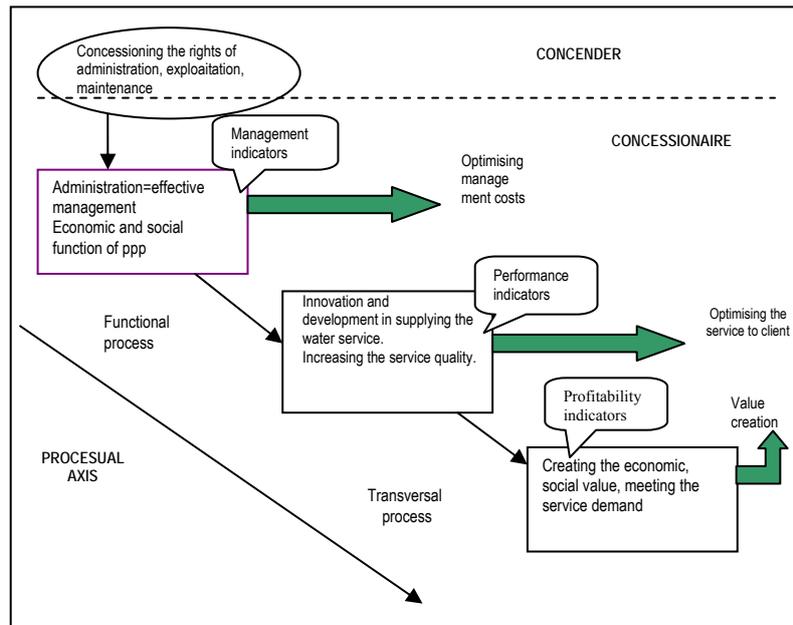
Competition Office	The Competition Council was created by the Romanian Government as an authority supervising the competition and transparency law abidance.	Supervising the prices, investigation work, supervising the prices established by contract, monitoring and reporting.	Direct access to Government decisions	Auction transparency
ARBAC	The agency was created in order to supervise the abidance of the contractual clauses by Apa Nova	The agency handles the regulation and supervising water and sewerage services	Power over the local decisional processes	Implementing the clauses stipulated by contract, especially of the "service levels"
The Federation of the "Water and Sewerage" Free Labour Unions	Labour union federation that gathers all the labour unions of the Apa Nova employees	The representative of Apa Nova employees	Pressure measures (strikes, etc.)	Good working conditions and appropriate salaries.
Veolia Water Group	The French Company that acquired 83.69% of Apa Nova	Responsible for the administration of the water supply and sewerage	The chairman and managing director of Apa Nova is a representative of this company.	Profit
International Water Ltd	International Water Supply Ltd. (IWS) is an organisation active in the water field.	Specialised in the assessment, process design, building, management and maintenance of water supply.	Poor. Is has lost the auction.	Financial profit.
Suez Lyonnaise des Eaux	International company from the water field, with headquarters in France, but with international activity.	Process design, building and administration of public utility systems (water, gas, electricity)	Poor. It has lost the auction.	Financial profit
The board of management	The Apa Nova board of management with 7 members as managing directors	Taking decisions concerning the interests of Apa Nova	Very high	Company management
RADET	Autonomous Administration of Thermal Energy Distribution – supply and delivery of domestic hot water and thermal energy. It could be rebranched even if it did not pay its debt.	Consumers	High. Due to the monopoly it holds in the field.	Supply of thermal energy
Media	Papers, radio, televisions, Internet	Public information concerning the decisional process and fares.	Not very high.	Public report.

b. The partners of the contract of concession:

▪ *The public sector*, represented by Bucharest Municipality through the General Council of Bucharest Municipality (respectively the General Mayor of the Capital), as **conceder**. **The conceder** represents the local public authority, which grants concession (*gives*) the rights of administration, exploitation, maintenance, etc., of the public goods belonging to the system and *represents their owner*.

▪ *The private sector*, represented by the Commercial Company Apa Nova Bucharest S.A., (respectively the general director) as **conceder**, and the General Regies of Water Bucharest - which was managing the service of water supply and sewerage before 11 November 2000, the moment when the contract of concession with S.C. Apa Nova Bucharest S.A. became valid. **The concessionaire undertakes** the rights and obligations of administration, exploitation, maintenance, development, for the granted services. It *manages* the goods in public property and it is not their owner. The concessionaire, in this case S. C. Apa Nova Bucharest S.A. achieves the necessary investments and ensures the operation of the system for supply with water and sewerage.

c. Through the contract of concession it is ensured the temporary transfer of the right for operating the public service of supply with water and sewerage from *conceder* to *concessionaire*, on 25 years, since the autumn of 2000 (Figure 2.2.1).



**Figure 2.2.1.** *The stages of the development for the public private partnership-concession*

2.2.7.3.3. The objectives of concession are provided in the second clause of the concession and may be summarised as follows:

- Reaching the Service Quality Levels, specified at the lowest tariff;
- Modernising the system so that, *inter alia*, the quality of the drinking water and the standards of the used water reach the standards stipulated by the European Union,
- Ensuring the application of the fundamental principles of public services: continuity = water is available to users in continuous manner; adaptability = services should conform and adapt to users' needs; equality = services should extend to those parts not covered in the area of the service provision.

- Concessionaire's financial guarantee on financing its activity, obtaining revenues further its investment, recovering the costs due to exploitation risks, according to the contract of concession for services. Exploitation risks= availability risk (non-observing the performance and quality parameters of water service, well determined and measurable during the 25 years of the contract) + market risk.
  - Avoiding “the monopoly of leading position” by applying some visible mechanisms of regulation.
  - Ensuring the enforcement of the standards applicable to environment protection, safety and health.
  - Ensuring the efficient exploitation and maintenance of goods in public property.

#### 2.2.7.3.4. Advantages of the Contract of Concession

##### ***A. For the users of water service in Bucharest Municipality***

*A1. Obtaining the lowest possible tariff*, provided by the market of ***services of water supply and sewerage***, for a quality of provision at European level (the best possible quality/cost ratio) - stipulated by law for delegating the management/ concession. The basic tariff was consolidated in USD and established for the entire duration of concession, under the terms of Concessionaire's consistent guarantees for assuming the contractual obligations, thus orienting the operator to efficiency in a compulsory manner.

*A2. Orienting the operator's activity to clients' provision* (service users), changing radically the system, orienting the operator's activity to ensuring the tutelary protection (as revealed by the actual institutional framework of regies). The Contract of Concession is oriented towards *results at consumers*, as the task handbook of the contract is focused on achieving the Service Levels for users.

*A3. Establishing the tariff by market mechanisms* – it presents on one hand the advantage to obtain the lowest possible tariff, and on the other hand the consistent guarantee of effective accomplishment for the Service Levels; the market procedure to

establish the tariff ensures *contract stability and maintaining the quality/cost ratio, advantageous for users*. It demonstrates the role of the competitive factor on quality/cost ratio in public services and that of market economy in privatising the public utilities in order to generate quality and efficiency.

*A4. Guarantee for concrete improvement of service quality*, through activities of monitoring and applying some visible regulation mechanisms on observing the provisions of the Contract of Concession and avoiding the Concessionaire's abuse related to the leader position versus users. In this Contract of Concession, it is provided the set up of ARBAC (technical regulation authority for concession), which can decide to give penalties to Concessionaire as well as other correction measures whenever the Service Levels stipulated by the Contract are not respected.

*A5. Improving the quality for client information*, stipulated in the Contract of concession; the Concessionaire S.C. Apa Nova Bucharest SA (ANB) is obliged to inform fairly the users. ANB has the obligations to present leaflets and brochures in order to facilitate understanding of important aspects related to water losses, counters, invoicing the consume etc.

*A6. Ensuring the financial balance of the contract*. The Contract of concession (clause 20, annex IV - Tariff) stipulates to ensure the financial balance, protecting the Municipality and the service users versus unjustified tariff increase, as well as the concessionaire versus the illegitimate interventions in changing this balance.

*A7. Existence of anticorruption related clauses*. The Contract of concession contains clause 42, a premiere in Romanian contractual framework, establishing important correction measures in cases of corruption deeds in Contract accomplishment, measures that can reach maximum penalty, respectively cancelling the contract.

### ***B. For Bucharest Municipality***

*B1. Relieving the local budget from the investment effort in water area*. According to the Contract of concession, the

obligations to achieve Service Quality Levels at European standards are achieved by the Concessionaire's own financial effort (ANB), under the limits of the tendered tariff for the whole duration of 25 years, without resorting to financing resources from the local budget. Thus, S.C. APA NOVA BUCHAREST S.A. undertook the tasks and investments instead of Municipality, with maximum efficiency (at a visible and competition tariff). This transfer of tasks leads to two positive aspects:

- The guarantee that S.C. APA NOVA BUCHAREST S.A. will pay attention to controlling the tasks and expenses, in reducing the losses, for the direct benefit of clients;
- The Municipality is free to initiate new projects, as it is not obliged to invest in water and sewerage services.

*B2. The guarantee that the services will be exploited and improved* with maximum efficiency, determined by the limit of the consolidated tariff at the tendered value, on the whole duration of concession, at the same time with a *result – oriented* contract by measuring *the operator's output indicators*, as well as the private operator's interest to obtain profit, conditions motivating the concessionaire to achieve maximum efficiency. The guarantee of good execution, as well as the professionalism, experience and fame of the group controlling the concessionaire company, represent important guarantees for efficiency.

*B3. Ensuring protection, rehabilitation, maintenance of the granted public patrimony.* The contract stipulates steady obligations for recording, maintaining and replacing the public goods and *transfer obligations* to Municipality at the end of concession, under normal conditions of operation; these obligations are lacking, being without any guarantee in the institutional framework of most country operators (in case of regies).

*B4. Introducing clear responsibilities, easy to be monitored for the operator and high penalties for non-conformance.* The contract of concession stipulates guarantees for good execution up to 20 million Euros and penalties for non-conformance up to 5 million Euros per year, all these issues lacking in the current

management practice of regies (not privatised), providing public services in Romania.

B5. *Ensuring transparency and objectivity for monitoring.* The statute of the Technical Regulation Authority (ATR) stipulates conditions for transparent, objective and responsible operation of monitoring the results of concession; The Contract of Concession comprises concessionaire's obligations for public information (clause 13.2).

#### 2.2.7.3.5. Organisational characteristics

S.C. Apa Nova Bucharest SA (ANB) is a commercial, private, on shares company, set up according to the Law 31/1990, by Vivendi Group in 1999 (the subsidiaries of the Vivendi international group ensure water distribution or sewerage in other European capitals: Paris, Berlin, Prague, Budapest, London etc.).

The social capital is divided into 5,349,746 nominative shares, the main shareholders are: Veolia Water (83.69% shares). The representation of City Hall of Bucharest Municipality in the private dimension of the partnership consists in 16.31% shares held by Municipality in S.C. Apa Nova Bucharest S.A.

- *The main object of activity:* water resources management, treatment and distribution to the population.

- *Portfolio of the services:*

1. *General services:* supplying drinking water in Bucharest Municipality; supplying industrial water; evacuating the used water, meteoritic waters, some surface waters and water from drainage tubes on the territory of Bucharest Municipality.

2. *Specific services:* water collecting, treating, transport, depositing and pumping; achieving physical - chemical, biological and bacteriological analyses of drinking water, industrial water and water for sewerage; achieving the works of branching and coupling; replacing the counters of cold water; repairing the damages at the public water network for water supply; maintaining the public network of sewerage; washing and cleaning the canals;

washing away the canals and draining tubes; repairing and replacing the canals; emptying.

*Target group:* Bucharest Municipality, over 2 million inhabitants.

▪ *Characteristics of autonomy:*

*a. Financial autonomy*

The tariff of services is established in USD for the 25 years of concession, through international public tender, where the tariff represented the unique selection criterion. The tariffs were validated by GCBM at the same time with the tender result, by Decision no. 85/2000. The tariff adjustment is subject to very strict rules imposed by the Contract of Concession and Government Decision no. 1019/2000.

The offer was not based on governmental subsidies or other non-reimbursable subsidised financing forms, except the commitments undertaken by Municipality and Government of Romania within the framework of the World Bank on going project.

The tariffs took into account the maximum **macroeconomic risk** specific for our country and distribution of the cost generated by the **risk of concession**, of the main loans for financing the concession in Romania.

The concessionaire's tariff reflects the investment expenses and operating expenses associated to the service quality levels. Increases of the tariff can be justified only by inflation and Municipality requirement for new works

The Municipality requirement for new works determines extraordinary positive adjustments for tariff, the achievement of investments in the concessionaire's responsibility area determines extraordinary negative adjustments for tariff, aimed to maintain the financial balance of the contract.

These provisions lead ANB in a compulsory manner to direct the expenses towards best provision to clients at lowest costs.

*b. Operational autonomy*

Investments – At the beginning of the Contract of Concession, the status for water supply and sewerage in Bucharest Municipality required investments, vital for system operation.

The Contract of Concession requires the Concessionaire to obtain concrete results, Service Quality Levels, good management for activities and funds, leaving the Concessionaire's freedom and responsibility to achieve the necessary investments in order to ensure optimum working conditions for protection and work equipment, for introducing new technologies in order to support the tough activity of the operational personnel.

Except the finalisation of important investments started by Municipality, namely the water treatment station Crivina, the Concessionaire has thus the obligation to obtain results within the limit of the level for the basic tariff established by public tender; it is not a compulsory investment level, fact enabling a full *managerial freedom* concerning the promotion of high technical solutions. S.C. Apa Nova Bucharest S.A. plans to invest over 80 million Euros in the next three years. The concessionaire has the freedom and responsibility to achieve the necessary investments, to promote high technology solutions.

*c. Political autonomy - of personnel:* ANB has 2600 employees. From the moment of undertaking the employees from GRWB (according to the obligations of the concession contract – November 2000), their number has decreased, reaching a half for the time being, situation determined by the procedure of outsourcing.

The training, development, motivation and making accountable the employees represent important preoccupations for the company; the employees are sent to training, development programmes according to the contract provisions. Annually, over 1% of the turnover of the company is used for the training programmes.

*d. Managerial autonomy*

- pyramidal structure with 1 general director, 1 deputy general director and 2 specialised directors, managing the financial,

respectively the operational department. At the same time, the activity is conceived on divisions coordinated by the general director – division of managing the concession contract and communication division, or the deputy general director – division of human resources, division of administrative secretariat, division of contractual and legal management, logistics division. The director of the financial department coordinates the divisions of accounting, finance and IT, the operational department comprises the commercial division, Crivina project, division of quality and environment protection, technical division, production division, networks division and assistance exploitation division.

#### 2.2.7.3.6. Performance

“The Service Levels” represent objectives established in the Contract of Concession that should be achieved by Concessionaire. If the Concessionaire does not observe Service Levels, it is obliged to pay penalties.

All Service Levels represent targets in order to ensure service provision to clients, thus measuring the results of concessionaire’s activity, aspect in premiere in Romania, namely introducing the type of result-oriented **contract of delegation/concession**, specific for public services.

*Performance:* reaching the service quality levels (SL) specified at the lowest tariff by:

- Quality of drinking water, delivered at branching line at European standards;
- Improving the water distribution and increasing the coverage degree (number of streets);
- Guaranteeing the pressure level;
- Improving the sewerage service;
- Improving the relations with the customers.

A certain level to be achieved (objective standard) and a deadline with a compulsory quality level corresponds to each service level.

#### 2.2.7.3.7. Characteristics of control

a. *The control on the development of the concession contract* is made by:

- Municipality through delegation of competences to the Agency for Regulation of Service Levels Water- Canal in Bucharest Municipality (ARSLWC), set up by General Council of Bucharest Municipality (GCBM);

- Authority of economic regulation (Competition Office), with GCBM approval, on the basis of its approved rules;

b. *The control on water quality* is ensured by the Division for Public Health of Bucharest Municipality and ARSLWC;

c. *The tariff adjustments* are under the control of the Competition Office and Commission of independent international experts;

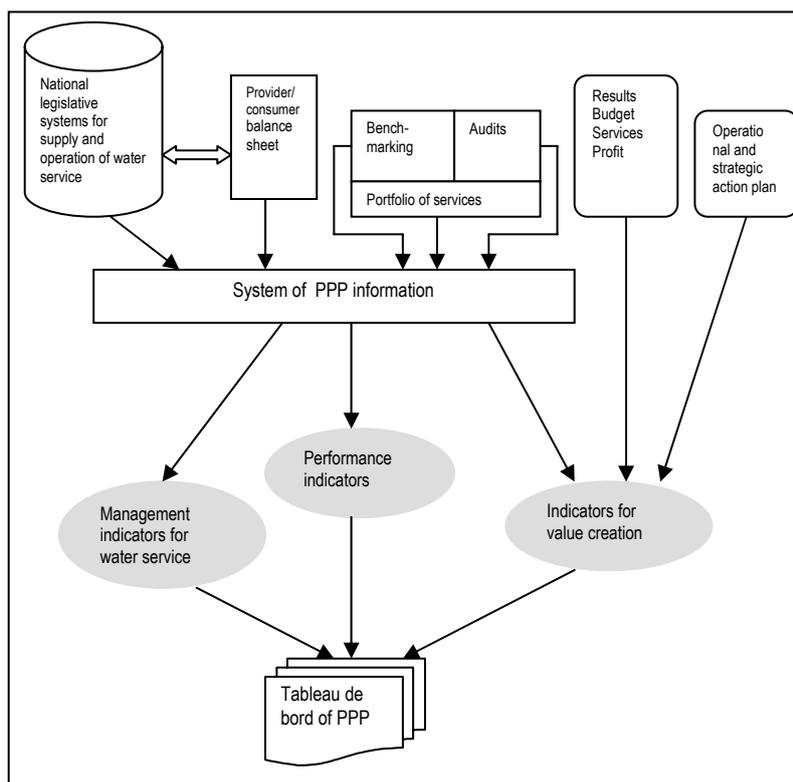
d. *The control on application of the local rules*, standards and legal provisions in force is achieved by ARSLWC;

e. *The relational typology* depends according to the responsibility of the partners and subordination, collaboration degree. In this context, ARSLWC:

- mediates the eventual disputes between the customers and concessionaire;

- notifies the contracting parties about the non-achievement of the obligations for service levels according to the procedures stipulated in the concession contract;

f. *Typology of rules and constraints*: audit, control, non-observance of the service levels leads to payment of penalties by concessionaire, sanctions, reports, results indicators.



**Figure 2.2.2.** *Image of information sources*

**2.2.7.3.8. The stakes of management delegation: observing the principles of the public service and the concession contract**

According to the contract, the concessionaire obliges to ensure the principles and essential rules of functioning of the public service approved by GCBM, Decision no. 54/1997 and Decision no. 234/1999 (Art. 3 of ARSLWC Statute):

- continuity on quantitative and qualitative level;
- adaptability to users' requirements;
- applying the same rules to all users;
- ensuring the public health and life quality;

- systematically approach of competition;
- ensuring transparency for users;
- obtaining the best quantity/quality/cost ratio;
- administrative efficiency;
- enabling collaboration with public service providers;
- measuring the service quality on the basis of the quantifiable performance indicators.

▪ *The quality of the drinking water* (Table 2.2.4) becomes more and more important. The Task Handbook of concession comprises specific clauses concerning the rules of quality that have to be observed and the controls to be achieved.

The calculation formula:

- for the Objective Standard Level (OSL): ratio between the number of tests in conformity with the provisions of the Romanian standard and the total number of tests that were achieved;
- for the Basic Standard Level (BSL): the average on 3 months of the results of the tests.

The water quality had improved percentages at most of the parameters.

During the monitored period of 5 years since the contract was concluded, the values of the parameters monitored by ARSLWC provide percentages of conformity comparable with the Law on water quality no. 458/2002 (transposes Directive 98/83/EEC concerning drinking water); no events were identified that should represent danger for consumers' health.

Special events due to the climate (severe frost in February 2005) were handled by concessionaire, maintaining the supply with drinking water under relative normal conditions and continuously.

- *The principle of continuity* applied to the service of supply with water and sewerage is found in *continuously provision with drinking water* of the customers for 24 hours.

The quantification of observing the principle is revealed by the value of the ratio between the number of interruptions in water provision with specified duration through the basic standards levels and the total number of interruptions in provision of drinking water.

## Procedures for measurement, recording and comparing the applicability of the principles of the public service

Table 2.2.4

Measuring Procedure	Recording Procedure	Comparing Procedure
<p>1. <i>Principle of continuity</i> SC Apa Nova Bucharest SA (ANB) registers and draws up reports concerning the interruptions in provision of drinking water:</p> <ol style="list-style-type: none"> <li>1. self-identified by the concessionaire (planned interruptions – that were previously announced with minimum 9 hours before the interruption), or</li> <li>2. from customers' complaints.</li> </ol> <p>ANB will analyse all these non-functionalities in maximum 2 hours, and those that are confirmed with interruptions of over 6 hours will be recorded in the register of ANB.</p> <p>For 2004, the SL was maintained over OSL, ensuring alternative provision of drinking water within 24 hours since the interruption of provision for the 2 cases when the interruption of water was longer than 24 hours.</p> <p>In order to evaluate the SL, 3 interruptions of over 24 hours were taken into account, ensuring the alternative provision.</p> <p>2. <i>Principle of mutability</i> The coverage with drinking water -length of the streets provided with pipes of distribution, as percentage from the total length of the streets The coverage with sewerage- length of the eligible streets provided with networks of sewerage, as percentage from the total length of the streets.</p> <p>3. <i>Principle of equality, informing and consulting the consumers</i></p> <ol style="list-style-type: none"> <li>1. <i>Time for approaching the requests of information about invoicing:</i> ratio between the number of complaints received and solved within specific periods of time and total number of complaints received.</li> <li>2. <i>Time for approaching the written complaints:</i> ratio between the number of responses to written complaints sent by mail in less than 10 working days and total number of written complaints recorded at ANB during evaluation.</li> <li>3. <i>Time for answering at the phone contacts:</i> ratio between the number of phone calls with responses given within the time specified in the concession contract and total number of received calls.</li> <li>4. <i>Time for customers' visits (hearings):</i> ratio between the number of requests for hearing, registered and solved within the time specified in the concession contract and the total number of requests for hearing.</li> </ol>	<p>The concessionaire according to the format approved by ARSLWC through Decision no.16/2003 holds the recordings in the database. ANB reports comprise summary tables presented in the format approved through ARSLWC Decision no.11/2004.</p> <p>The concessionaire's register includes a detailed data base. The register should comprise the data base and summary tables for each reporting year. Registering all written complaints.</p> <p>The register comprises the data base and summary tables for each reporting year.</p> <p>The register comprises the data base and summary tables for each reporting year.</p>	<ul style="list-style-type: none"> <li>■ Objective Standard Level (OSL)</li> <li>■ Basic Standard Level (BSL) approved by ARSLWC Decision no. 31/2002.</li>   <li>■ Objective Standard Level (OSL)</li> <li>■ Basic Standard Level (BSL) approved by ARSLWC Decision no. 8/ 2002.</li>   <li>■ Objective Standard Level (OSL)</li> <li>■ Objective Standard Level (OSL)</li> </ul>

▪ *Principle of mutability* applied to the water service presupposes provisions adapted to the consumers' needs, in a programme of modernisation and technological development. This principle is underlined by two parameters: *coverage with drinking water, coverage with sewerage*.

*The coverage with drinking water* can confirm the application of the principle of mutability, being measured by the ratio between the length of the streets equipped with networks of drinking water and total length of the streets at the date of the tender.

*The coverage with sewerage* is expressed by the value of the ratio between the length of the streets equipped with networks of sewerage and the total length of the streets at the date of the tender.

According to the concession contract and ANB data, 169 km of streets have to be equipped with sewerage network before the 10<sup>th</sup> year of concession. Related to this target, we identify a low rhythm for achieving BSL in the first years of concession, including the 4<sup>th</sup> year.

▪ *The principle of equality, informing and consulting the consumers*

The key feature of the public service consists in its capacity to solve the consumers' problems, which benefit on the same extent of the public services.

The concessionaire is obliged to observe the indicators for the Service Levels, although, in some cases the in force legislation is more permissive. For example, the legislation stipulates a compulsory time of reply of 30 days for the written answers to clients' requests. In the Contract of Concession, the objective is between 10 and 20 days.

#### 2.2.7.3.9. Some negative aspects and non-operational issues

▪ As revealed by the matrix of stakeholders, the local government authorities, local councils – City Hall of Bucharest Municipality, city halls of the sectors are interested to develop the networks of drinking water and sewerage in the municipality,

assigning important amounts from the public funds, local budgets. The city halls of sectors have executed from the local budget, after the date of the tender, a great number of works for extending the network of the streets (cumulated data, water and sewerage), works that were in the concessionaire's area of competence, *breaking the contractual clauses* concerning the transfer, requirements of efficiency, effectiveness and economics of investments.

▪ Based on the analysis of the above presented advantages: A – advantages for the *users of water service in Bucharest Municipality* and B – *conceder's* advantages, we identified some non-achievements or delays in service provision, as follows:

1. **for A2.** Non-observing the contract of concession and Concessionaire's repeated attempts to change its contractual obligations, attempts supported in certain situations by normative and legislative measures, non-favourable to maintaining the financial balance of concession, leading to unjustified increase of service tariff and reduction of service quality to some users.

2. **for A4.** Misusing the full potential as effect of favouring the Concessionaire's illegitimate interests to weaken or even block the correction mechanisms, non-observing the contractual provisions.

3. **for A5.** The Concessionaire does not ensure the access and right information of the Technical Regulation Authority, turning into account practices to misinform the users.

4. **for A6.** This important advantage is for the time being seriously affected by breaking the legal provisions and clauses of the Contract of Concession, on maintaining the financial balance of concession.

5. **for B2.** Neither these guarantees are effective as they are operating only under the conditions of observing the contractual provisions by Concessionaire, fact which is not valid in many situations with significant negative implications for the quality / price ratio for the services provided.

6. **for B3.** This important advantage of the Contract of Concession is not turned fully into account as a part of this public patrimony for services is not treated as the rest of the system, i.e.

the so called „telescopic networks” and „common recorders”, with negative multiple effects on the service quality.

7. **for B4.** The blockages in the mechanism for contractual penalty have withdrawn responsibility on behalf of Concessionaire, who was thus stimulated to treat easily the citizens’ complaints and ARBAC decisions for regulation.

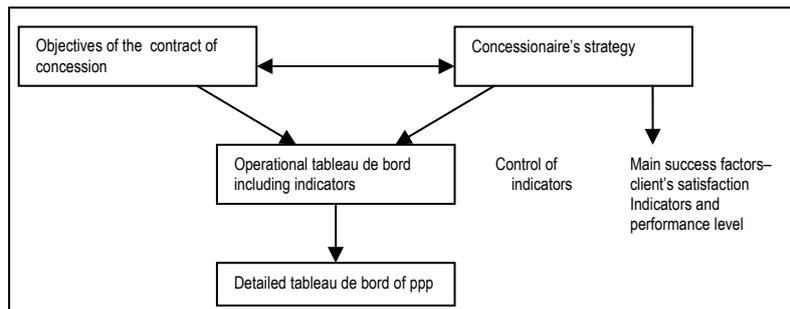
8. **for B5.** This advantage was not turned into account on a large extend due to ANB practices to misinform the users and non reasonable attempts to weaken ARBAC authority.

2.2.7.3.10. Conclusions

Bucharest has aligned to the level of the European capitals. Delegation of services for water supply and sewerage to specialised private operators represents a trend in the world, enabling to attract private investment funds in the most advantageous conditions for users.

The public – private partnership in the contract of concession for the public service of supply with water and sewerage has advantages both for consumers of this service and Municipality.

Bucharest Municipality disposes, through the partnership with Veolia Water, of the number one world support in urban services and its professional experience in order to improve the services, according to the objectives of the Contract of Concession (Figure 2.2.3).



**Figure 2.2.3.** Management instruments of the public-private partnership Bucharest Municipality – Veolia Water

In the public – private partnership, GCBM is the guarantor of the general interest, ensuring transparency in delegating the concessionaire, the contractual objectives, a good adaptation and a better control- ARSLWC.

The public authority/power through the partnership with the private partner sustains the observance of the public service principles, all citizens' accessibility to the public service of supply with water and sewerage with acceptable tariffs - 11 cents, the average tariff during concession, under the level of GRWB of around 17 cents.

The analysis on the public – private partnership through the actions of the concession contract of the public service for supply with water and sewerage, underlines for the two partners the following typology of risks: technical, financial, operational, concerning the revenues, macroeconomic, legal, political risks.

The risks are specific for the public power, for example lack of public service performance, other are specific for the private partner, for example non-profitable investment. They are split within the framework of the contract between partners.

The market-type mechanisms use in providing the service and the establishment of the tariff represent elements to obtain a good quality/cost ratio, for the consumers' advantage.

The example focused on some indicators of a possible operational tableau de bord (Figure 2.2.4) that will be found in the tableau de bord of the public-private partnership (Figure 2.2.5), becomes more conclusive concerning the utility of the managerial instruments in the private sector and transfer towards the public sector.

Domain	Objective	Indicators	Year N-1	N	N+1	N+2	N+...	Year 25	Performance
Financial result	Profitability Reducing the expenses								
Client's satisfaction	Commercial productivity Client's satisfaction	Turnover/expenses Evolution of client satisfaction level during service provision by ppp contract Service quality							
Service provision	Risk management Innovation	Direct and indirect expenses							
Development capacity	Competence Management Performance Management								

**Figure 2.2.4.** *Examples of indicators for the operational tableau de bord*

The increase of water quality, the service quality and efficiency, relieving the local budget from the investment effort as this is the private partner's task, protecting, recovering and maintaining the conceded public patrimony, the support of a national authority for regulation – ARSLWC, represent only a part of the positive aspects of the public – private partnership.

Nature of measure	Indicators	Year N-1	N	N+1	N+2	N+....	Year 25
Social management	Employment degree Training, development Work accidents Remuneration level						
Performance	Creation of global level= technical performance + process performance + social performance						
	Turnover Competences Productivity Economic profit						

**Figure 2.2.5.** *Tableau de bord for the public private partnership*

The competence of management, flexibility and capacity to adjust to unexpected situations represent the characteristics necessary to the public – private partnership nowadays.

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### 2.3. Representing the local interests in governmental policy making. The Romanian experiment\*

#### **Abstract**

The paper aims the analysis of mechanisms related to representation of territorial interests at national level in formulation, implementation and evaluation of governmental public policies by involving local actors, local government associations (National Association of Municipalities, National Association of Towns, National Association of Communes) in Romania.

The paper is conceived on three major topics, represented in Romanian governmental institutional structures, on:

1. *Levels represented in public policy making process, on one hand, territorial-administrative levels, national, county and local level (municipality, town, commune), and on the other hand, the political, legislative, executive and consultative level.*

2. *Developments of public policy system, from the analysis of the Romanian legislative and institutional framework to practices, turning into account the institutional and legislative approach on public policies.*

3. *National and local actors, roles, illustrated in a study on a local structure level.*

*The elaboration of the matrix of stakeholders in finalising, elaborating, implementing and evaluating public policies will represent the conclusions of this paper.*

#### 2.3.1. Introduction

Today, we witness a change of the role of the traditional national state, change determined on one hand by the effects of globalization and European integration, and on the other hand, by the effects of decentralization, delegation, privatization etc.

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The current traditions, models and practices of governance could not determine the occurrence of a “consensus” concerning the relation part-whole, reflected in the national governance system on several levels of inter-governmental relations, related on one hand to the endogenous system of the state and on the other hand to the exogenous supra-national or European environment.

For the European states the Europeanization process is closer, undergone presently by Romania, and expressed in accordance with some exigencies of change, namely: reform of the public sector, public administration and civil service, precisely policy-making reform. It means to strengthen the Executive, to create the system and mechanisms for horizontal coordination around policy-making and its implementation, to develop the agenda of the Executive involved in policy-making, to create the subsystems for public policy-making and application.

The state structures have impact on developing the connections between administrations on different administrative levels, taking into consideration the fact that a unique state structure corresponds to each state. In this context, based on Professor Ziller’s [1] assertions concerning the existence of a Public Administration Law in each country, varying from one national system to another, we confirm the usefulness of a common definition for the administrative law, as a set of principles and rules referring to public administration organisation and management, and relations between administrations and citizens.

For Central and Eastern European countries, functionality of inter-governmental own system represents a priority for their governance, ensuring and arguing by facts its own capacity to adopt, implement and assess the public policy system, which is reflecting the territorial interests of the territorial-administrative structures, represented in local governance relations and inter-governmental relations.

The local interests, expressions of the local needs identified under the form of rationales, determine certain behaviour of the local actors concerning the achievement of economic performance necessary to meet the local needs. They constitute one of the

components of the economic local mechanism, representing the cause and stimulus for the local actors' actions. The local interests are represented in the local complex system, expressed at the level of interests for the institutionalised group (with representativeness role in the dialogue with decision-making partners of the public power) and at the level of territorial interests. We mention the meaning concerning the local territory, comprising the geographic framework and the existent community, organised at social, economic and political level, adding the historical, cultural dimension and the mark of the local traditions.

### **2.3.2. Public policy-making in Romania**

#### **2.3.2.1. Principles of public administration**

The institutional and legislative approach of the public policies is based, on one side, on the institutional management, by using instruments such as planning of the resources (human, financial, material and administrative) or the development of efficient institutional models, borrowing from the private sector expertise, the process of strategic planning, and on the other, the adoption, modernization and actualization of the necessary legislative framework.

Both the principles of public administration and the elements of the administrative framework, known as the context of "administration by law" [2] represent the premises to achieve a good governance act. Thus, the quality of fundamental laws on autonomy (instrument for the Executive and an information and predictability source for the public), the administrative procedure (sets specific procedures for decision-making process, coordination and balance of powers for the relation of officials with the public, communication between them, authorising any interested party to be entitled to a hearing or to request appeal) and accountability and control mechanisms (facilitating transparency, ensuring control of financial and administrative decisions, calling to courts), influence

and determine key changes in public policy-making, implementation and assessment.

The most important principles of public administration [3], common for the European states, confidence and predictability (legal certainness), openness and transparency, responsibility, efficiency and effectiveness represent the basis of public policies system also in Romania. Principles such as administration by law, principles of proportionality, legal certainty, protection of legitimate requirements, non-discrimination, right to a hearing within the framework of decision-making procedures in administration, interim reports, equal conditions to administrative courts, non-contractual responsibility of public administration, established by the European Court of Justice, are compulsory for all Member States [4].

The above principles can be found in the administrative procedures and they are applied by public institutions on all levels. The public sector actors are obliged by law to comply with these legal principles that should be controlled by independent bodies, systems of justice, parliamentary scrutiny, individual authorised persons.

The results in different analyses of public policy-making in Romania confirm the respect of the above-mentioned principles at the level of different actions, as follows:

- The participation of actors - local authorities, private sector, non-governmental organizations and international institutions to the *planning* process of public policies. Another activity is that of informing in regard to the planned public policies of the civil society - *Principle of participation and transparency*.

- The process of planning the public policies is about permanent actualization of the policies of the Romanian Government and their coordination with other initiatives – *Principle of continuity and coordination*.

- The involvement of actors found at legislative, executive and political levels in the public policy process suggests taking responsibility for all levels for the results achieved - *Principle of responsibility*.

- The real assessment of the level for applying public policies adopted by the Romanian public administration - *Principle of subsidiarity*.

- The capacity of the Government to react in real time to situations determined by the existence of a public need, establishment of clear actions on the basis of pertinent objectives, estimation of results and their assessment, by applying efficiency, effectiveness and economy of resources.- *Principle of good governance*.

- The capacity to develop cooperation and consultation relations in the problem of public policies of actors situated at different levels by assuring a coherent view on the objectives to be accomplished and the measures to be taken - *Principle of cooperation and coherence*.

The system of elaborating public policies in Romania follows the principles applicable in the European space [5]:

1. Existence of a general legislative framework valid and coherent for formulating public policies (methodologies and well defined rules regarding the preparation and revising of documents which contain sketches of policies (policy drafts) which are sent for debate and approval inside governmental meetings).

2. Autonomy of the ministries in elaborating own public policies.

3. The inter-ministerial character of the process of formulating public policies Stages:

- Exchange of information between ministries for formulating the legislative and political documents;

- Consultation between ministries;

- Public declarations based on positions negotiated by ministries: “to talk in one voice”;

- Consensus between ministries: reaching an agreement between interdependent policies;

- Conciliation: mediation by a third party of conflicts not resolved on time by ministries;

- Mediation between ministries: conflict solving by a higher authority, by reaching consensus and conciliation.

4. Elaborating standards for the process of elaborating policies respected by ministries.

5. Prioritizing the components of national policies.

6. Avoiding re-organizations or reforms which contain unpredictable changes which may affect the system for public policy-making.

7. Internationalization of governmental policies marked by: EU accession, development of globalization for economic processes, NATO membership, and European Council membership.

#### 2.3.2.2. Levels represented in the process of public policy making

The system of public policies is represented by the sum of instruments, procedures and institutional mechanisms, developed in order to improve the quality and efficiency of the decision-making process. It suggests the existence of a good collaboration between the territorial – administrative levels, national, county and local level (municipality, town, commune), on one hand, and political, legislative, executive and consultative, managerial levels, identified as areas for public policies actors.

*a. The territorial – administrative level* legitimated by Constitution of Romania and Law on Local Public Administration (Law no. 215/2001) comprises three hierarchical levels: national, county and local (Figure 1.1.1).

1. *The county level* is represented by the 42 counties of Romania, including also Bucharest Municipality. Each county has its residence at municipality level, representing the political, economic, social-cultural and scientific center of the county. At each county level, the local government authority is exerted by a County Council, coordinating the activities of commune, town and municipality councils.

2. *The local level* comprises 2851 communes, 216 towns and 103 municipalities [6]. The communes, towns and municipalities have their own Local Council (deliberative authority) and a mayor (executive authority), elected after the poll organised every 4 years.

Bucharest Municipality is organised on 6 territorial-administrative subdivisions, called sectors. Bucharest Municipality has a General Council of Bucharest Municipality and General Mayor of the capital and each sector has a local council and a mayor.

b. The representation of decision-making actors in public policies, identified related to roles and areas, other than those defined at the Romanian administrative - territorial structures:

(1) *the political level* which refers at the content of strategies and political programs assumed by the Government and ministries, in sectoral problems;

(2) *the legislative level* which refers to the sum of international regulations to be assumed by Romania;

(3) *the executive level* represented by the Government and includes also the managerial level which refers to the problems of functionality of ministries and public institutions;

(4) *the consultative level* which refers to the relations developed by the Government and ministries with civil society, media and citizens;

(5) *the managerial level* refers to current problems occurring in functioning of ministries and Government institutions.

### 2.3.3. Evolutions in the public policy system

#### 2.3.3.1. National actors and roles

a. **The Cabinet of the Prime Minister** adopts political decisions, by using a permanent structure of sub-committee in order to maximize correctitude and efficiency of its deliberations.

b. **The General Secretariat of the Government (GSG)** (Box no. 2.3.1) and **PPU** (Box no. 2.3.2) establish the general rules and priorities, the general guidelines, monitor the standards, supervise the programs and ensure the conditions necessary to accomplish attributions in the areas of public policies, as well as the functionality of the inter-ministerial committees (Box no. 2.3.4). For coordinating the activity of the institutions and inter-

ministerial structures involved in the reform process of the public administration and of public policies, **was created the Superior Council for Reforming the Public Administration, Coordinating Public Policies and Structural Adjustment** (Box no. 2.3.3).

Box no. 2.3.1

The General Secretariat of the Government

It establishes the methodological and organizational framework for the system of planning, elaboration, implementation of public policies at the level of ministries and other special bodies of central public administration, assuring:

- elaboration of the system of planning and formulating public policies, of conceptual documents and regulations regarding the elaboration of public policies and their permanent improvement within a continuous process of consultation and collaboration with the Minister of Public Finance and the Chancellery of the Prime Minister;
- application of the public policy formulation procedures;
- monitoring and assessment, using indicators of performance and other techniques of efficiency of the process of formulating public policies;
- assures the methodological support and consultancy to the ministries regarding the public policy formulation.

In this sense, it:

- Collaborates with the public policies units inside the ministries;
- Assists ministries in implementing the procedures for formulating public policies;
- Identifies the necessity for professional training of the personnel involved in formulating public policies in regard to instruments, methodologies and aptitudes of this system of planning of the public policies;
- Realizes the activities necessary for preparing and organizing meetings of the Government and completes the drafts of laws already adopted.

For this aim, it:

- Analyzes and assesses the public policy drafts and the drafts of laws, following the respect of procedures;
- Organizes working meetings for preparing the meetings of Government with representatives of state secretary or general secretary level, ministries and other public authorities initiating or giving approvals, in order to correlate view points on draft proposals to be submitted to Government for approval;
- Presents to the Prime Minister 's approval the list with documents and working agenda of the Government, as established during the debates and preliminary working meetings;
- Organizes the Government's meetings;

- Follows the accomplishment, by the ministries and other special bodies of the central public administration of the measures and tasks resulted from legal acts and Government's meetings;
  - Completes the drafts laws adopted by the Government, according to the law;
  - Presents the normative acts adopted by the Prime Minister in order for him to sign and to ministries with power of signature;
  - Presents to the Parliament draft laws, emergency ordinances followed by reasons and the decisions for their enactment, as signed by the Prime Minister;
  - Transmits the decisions, emergency ordinances and Government's ordinances to the general Secretary of the Chamber of Deputies for publication in the Official Gazette of Romania, Part 1;
  - Assures the publication of reasoning notes for adopted decisions, emergency ordinances and ordinances on the official website of the Government;
  - Elaborates normative acts in its area of activity;
  - Assures the representation of the Government before justice courts, with the ministries obligated to execute the Governmental acts against those opening the trial case;
  - Assures, for its area of competencies, the relation with the Parliament and ministries, as well as with other special bodies of the central public administration.
- It monitors the implementation of the Governmental Plan, assuring:
- The accomplishment of the standard format and informational system for planning and reporting of the implementation of the Governing Program;
  - The information of the Strategic Planning Council in regard to the stage of implementation of the Governing Program;
- It runs the financial operations in its area of expertise, by assuring:
- the elaboration of the annual budget draft for the working apparatus of the Government, with the exception of the Chancellery of Prime Minister;
  - the elaboration and assessment of accomplishing the investment plans in its area of activity;
  - execution of the financial operations regarding the funds of its own budget and destined to assist the actions initiated by the working apparatus of the Government and other structures legally created;
  - manages the funds meant to ensure the financing for actions and projects aiming at promoting the external image of Romania.

**Box no. 2.3.2**

**Public Policies Unit**

*Mission:*

To create and make perfect mechanisms for strengthening the Governmental capacity to coordinate the process of formulation, implementation and monitoring of public policies at central level.

*Roles:*

- a. Coordination – the activity of the technical secretariats of the councils, committees and inter-ministerial commissions established by law;
- b. Collaboration – with state secretaries or their counterparts, named by leaders of the ministries and of other institutions and public authorities for the area of public policies;
- c. Assures the interface with other institutions with clear role in the area of formulating public policies and the Romanian Government.

*Functions:*

- Elaboration of a new framework in order to define a standard system for formulating public policies at central and local level;
- Develop mechanisms, procedures and instruments for assessing the impact of public policies;
- Elaborate analyses, studies and reports on the impact of public policies at national level;
- Coordinate the elaboration of the Yellow Paper regarding the progress of the formulation process of public policies;
- Identification, elaboration, coordination and monitoring of implementation of programs under external financing in the area of public policies;
- Planning of the measures to be adopted in order to achieve the tasks stipulated in the strategies and programs of the Government;
- Creation of the necessary framework for monitoring the process of implementing public policies by institutions of central public administrations;
- Monitoring the accomplishment of standards for the process of public policy at central level;
- Assuring the general framework for continuous learning of human resources involved in the process of policy formulation;
- Disseminating the information to the civil society and other stakeholders of the governmental program regarding the approach of elaboration of the content and methods to implement and monitor public policies.

**Box no. 2.3.3****Superior Council for Public Administration Reform, Coordination of Public Policies and Structural Adjustment***Attributions:*

- Assures the coherent and unitary character of strategies and policies at the level of public authorities and institutions, for fulfilment of conditions of the Euro-Atlantic integration;
- Assures the monitoring of strategies for reform of the public administration;
- Coordinates and assures the communication with councils, committees and inter-ministerial commissions which administer the Governmental policy in different areas;
- Supervises the process of the reform of public administration;
- Supervises the implementation of strategies and policies at the level of public authorities and institutions.

**Box no. 2.3.4****Inter-ministerial Permanent Councils (Government decision no. 750/2005), as consultative bodies, with no legal personality:**

- Inter-ministerial Council for internal affairs and justice;
- Inter-ministerial Council for external and European affairs;
- Inter-ministerial Council for European integration;
- Inter-ministerial Council for economic problems, fiscal and commercial policies, internal market, competition and business environment;
- Inter-ministerial Council for administration, civil service, decentralization and local communities;
- Inter-ministerial Council for social affairs, health, consumers' rights;
- Inter-ministerial Council for education, culture, research, youth, sport and minorities;
- Inter-ministerial Council for agriculture, rural development and environment;
- Inter-ministerial Council for regional development, infrastructure, urban planning and tourism;
- Inter-ministerial Council for crisis situations;
- Inter-ministerial Council for strategic planning.

*Functions:*

- finds solutions for specific problems of the areas it manages;
- assures the coherence of the implementation of governmental policies from respective areas of interests;

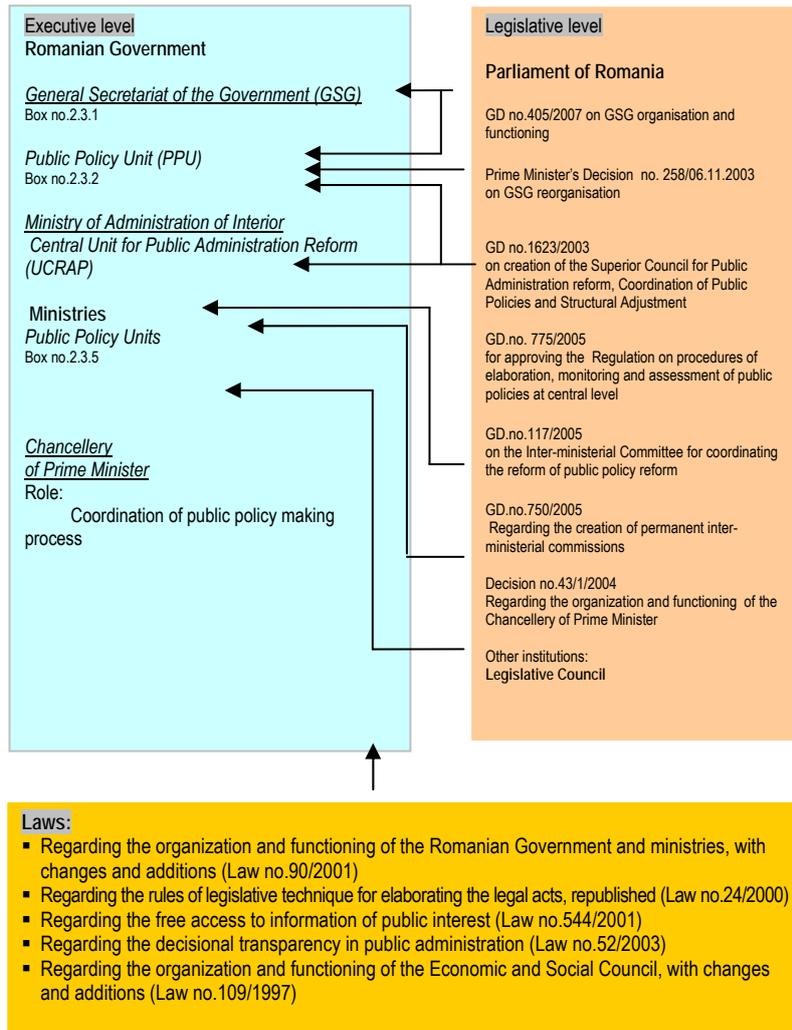
- assures the inter-ministerial communication inside the respective field as well as the harmonization of view points;
- forms inter-ministerial working groups for solving problems with multi-sectoral character;
- proposes the creation, according to the law, of inter-ministerial commissions for coping with certain problems;
- coordinates the monitoring of implementation for promoted policies;
- elaborates periodical reports;
- monitors the activity of the inter-ministerial commissions and of subordinated working groups.

c) **Line ministries** must prepare their drafts of public policies, implement the policies, monitor the implementation and results, use this feedback for a continuous improvement of implementation, and inform on the development of new drafts of public policies. The attributions in the area of public policies are accomplished by own PPU named specialized units in the area of public policies (Box no. 2.3.5).

**Box no. 2.3.5**

Specialised units for the area of public policies at the levels of ministries and other special bodies of public administration, having several attributions:

- assuring the consultancy of special departments inside ministries in what concerns the elaboration of public policy proposal;
- monitoring the observance of the procedures for public policies – making, monitoring and assessing;
- sending the public policies proposals to PPU of GSG;
- elaboration of reports of monitoring and assessment in regard to the initiated policies and their implementation at the level of ministries, in cooperation with social departments.



**Figure 2.3.1.** Institutional and legislative evolution on public policies

**d. The association structures of public administration authorities** from the prospect of responsibility on economic, social, cultural and environmental development at the level of administrative-territorial units are involved in the process of public policy making, in the procedure of consultation of legislative initiation. They are as follows:

1. *National Union of County Councils in Romania (UNCJR)* is a non-governmental organisation comprising on free consent the County Councils, as authorities of local public administration. UNCJR represents the interests of county councils, both in the relation with the executive power and in the relation with the legislative power, supports the direct participation to legislative initiatives and it is present whenever necessary in the consultation process for public policy making.

2. *Association of Municipalities in Romania (AMR)*, created in 1990, comprises the towns that were declared municipalities, respectively 103 members. It is a dialogue partner for Government and Parliament of Romania to support the interests of local authorities and common interests of local communities related to central public administration, non-governmental organisations and third parties.

3. *Association of Towns in Romania (AOR)*, represents the interests of 210 small towns in Romania. It was set up in 1994 in view to improve the role of local authorities related to central administration, formulating proposals to change or complete actual legislation.

4. *Association of Communes in Romania (ACoR)* represents unitary the interests of communes in Romania related to any entity, governmental or non-governmental, organised at national, regional, county or local level. It has the right to legislative initiative of some drafts for normative deeds and to formulate proposals in the process of elaborating drafts for normative deeds.

5. *Federation of Local Authorities in Romania* represents the member association structures (AMR, AOR, ACoR) in relations with the Government, Parliament of Romania and other public authorities and institutions. It represents the interests of the local

authorities in the context of the present national political system, the joint interests of local communities in the relations with central public administration, non-governmental organisations and third parties on domestic and international level.

#### 2.3.4. Public policy-making

The process of public policy-making suggests creating documents of public policy with general character in the initial stage, which include identifying the main aspects of public policies and directions for action. The detailed analysis of the sectoral public policies and the achievement of individual documents is a stage that precedes the *public policy draft*. The actual proposal consists of the existence of the following elements and stages:

1. *The institution having the initiative;*
2. Defining *the problem* that leads to the necessity of initiating the policy;
3. *Defining the public policy;*
4. General *aim* of problems' solving – which will indicate the situation to exist at the end of the policy implementation;
5. *General objectives and specific objectives;*
6. *Beneficiaries: direct (target groups) and indirect;*
7. *Alternatives for solving the problem;*
8. *Process of consultation* – is about increasing the transparency of the decisional process and allows, in the same time, the accumulation of useful information needed in order to solve problems of public policy;
9. *Option for solving.*

The proposal of *public policies* is subject of approval to the leader of the initiating institution of the public policy. It is sent to ministries and other bodies of the interest of the central administration, for their elaboration of comments and proposals upon seven days of receipt. The proposal as such is handed in to the GSG.

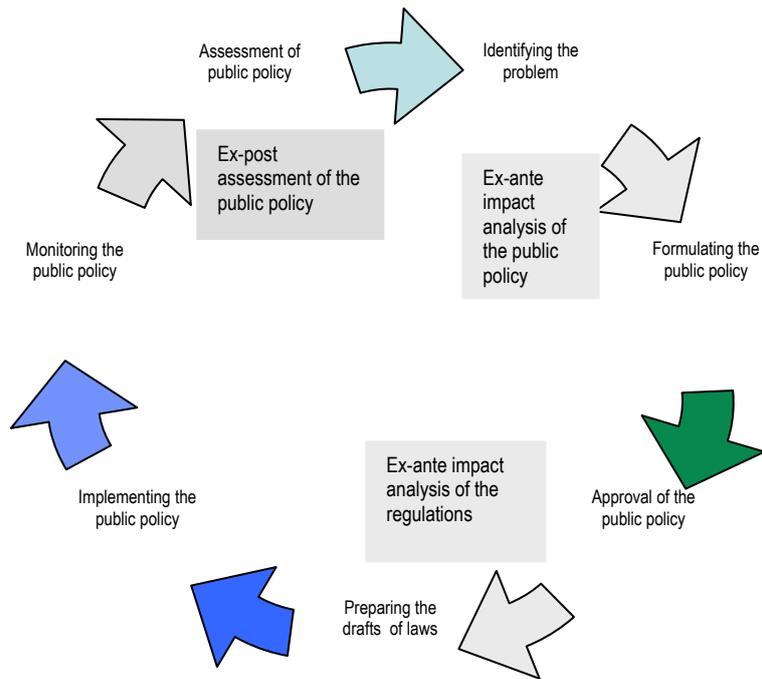
The General Secretariat of the Government, through the Public Policies Unit, enacts a *conformance certificate* to verify the

respect of procedures by the initiators, signed by the delegated ministry for coordinating the activity of the GSG, in maximum ten days.

Ministries and other special bodies of central administration may launch the procedure to initiate drafts of legal texts following the same statute, only after receiving the conformance certificate. The conclusions provided in this certificate are to be included in the reasoning of the draft of law.

*10. Activities for monitoring and assessment* are taking place during and after the implementation of public policies. They follow the degree of achievement of the public policy' objectives and take place at the level of very authority of central administration. Their object is the activities and results of the process of policy making. The methodology for monitoring and assessment must be present in the public policy draft.

*11. Impact analysis of the public policy* allows political decision takers to formulate a perspective regarding the consequences of the actions to be accomplished and the assessment of the effectiveness of actions to be realized (Figure 2.3.2 ).



**Figure 2.3.2.** *Typology of the assessments in the public policy cycle*

The quality of public policy depends on a large extent on the activities of **consultation** and **coordination** (Figure 2.3.3), developed on one hand inside the public institutions belonging to the executive power, and on the other hand between public institutions and representatives of bodies and organisations concerned, groups of interest, depending on the topic. Consultation between various levels of governance, between ministries and line ministry responsible for the document of the respective public policy, between executive administrative bodies, improves the information basis, producing useful information.

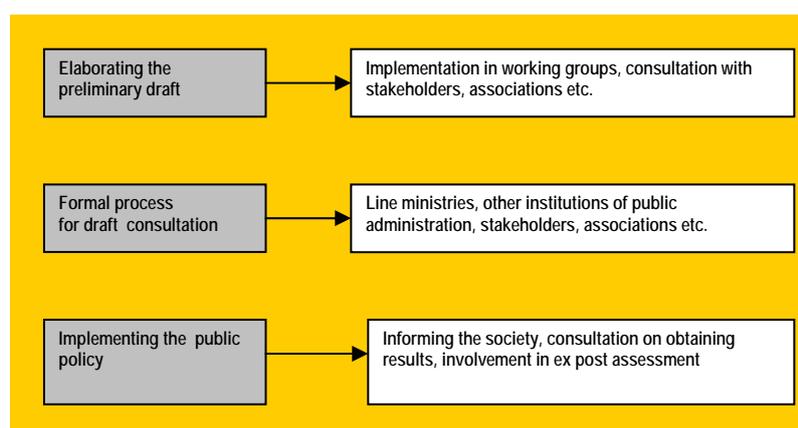
Different stages of the consultation process are regulated through normative deeds:

1. *consultation on general level* – Law no. 24/2000 on the rules of legislative technique for elaboration of normative deeds, republished, GD no. 314/2001 on setting, organising and functioning of commissions for social dialogue inside ministries and prefectures.

2. *level of inter-ministerial consultation* – Regulation on procedures at Government level, for elaborating, certifying and submitting drafts of normative deeds in view of adoption, approved by GD no. 50/2005, Law no. 52/2003 on decisional transparency in public administration, Regulation on procedures for elaborating, monitoring and evaluating public policies at central level, approved by GD no. 775/2005.

Other normative deeds regulating the consultation procedure: Law no. 215/2001 on local public administration, art. 8, GD no. 521/2005 on consultation procedure for the association structures of local public authorities in elaboration of normative deeds.

At ministries level, consultation is achieved within discussions in Commission of Social Dialogue, consultations with professional associations, operators in the market, informing citizens by media.



**Figure 2.3.3.** *Consultation and coordination*

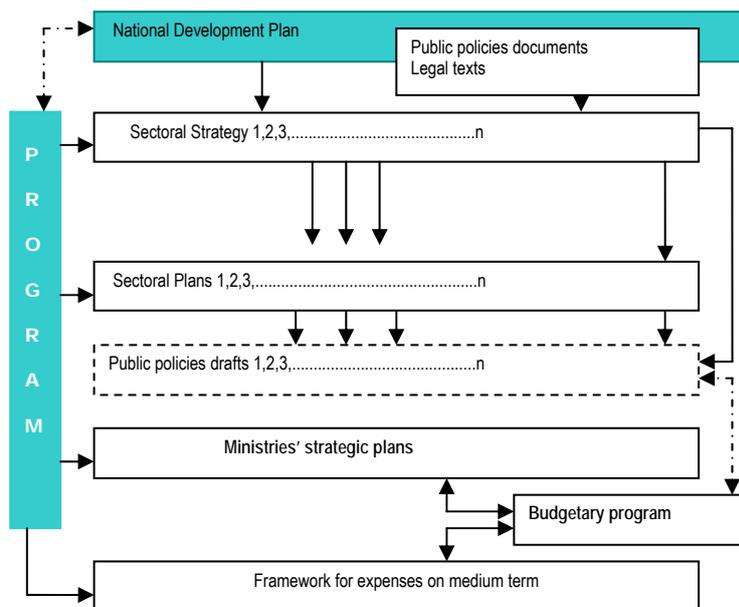
2.3.5. Implementing public policies is procedurally supported in some cases by *regulation process*. This imposes quality standards for consultation and impact studies, and involves high costs, sometimes bigger than the benefit to be obtained which imply a critic of the efficiency of the regulation.

In the view of Maldelkern group [8], the principles for an efficient regulation are defined by the following characteristics:

- *Necessity*, which consists in assessment of the public authorities of the need to introduce or not a new regulation;
- *Proportionality* which says that any regulation is to be maintained between the advantages granted and the constraints imposed;
- *Subsidiarity*, which consists in the procedure of taking the decision at the appropriate administrative level;
- *Transparency*, which implies the participation of stakeholders and their consultation in elaborating the public policies;
- *Accountability, accessibility* consisting of elaborating the accessible regulations which are addressed to them;
- *Simplicity*, which means easy to use and comprehend regulations.

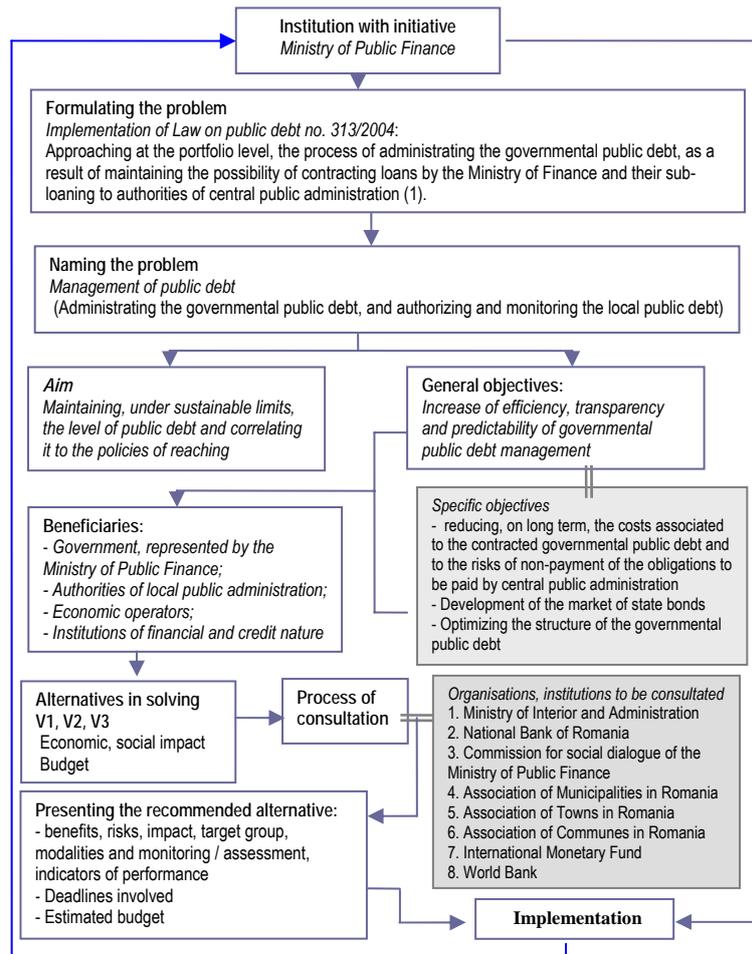
The most important aspect of the process of implementation of public policies is that regarding the achievement of status for New Investments for Financing (NIF). They are included in the general cycle for elaborating the budget. The **Council for Strategic Planning** has the following attributions:

- establishes and coordinates the priorities which derive from strategic documents for achieving the Government's objectives in collaboration with the resort ministries;
- correlates the governmental policies with engagements and conditions assumed by the Government in relation with international organizations;
- elaboration of the multi-annual programming of fundamental strategic priorities and their corroboration with medium budgetary planning;
- elaboration and correlation of policies to be implemented with budgetary funds allocated on short and medium term (Figure 2.3.4 )



**Figure 2.3.4.** *Correlating public policies with the budget.*  
**Source [9]:** Table no. 5, p. 25.

A. One example in formulating a public policy may be represented by the policy regarding the public debt initiated by the Ministry of Finance (Figure 2.3.5) and supervised by the experts of the World Bank and IMF and those of the PHARE Project RO 02 586/03.04.03 "Enhancing the system of management of the state treasury".



**Figure 2.3.5. Process for public policy making**

Legend:

(1) - The financing of projects (not of the budgetary deficit). Contracting a considerable amount of small governmental loans, denominated in different currencies, with different conditions and terms for reimbursement, with higher associated costs due to the character of these instruments.

- By using loans, consequence of off time limit withdrawing, the international financial institutions receive commissions for non-use as well as specific commissions for this particular instrument. Following this approach, the numbers of operations realized at the level of public debt portfolio, and normally, the operational risk have increased. The optimal structure for this portfolio was not achieved. The implementation of this law as well as the regulations that followed signed by the World Bank, IMF and experts of the PHARE project RO 02 586/03.04.03 "Enhancing the system of management of the state treasury".

Source: www.gov.ro

**B.** The results of *quantitative analyses* of the proposals for public policies in 2006 and 2007 (since adopting the Government Decision no. 775/2005 on Regulation for formulating, monitoring and assessing public policies.) (Table 2.3.1) reveal the following aspects:

1. the number of proposals for public policies has decreased in the second year, related to the first year of applying the Government Decision from 39 proposals in 2006, to 18 proposals in 2007;

2. from the total number of proposals of public policy (57) during the two years, 37 received favourable certificate from PPD, of which 27 in the first year, 13 favourable certificates with observations, of which 8 in 2006 and non-favourable certificates - 4, in the first year.

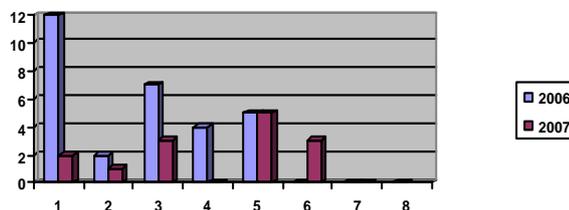
3. the areas in proposals refer to education (10), economics and business environment (22), social and health policies (10), public works (3), public administration (2). The areas of agriculture and rural development, defence and foreign affairs, communication and IT were less represented in 2006, lacking completely from the portfolio of the proposals for public policies in 2007.

#### Evolution of proposals of public policies in 2006-2007

Table 2.3.1

Domain of public policy Type of certificate	Favourable			Favourable with observations			Non-favourable			Total
	2006	2007	Total	2006	2007	Total	2006	2007	Total	
Public Administration and Justice	8	1	9	3	1	4	1	-	1	14
Environment	1	1	2	1	-	-	-	-	-	2
Social Policies and Health	4	2	6	1	1	2	2	-	2	10
Agriculture and Rural Development	4	-	4	-	-	-	-	-	-	4
Education, culture and interethnic relations	4	4	8	1	1	2	-	-	-	10
Economics, finances and business environment	6	2	8	2	1	3	1	-	1	12

Defence and Foreign Affairs	-	-	-	-	-	-	-	-	-	-
Infrastructure, Development and Public Works	-	-	-	-	1	1	-	-	-	1
Communication and IT	-	-	-	-	-	-	-	-	-	-
Total	27	10	37	8	5	13	4	-	4	54



### 2.3.6. Matrix of stakeholders

We define the matrix of stakeholders in substantiating, elaborating, implementing and assessing public policies (Table 2.3.2.).

**Matrix of stakeholders in public policy-making**

Table 2.3.2

Actors Stakeholder- S	S's interest in basing the policy	S's interest in policy making	S's interest in implementing the policy	S's interest in assessing the policy	Resources available to the S	The capacity of S to mobilize resources	Position of S to the politics
Resort ministry							
Public sector							
Private sector							
Association of Municipalities in Romania							
Association of Towns in Romania							
Federation of Local Authorities in Romania							
Professional Associations							
Citizens							
Other stakeholders							

### Conclusions

The World Bank [10] uses a complex indicator GRICS (Governance research Indicator Country Snapshot), formed out of several hundred variables which come from different sources (25) and 18 different organizations. This indicator expresses the quality of the governing act in six different governance indicators: visibility and accountability, political stability, governance effectiveness, quality of regulations, rule of law, corruption control. In what concerns the policy making, the relevant indicators are considered the effectiveness of governance and the quality of regulations, whose evolution, for Romania is presented in Table 2.3.3.

#### Evolution of indicators of political stability, effectiveness of governance and quality of regulations in Romania

Table 2.3.3

Indicator	1996	1998	2000	2002	2003	2004	2005
Political Stability	-	47.6	40.1	50.9	52.8	51.4	46.2
Government Effectiveness							
Estimate (-2.5 to+2.5)	-0.88	-0.63	-0.67	-0.32	-0.16	-0.11	-0.03
Percentile Rank (0-100)	17.1	24.9	26.8	47.8	54.1	54.1	56.9
Standard Error	0.18	0.27	0.19	0.14	0.14	0.13	0.13
Number of surveys/polls	5	5	9	11	12	13	13
Regulatory Quality							
Estimate (-2.5 to +2.5)	-0.59	+0.23	-0.31	+0.01	-0.20	+0.13	+0.17
Percentile Rank (0-100)	25.0	53.2	35.0	53.2	47.8	59.1	58.4
Standard Error	0.27	0.30	0.34	0.18	0.16	0.16	0.16
Number of surveys/polls	6	5	7	10	11	12	12

Correlating the results obtained in the area of public policies with those two indicators, effectiveness of governance and quality of regulations, we observe a dependency of their values of positive nature, and directly proportional to the results achieved: e.g. law making and changing of the legislative system, completion of a data base with documents of public policies, elaboration of methodology and guidelines for methods of analysis of the impact of public policies, elaboration of methodologies for measuring the performance of public ministries and institutions, strategic planning, elaboration of the guide regarding the consultative process, etc.

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## Chapter 3

# Comparative Studies between Japanese and Romanian Public Management\*

### 3.1. Structure and organisation of public administration in Japan and Romania

#### 3.1.1. Introduction

*Arguments: THE CHANGE IS NEEDED IN THE PUBLIC  
SECTOR*

In the 21<sup>st</sup> century, we became interested in various matters regarding the public administration such as public management models, success of public administration reform and restructuring all over the world, cultural differences that influence the model, behaviours and, finally, in every issue that might reveal new dimensions of the public administration, less familiar to us.

The 20<sup>th</sup> century, considered “the century of the organisational society” has created the conditions for fundamental changes of the society. We have known a society where the greatest part of our lives is spent in organisations: schools,

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\* Achieved in the framework of the programme: “Foreign Visiting Professor” (1 June – 31 August 2004) at the National Institute of Multimedia Education (NIME), Japan. The study represented the informational material for “Designing and developing a prototype of course material package for e-learning”.

universities, offices, other working spaces, places for entertainment, medical care. The organisations have been present since a long time, but the development of the formal structures represents a relative recent phenomenon. Defined also as human groups, built and rebuilt, in the view of achieving specific objectives, we find them as functional, defining structures, with specificity in public administration. The term of *administration*, accepted as verb, defines the action to help, to serve, and as noun, it represents the ensemble of actual administrative authorities in a state, department or service, responsible of the administrative issues of an institution or economic agent.

Public administration has got a history indissoluble linked to the history of the society. The development of the contemporary society reveals the construction and reconstruction of administration simultaneous with the constitution of the modern state, taking into account the enlargement of the administrative space that tends to be similar with the social space. Administration has been and exists as long as we are talking about governance, society, public sector, private sector etc. It is adapting both on institutional and functional level.

Public administration has got intermediate position between legislative and executive power authorities on one side and population on the other side, mediating general, private and local interests through public services and other means. It is playing an important role in elaborating and applying the public policies as key component of the political process. Also, it promotes the partnership with the private sector in achieving the public policies; it transfers management techniques and methods, adapting them to the needs of the public sector, ensuring a concrete feature of its operation.

We witnessed the reshaping of the public sector, the resizing and redefining of the elements of political-administrative culture in the developed countries of the world. In less than a century and a half, management reform transformed the economic and social system, replacing the traditional governmental structure, developing new relations between central administration - with

political accountability for governmental performance and the administrative - operational structures, in charge for public services provision. The new conceptual approach is also met in the theory of management, which has also undergone profound changes.

What is public management? If it does not refer to principles of traditional public administration, what is it?

Public management has traditionally represented the fact that the government and its agencies have delivered a large number of goods and services in order to meet the public needs (health, education, social security, sanitation, energy and infrastructure). In a public sector, management becomes an essential function.

The public sector reforms have the following key objectives: redefining the state organisations structures, the role of the state in economy, the relations between civil servants, politicians and citizens. Consequently, the public sector registered an increased pace of development, on one hand on quantitative level (the increase of the number of civil servants), and on the other hand, on qualitative level (public services in the social field, urbanism etc.). Its development creates the premises for new changes, so that public management becomes a major priority policy.

Is management “a magician’s hat providing techniques and tricks?”

Is management “a bunch of tools for analysis, similar to those learnt at school?”( P. Drucker, 1999).

For the time being, there are held controversial discussions on terms, i.e. public management. The specialized literature does not contribute too much to clarifying the term. We may find it both at the specialists and representatives of the administrative science, and at those applying the management principles and techniques in the economic, social and political systems.

The definitions are given depending on the scientific field of interest of the person involved. Thus the administrative structures may be considered as ordered components of a system, conceived in an internal relational framework, reported to the current environment.

In this context, the historical and symbolic components of the public sector may be emphasized. The public sector is based on old values, specific to each public environment in a country. We should not neglect the fact that the national characteristics are different from one country to another and the differences represent only variations in a single species - "the human being". Talking about the characteristics of the organisations in each country, they result from a common way of adaptation according to the results of the cultural and institutional structures from the respective country.

Starting from agreed differences, we appreciate that there is a structure which provides the basis for understanding.

The aim of this research is not to define boundaries for the public management concept, but to describe particularities of the public administration structures and management in Japan and Romania, helping the reader to understand and take into consideration differences in thinking, feelings, culture and education.

Veiled in a millenary history and developed according to powerful Nippon tradition, the Japanese public sector has its own specificity, enabling a consolidated power of influence on the other segments of Japanese society.

The apparent disjunction of public sector development in Japan, respectively in Europe, justified by geographical, regional or cultural arguments should not ignore the experiences and practices, which have enabled the exceptional development of the Nippon administrative space. The features of the organisations of every country derive from a common modality of adjustment according to the results of cultural and institutional structures of Japan and Romania.

In this context, the comparative study is very beneficial, as any society focuses its attention on public and private sector, development, successful managerial practices, own management style.

The directions of research involve the motivation of uniqueness for Japanese social-culture environment, identify the

differences between the organisational characteristics and decision-making process, as well as the emergence of new scenarios, economically determined, leading to the idea of new public management.

### 3.1.2. The Japanese Government

#### A. Overview

The *Constitution of Japan* (1946), establishing in accordance with the principle of “separation of powers”, the activities of the national government is formally divided for the legislative, judicial, and executive power (see Annex 3.1, Figure 3.1.1).

The emperor is “the symbol of State and unity of the people”.

According to *article 66 of the Constitution*, the executive power belongs to the Cabinet. The Prime Minister was given the status as “the head of the Cabinet”, representing the Cabinet, and his status and power within the Cabinet. The Cabinet comprises the Prime Minister and Ministers of State. The Prime Minister is civilian, according to the Constitution. All these persons should be civilians, in order to prevent from the legal point of view, the army insurrections and the generals’ pressures on the Prime Minister, practice often met before the Second World War in Japan: the Prime Minister was obliged in fact to entrust the key portfolios of Defence and Navy only to the military direct depending to the Emperor.

In this respect, the position of the Emperor in post-war Japan differs from that in the pre-war days when the Emperor was the source of sovereign power.

The Emperor appoints the Prime Minister as designed by the Diet and the Cabinet respectively.

The *Constitution of Japan* proclaims a system of representative democracy in which the Diet is “the highest organ of state power”.

The Prime Minister is elected from the members of the Diet by a resolution of the Diet. Thus the Diet designates directly the Prime Minister. This designation is based on the approval of House

of Representatives and the House of Councillors. If no agreement can be reached, even through a joint committee of both Houses, or if the House of Councillors fails to make designation within ten days, exclusive of the period of recess, after the House of Representatives has made designation, the decision of the House of Representatives shall be the decision of the Diet.

Japan practices a system of parliamentary cabinet by which the prime minister appoints the majority of the cabinet members from among members of the Diet. The cabinet thus works in solidarity with the Diet and is responsible to it. The system is similar to that of Great Britain, but different from that of the United States, where the three powers of government are theoretically on a level of perfect equality.

The Cabinet, the majority of whose members must come from the Diet, is the supreme decision-making organ of the executive power. The Ministers of State (*kokumu daijin*) are appointed by the Prime Minister, who can dismiss them by his own will.

#### **B. Structure of the Cabinet**

The Cabinet consists of the Prime Minister, who shall be its head, and not more than 20 Ministers of State (*Constitution, Article 66 (1), Cabinet Law, Article 2(1)*). According to the Cabinet Law, the number of Ministers of State constituting the Cabinet, except the Prime Minister, shall be within 14. When a special need arises, however, the number of Ministers can be increased by up to three to make the upper limit 17.

The Cabinet is an administrative organ for consultation, and it is presided over by the Prime Minister.

The structure of the Cabinet (see Annex 3.1, Figure 3.1.2) is as follows:

1 Prime Minister;

10 Ministers of State for different fields: Public Management, Home Affairs, Posts and Telecommunications, Justice, Foreign Affairs, Finance, Education, Culture, Sports, Science and Technology, Health, Labor and Welfare, Agriculture,

Forestry and Fisheries, Economy, Trade and Industry, Land, Infrastructure and Transport, Environment.

### **C. Functions of the Cabinet**

In order to accomplish the Cabinet Program and in addition to other general administrative functions, the Cabinet exercises the following functions (*Constitution, Article 73*):

- a) Administer the law faithfully;
- b) Conduct affairs of state;
- c) Manage foreign affairs;
- d) Conclude treaties;
- e) Administer the civil service, in accordance with standards established by law;
- f) Prepare the budget, and present it to the Diet;
- g) Enact cabinet orders in order to execute the provisions of this Constitution and of the law;
- h) Decide on general amnesty, special amnesty, and commutation of punishment, reprieve, and restoration of rights.

The central function of the Cabinet is the coordination in order to secure uniformity of governmental administration performed by various administrative offices (see Annex 3.1, Figure 3.1.3).

### **D. The Cabinet Office**

The Cabinet Office was created to strengthen the functioning of the Cabinet, with the Prime Minister as its head (see Annex 3.1, Figure 3.1.4).

The board of the Cabinet Office comprises: Chief Cabinet Secretary, Ministers for Special Missions, the Deputy Chief Cabinet Secretary, Senior Vice- Ministers, and Parliamentary Secretaries. Also, the top management comprises the Vice-Minister, the Vice -Minister for Policy Coordination, the Minister's Secretariat, and Directors General.

The Cabinet Office carries out its work in a unified manner centred on the Minister's Secretariat.

The position of Director General has been newly created as part of the reform of the central government ministries and agencies.

The Cabinet Office assists the general strategic functions of the Cabinet by drafting plans and comprehensively coordinating from one step above level, other government agencies.

The Cabinet Office is made up of the Imperial Household Agency, the Fair Trade Commission, the National Public Safety Commission, the Defence Agency, and the Financial Services Agency.

The Cabinet Office has two special functions:

1. to work with the “forums of knowledge” which include four councils: Council on Economic and Fiscal Policy, Council for Science and Technology Policy, Central Disaster Management Council and Council for Gender Equality;

2. to cooperate with Ministers of State for Special Missions.

*Ministers of State for Special Missions* are within the Cabinet Office in order to draft plans and provide comprehensive coordination for important Cabinet policies in a powerful and timely manner.

*The Directors General* are involved to draft plans and to coordinate policies of the Cabinet in a flexible and dynamic manner.

#### **E. Cabinet Secretariat**

The Cabinet Secretariat is in charge of arrangement of the agenda, the coordination necessary for maintaining integration of the policies, and the collection of information and research. Also, it is in charge of the following affairs: coordination and integration of administrative measures of ministries and agencies for the purpose of maintaining uniformity of the government measures; general affairs related to the Security Council of Japan; collection and investigation of information concerning the important policies of the Cabinet.

The Cabinet shall perform its functions through Cabinet meeting (*Cabinet Law, Article 4 (1)*). The Prime Minister shall

preside over Cabinet meetings. There is not written regulation concerning the procedures of Cabinet meeting. As the Cabinet, in the exercises of executive power, shall be collectively responsible to the Diet, it is presupposed that the decision should be unanimous.

Regular Cabinet meeting is held on every Tuesday and Friday.

Administrative Vice-Ministers' conference is held on every Monday and Thursday, one day before the Cabinet meeting.

#### **F. Cabinet Legislation Bureau**

The Cabinet Legislation Bureau reviews proposed bills, drafts of cabinet orders and treaties, and expresses legal opinion to the Cabinet, the Prime Minister or each Minister.

#### **G. Security Council of Japan**

The Security Council of Japan is a deliberative council, whose members are the Prime Minister (Chairman), the Vice-Prime Minister, The Minister for Foreign Affairs, The Minister of Finance, the Chief of Cabinet Secretary (Minister of State), the Chairman of National Public Safety Commission (Minister of State), the Director General of Defence Agency (Minister of State) and the Director General of Economic Planning Agency (Minister of State). The Council takes charge of deliberation of important matters on national defence and measures to be taken in case of grave emergency for the country.

#### **H. National Personnel Authority**

The National Personnel Agency was established to secure neutrality of national civil service in accordance with National Public Service Law, and it is under the general control of the Cabinet.

#### **I. Organisation and operation of the Ministries**

The National Government Organization Law regulates the internal structure of the ministries and agencies (see Annex 3.1,

Figure 3.1.5). The law stipulates the following fundamental kinds of administrative organs:

- office on ministerial level (the Prime Minister Office represents the only example);
- ministry;
- agency;
- commission.

The state activities are coordinated firstly by the Prime Minister Office and ministries.

A commission may be set up when the control and supervision of the ministry are going to prevent the achievement of a certain activity and the respective activity, developed very well excludes the direct control of the ministry.

In a ministry, an agency may be set up when the working volume is very large and the respective activity may be managed independently, justifying the separation from the internal components of the ministry. An agency as such is managed by a career civil servant.

Within the framework of the Prime Minister Office, the types of agencies have a unique specificity. They are usually managed by a Minister of State and as status they are equivalent to the ministries. Most of them have a function of central coordination of the activities in specific fields.

The internal structure of ministry comprises:

- the name of the head of the administrative body;
- the categories of internal subdivisions (secretariat, bureau, department, division, and office);
- other categories of the internal structure, for example council, local subsidiary offices;
- special positions, for example parliamentary vice minister, administrative vice minister, deputy director general, confidential secretary.

The secretariat and bureau represent the main organisational units, being decision-making centers for policy planning and implementation.

The divisions represent basic units for daily programme development and execution.

The councils are consultative bodies, set up by the Government in order to get information from various fields from experts, to ensure the impartiality of administration, to solve the conflicts of interests as well as to coordinate the programmes belonging to various ministries.

Most agencies from the Prime Minister Office have status of ministries. They are managed by Ministers of State and their internal structure comprises bureaus.

### 3.1.3. The Romanian Government

#### **A. Overview**

In Romania, the State shall be organized based on the principle of the separation and balance of powers: legislative, executive, and judicial-within the framework of constitutional democracy (*Constitution of Romania* ~as revised in 2003 ~ *Title I: General Principles, Article1*) (see Annex 3.1, Figure 3.1.1).

The Government shall exercise its executive power. The Government consists of the Prime Minister, Ministers, and other members as established by organic law. According to the *Romanian Constitution (Title III: Public Authorities, Chapter III, Article102)*, the Government of Romania is the responsible body for ensuring, in accordance with its government programme accepted by Parliament, the implementation of the domestic and foreign policy of the country, and exercising the general management of public administration.

The President of Romania shall designate a candidate to the office of Prime Minister, as a result of his consultation with the party which has obtained absolute majority in Parliament, or – unless such majority exists – with the parties represented in Parliament. The candidate to the office of Prime Minister needs, within ten days after his designation, to seek the vote of confidence of Parliament upon the programme and complete list of the Government. The programme and list of the Government are to be

debated by the Chamber of Deputies and the Senate, in joint session. The Parliament grants confidence to the Government by a majority vote of Deputies and Senators. The President of Romania cannot dismiss the Prime Minister.

The Government adopts decisions and ordinances. Decisions shall be issued to organize the execution of laws. Decisions and ordinances adopted by the Government shall be signed by the Prime Minister, countersigned by the Ministers who are bound to carry them into execution, and shall be published in the Official Gazette of Romania.

The Government is politically responsible for its entire activity only before Parliament. Each member of the Government is politically and jointly liable with the other members for the activity and acts of the Government.

The Prime Minister shall submit to the Chamber of Deputies or the Senate reports and statements on Government policy, to be debated with priority.

The Government shall exercise its term of office until the validation of the general parliamentary elections (*Law no.90/2001, about organisation and functioning of Romanian Government and ministries, Article 1*).

### **B. Structure of the Government**

The Prime Minister shall direct Government actions and coordinate activities of its members (*Constitution, Article 107*).

The structure of the Government (see Annex 3.1, Figure 3.1.6) is as follows:

- 1 Prime Minister;
- 1 State Minister, Minister of Economy and Commerce;
- 1 State Minister, Minister of Administration and Interior;
- 1 State Minister in charge with coordinating the activity within the defence, European integration and justice fields;
- 7 Ministers Delegate for different fields: Commerce, Relations with Social Partners, Public Administration, Liaison with the Parliament, Chief Negotiator for the European Union, Coordinating the Control Authorities, in charge with controlling

the implementation process regarding internationally financed programmes and European Union acquis;

- 1 Minister coordinating the General Secretariat of the Government;
- 13 Ministers for different fields: Foreign Affairs, European Integration, Public Finance, Justice, National Defence, Labor, Social Solidarity and Family, Agriculture, Forests and Rural Development, Transport, Construction and Tourism, Education and Research, Culture and Religious Affairs, Health, Communications and Information Technology, Environment and Waters Management.

### **C. Functions of the Government**

In order to accomplish the Governing Programme, the Government exercises the following functions (*Law no. 90/2001, Article 1(5)*) (see Annex 3.1, Figure 3.1.3):

- 1) Strategic function, as to assure the creation of the strategy to implement the Governing programme;
- 2) Regulatory function, to assure the creation of a legal and institutional framework necessary to accomplish the strategic objectives;
- 3) Administrative function for the state property, that assures the managing of the state's public and private property, as well as the managing of services for which the state is responsible;
- 4) Representation function, that assures, in the name of the state, the representation inside and outside the country;
- 5) Authoritative function, that assures the following-up and control of the implementation of the regulations regarding defence, public order, and national safety, as well as of the regulations regarding the operation of institutions and bodies subordinated to the Government.

In order to comply with its functions, the Government fulfils the following main attributions (*Law no. 90/2001, Article 11*):

- a) manages the public administration;
- b) initiates draft laws and seeks the approval of the Parliament;

- c) issues decisions for executing laws and ordinances under a special enabling law, within the limits and in conformity with the provisions of the constitution;
- d) assures the execution of laws and other normative regulations by public authorities;
- e) elaborates draft projects for the state budget and the social service budget and presents them for approval in the parliament;
- f) approves the strategies and the economic development programmes of the country;
- g) assures the implementation of the policies in the social area according to the Governing programme;
- h) assures the protection of law order, public order and citizen safety, as well as the rights and liberties of the citizens, in the conditions stipulated by law;
- i) assures the implementation of the adopted measures, according to the law, for the country's defence policy, objective for which it organizes the army forces;
- j) assures the elaboration of national foreign policy and, in this context, the Romanian integration in the European and international structures;
- k) negotiates the treaties, the agreements, the international conventions relevant for Romania; negotiates and finalizes the conventions and other international governmental agreements;
- l) manages and controls the activity of the ministries and the other subordinated central special bodies;
- m) assures the administration of public and private property of the state;
- n) grants and retreats the Romanian citizenship, according to the regulation in force; denounces the Romanian citizenship, in the same conditions;
- o) establishes, with the Commission of Audit agreement, special bodies in its subordination;
- p) cooperates with the social bodies that are interested in fulfilling its attributions;
- r) fulfils any other attributions as specified by the law or that derives from the role and function of the Government.

#### **D. Organization of the working apparatus of the Government**

In order for the Government to exercise its attributions, the working apparatus is to be formed out of the Prime Minister's working apparatus, the General Secretariat of the Government, departments and other organizational structures holding specific attributions (*Law no. 90/2001, Article 21(1), Government Decision no. 765/2002, about working apparatus of the Government organization and functioning, Ordinance Government no. 64/2003, Article 2*).

There will be created the National Administration for State Reserves, in the direct coordination of the prime minister.

The General Secretariat of the Government assures the management of technical operations necessary for implementing the governmental acts and solving the organizational, legal, economic and technical problems, as well as for representing the Government before the Court of Justice (*G.D. no. 765/2002, Article 4*).

#### **E. The Prime Minister 's Chancellery**

The Prime Minister's Chancellery has a legal personality and operates within the Government apparatus under direct coordination.

A Minister, appointed by the Prime Minister, is Head of the Chancellery and the main credit controller.

The Chancellery's structure is as follows:

- Department for Institutional and Social Analysis;
- Department of the Government's Spokesman;
- Department for the Abroad Romanians;
- Office for managing the relation with the Republic of Moldova;
  - Project management unit for implementing and monitoring the IBRD program in the future borrowing procedures of (PAL)- UMP-PAL;
  - Public Relation Bureau;
  - Councillors of the Prime Minister;

- Team of the minister delegated for the control of the international grant programmes implementation and for monitoring the application of the *acquis communautaire*;
- Permanent secretariat for European Affairs;
- The "Eudoxiu Hurmuzachi" Centre for Abroad Romanians.

The Prime Minister's Chancellery exerts the following functions:

- Strategic, by which it ensures the elaboration and implementation of the public policies at the level of the public administration;
- Regulatory, by which it ensures the achievement of normative and institutional framework where the policies in the field are achieved;
- Representational, by which it ensures on behalf of the state or the Romanian Government, the international and external representation in its area of activity;
- State authority, by which it ensures the unitary enforcement and compliance with the legal regulations concerning the organization and functioning of the institutions and facilities that carry out their activity, subordinated to and co-ordinated by it;
- Administrational, by which it ensures the administration of its patrimony according to the legal provisions.

The Prime Minister Cabinet comprises: the Prime Minister Chancellery, the General Secretariat of the Prime Minister, the Department for Liaison with the Parliament, the Department for Interethnic Relations, the Working Apparatus of the State Minister for coordinating the activities in National Defence, European Integration and Justice.

#### **F. Organisation and operation of the Ministries**

Ministries are specialized bodies subordinated to the central public administrations that accomplish the governmental policies in their areas of activity (see Annex 3.1, Figure 3.1.6).

Ministries are organised to operate as subordinated to the Government, according to the constitutional provisions (*Constitution, Article 116*) and of the law (*Law no. 90/2001*).

The Prime Minister can demand the Romanian Parliament the restructuring of the Government, by creating, dissolving or dividing or unifying the existent ministries.

Ministries may create in their direct subordination, special bodies, with the agreement of the Court of Audit (*Law no. 90/2001, Article 42*). Ministries may have in their subordination public services that function in the territorial – administrative units. The establishment or disaffection of the decentralized public services belonging to the ministers and all the other central bodies of the administrative-territorial units, the organizational structure, the number and the employment conditions for the personnel, the criteria for arranging the departments and their leading functions are approved by the minister order, respectively the manager of their supra-ordinate special body.

The minister nominates and releases out of position the managers of the special bodies subordinated to the ministry. The managers of the decentralized public services are nominated and released of position by the minister, with the consultative agreement of the prefect.

The general secretary of the ministry is a professional civil servant, named on a competition basis (*Law no. 90/2001, Article 49*). This assures the stability in function, the continuity of management and the accomplishment of functional connections between the ministry's bodies.

The main responsibilities and attributions of the general secretary are the following:

a) coordinates the good functioning of the ministry's departments and functional activities and assures the operative transfers between the minister and the leaders of the departments belonging to the ministry and the subordinated units;

b) cooperates with the special departments belonging to the General Secretariat of the Government, with the general secretaries

of the ministers and the secretaries of the counties and the Prefecture's general directors, in matters of general interest;

c) receives and transmits to approval to the ministries the normative projects initiated by the minister and assures the approval of normative acts as received by other initiators;

d) transmits to the General Secretary of the Government the drafts for normative acts, as to be discussed in a Government meeting;

e) follows and approves the normative acts seen by the Government and issued by the ministry;

f) monitors and controls the elaboration of periodical reports, as stipulated in the in force provisions;

g) coordinates the entire staff of the minister, the activity of human resource policy making and the guiding principles for the human resource management inside the departments.

The General Secretary of the Ministry may fulfil other duties, as stipulated in the Regulation for organizing and operation of the minister or given in the duty of the minister.

The list of functions of the ministries may be approved by the ministries, in the limit of the position number approved by Governmental decision.

The Government may approve later changes in the ministries' organizational structure, special bodies, decentralized public services and their subordinated institutions, in the limit of budgetary allocations.

The Government may approve by decision, the last changes in the organization and operation of the ministries, as well as in the transfer of some activities from a minister to another, or to specialized bodies subordinated to the Government.

#### 3.1.4. Practical aspects of public management

We ask ourselves the question: can we talk about common and specific characteristics of public management in the two countries?

On one hand, we define the administrative system, with general rules for the exercise of public authorities, and on the other hand, each public authority with the document especially drawn up for specifying its functions and structure.

It is difficult to identify common elements of the structure, but it is not difficult to accept that the traditional model of public administration, the Weberian model of bureaucracy confirms its irrelevance in the two countries.

I. Having different traditions and cultures, we find out that these administrations are in the framework of one of the four traditional models (Anglo-Saxon, European Continental: Germanic, or French: Napoleonic, and Scandinavian: combination between the Anglo-Saxon and the Germanic ones).

As long as Japan has the Anglo-Saxon model, Romania applies the French European Continental model.

II. The Constitution of Japan from 1946, maintains the Imperial institution, promoting a parliamentary system, English type, borrowing some local administration or judicial techniques from USA.

At the same time, the Constitution of Romania promotes the principle of separation of the powers in the state, identifying, also as Japan, the 3 state powers: legislative, executive and judicial power.

These powers are exerted as follows:

1. the executive power, in Japan, by the Cabinet, while in Romania, by the Government;

2. the legislative power, in Japan, by the Diet, while in Romania, by the Parliament;

3. the judicial power, in the two countries, by the institutions with judicial responsibilities.

III. The Emperor, who is the symbol of Japan and of the unity of the Japanese people, performs activities in matters of the state, with the approval of the Cabinet, such as promulgation of

constitutional amendments, laws, treaties, convening the Diet, dissolution of the House of Representatives, proclaiming the general elections of members of the Diet, attesting the appointment and dismissal of Ministers of State, as well the accreditation of ambassadors and Ministers. The Emperor has no powers related to the Cabinet. The Emperor appoints the Prime Minister and the Chief Judge of the Supreme Court, on the proposal of the Diet and Cabinet.

IV. The President of Romania represents the Romanian state and he is the safeguard of national independence, unity and territorial integrity of the country. The President exerts the mediation function between the powers in the state as well as between the state and the society.

The President is elected and the duration of his mandate is of 5 years. He cannot be member of any party and he cannot perform any other public or private office. The President designates a candidate to the office of Prime Minister, appoints in the civil service positions, appoints the Government, he may dissolve the Parliament, after the consultation of the presidents of the two Chambers and the leaders of the parliamentary groups, he concludes international treaties in the name of the country, negotiated by the Government and submits them to the Parliament for ratification. At the same time, he awards accreditation and calls back the diplomatic representatives of Romania.

The President is Commander-in-Chief of the Armed Forces and presides over the Supreme Council of National Defence, prerogative not held by the Emperor.

V. The activity of governance at national level is performed in the analysed countries by the Cabinet, respectively the Government and their institutions.

In Japan, the ministries, agencies and public corporations form one "organisation", managed by the Cabinet.

For Romania, the ministries, agencies and national authorities represent one "organisation", managed by the Government.

The structure and functions of the Cabinet, respectively of the Government are stipulated in the legislative framework, defined by in-force laws in Japan and Romania (see Annex 3.1, Figures 3 1.2, 3.1.3, 3.1.6).

Strengthening the functioning capacity of the Cabinet in Japan and Government in Romania represents an important pillar of the reform of ministries and agencies of the Nippon central government, respectively of Romanian ministries, agencies and national authorities, during the current stage of creating a new governing system for the 21<sup>st</sup> century, by each state.

In this respect, we find operational structures, specific for the Cabinet, respectively the Government, created in order to function inside them, such as:

The Cabinet of Japan comprises the Cabinet Office, aiming to provide assistance to the Cabinet in the exert of its strategic functions, by means of the four specialised Councils and Ministers of State for special assignments.

We remark the existence of the organisational structures of the Cabinet, respectively the Government, in the two systems, created in order to perform their activities, such as: The Cabinet Secretariat, respectively, the General Secretariat of the Government, Departments, and Agencies. It is worth mentioning that their assignments are different.

While the Cabinet Secretariat ensures the arrangement of the agenda, the coordination necessary for policy integration, as well as the collection of information and achievement of research studies, the General Secretariat of the Government ensures the organisation and arrangement of the working meetings with representatives at level of state secretaries of ministries and other public authorities, the organisation and preparation of the Government meetings, solving the organisational, legal, economic and technical aspects of the Government activity, as well as representing the Government in front of the Courts.

VI. The meetings of the Cabinet, respectively of the Government are managed by the Prime Minister, on Tuesday and Friday, in Japan, and once a week or whenever necessary in Romania. They are preceded by the Conferences of Vice-Ministers, one day before those held by the Cabinet and represent the most important meetings for the coordination of the Nippon executive.

VII. The analysis of the organization and functioning of the ministries, specialized bodies subordinated to the Cabinet, respectively to the Government, managed by ministers emphasise the common feature of the structure: secretariat/cabinet, departments, bureaus, divisions. At the same time, in both cases, a ministry may set up an agency, with the difference that in Japan, it is led by a career civil servant, and in Romania, it is led by a State Secretary and it is set up with the authorisation of the Court of Audit.

VIII. A specific type of agency, managed by a Minister of State, with status similar with that of ministries, holding a central coordination function for activities in specific areas is functioning in the framework of the Nippon Prime Minister Office.

Institutions and specialised bodies of central public administration are functioning in subordination to the Government, being agencies, national authorities or commissions, managed by State Secretaries, under the coordination of the Prime Minister or Ministers of State. We mention that there are three Ministers of State, out of which two are also Ministers of Ministry of Administration and Interior, respectively of Ministry of Economy and Trade.

IX. Starting from the theoretical concepts on the fundamental components of an organisation, grouped by:

- aim (mission, policies, strategies of the organisation);
- people (knowledge, capacity, competencies);
- technology (information processing, office equipment);

- structure (corporatist, operations, roles);
- culture (values of the organisation, management style);
- external environment (social, political, technological, economic, legal factors), we shall present some key aspects for the central public administration structures in Japan and Romania.

In the organisational structures of the two public administrations, that we shall codify in order to facilitate the interpretation, with OSJ (organisational structure – Japan) and OSR (organisational structure – Romania), there are two levels, one for the management or functional structure and one for the operational structure with its components (departments, organisational relations, positions, functions, hierarchical weight, hierarchical level).

The organizational model found in OSJ and OSR is not simple: it is supported by different variables, tangent with the tasks, functions, distribution and coordination mechanisms at group and individual level.

We shall focus only on the following aspects: authority (who has the right to make the decision?), accountability (who is accountable?) and coordination (when does the action start? what mechanisms and resources?).

In the governmental practice, we have to define the dimensions of organisation (in the context of multiple changes), to know the means and instruments for coordination and policy objectives.

We may appreciate that the organisation of the Cabinet of Japan and Government of Romania is based on a system of administrative bodies, with well-defined aim, authority, accountability and specific functions (see Annex 3.1, Figure 3.1.2, and Figure 3.1.6).

The reality demonstrates that organisations in Japan case are well defined, with an organisational structure that meets the needs of consistent compatibilization of various elements, adaptable in time according to the change of conditions.

The structures of the two administrations are defined by:

- specialisation, often on departments, bureaus, committees and councils;
- hierarchy, for coordination, often achieved by a director committee;
- a system of rules and norms, stable and explicative (OSJ, see the Constitution from 1946, the Cabinet Law, Law on Organisation of the National Government), flexible and changing according to the development of exogenous factors (OSR, Law on local public administration, Law on Status of civil servants, Law on organisation and function of the Government of Romania);
- civil servant selection and career (with tradition and cultural influence, OSJ), at the beginning from the career plan point of view for civil servant, OSR).

In comparison to OSR or a European organisational structure for a public institution, which is a mechanism combining the parts without mobilisation capacity, OSJ represents a body comprising sections and departments, that cannot exist independently, but are acting independently according to the situation. A precise structure is necessary for the governing programme and implementation of its strategies.

The classical pyramidal structure of the organisation is emphasised in OSJ and OSR; the organisations are hierarchic with strategic, tactic, operational and execution level.

Taking into account the definition of the internal structure of a ministry, both Japan and Romania have a similar configuration, stipulated by law (Law on Organisation of the National Government, Law on organisation and function of the Government of Romania and ministries), with at least four hierarchical levels and component units, playing decisional, consultative or deliberative role (see Figure 3.2.2).

The secretariat and the office represent organisational units with role of decisional center for policies planning and implementation, the divisions are basic units for the development and execution of daily programmes in the ministry, and the councils play a consultative role, being set up by the Government

of Japan in order to provide information from various fields, thus ensuring their impartiality (OSJ).

The organisational structure of a ministry (OSR), the role, functions, assignments, number of jobs is established according to the importance, volume, complexity and specificity of the activity, being approved by Government Decision. Each ministry has a minister cabinet.

X. The *management* of the ministry is exerted by a Minister, usually member of the Diet (OSJ), respectively of the governing party (OSR), assisted by Parliamentary Vice Minister (OSJ), respectively one or more State Secretaries (OSR), by Administrative Vice Minister, a career civil servant (OSJ), respectively General Secretary of the ministry and one or two deputy persons, also management civil servants (OSR). For some ministries, (OSR), with broad and complex field of activity, a certain part of the activity is managed by a Delegated Minister, appointed by the Government.

The State Secretaries exert the prerogatives delegated by the Minister (OSR).

XI. We define *coordination* as a process of guiding and allocating resources and means in order to apply and achieve the activities and decisions of the ministries, agencies and national authorities, aiming the harmonisation and governmental policy implementation.

The coordination is exerted:

1. *At the level of specialised administrative bodies*, for example Prime Minister Office of Japan, which is responsible of the overall coordination of the policies and activities of ministries and agencies, or, departments – organisational structures of the Government, subordinated to the Prime Minister of Romania and General Secretariat of the Government, having the role of coordination and synthesis in areas of general interest.

The Cabinet, respectively the Government represents the supreme body of decision and at the same time of coordination.

There are agencies managed by a Minister of State, specialised in coordinating the sectoral policies in the framework of the Prime Minister Office of Japan. The General Secretariat of Romanian Government coordinates the activity of the units functioning in subordination, under coordination or under authority.

2. *At the level of the ministries, agencies and national authorities*, the ministers ensure the coordination. In Japan case, it is the accountability of the Administrative Vice-Minister, who assists the Minister in organising and supervising the activities of the ministry's components. Within the framework of a ministry, the formal mechanism responsible of coordination is represented by the Minister Secretariat, that coordinates various bureaus, personnel appointment, the financial resources allocation, updating the projects, Cabinet orders and ministerial regulations.

In Romania case, the General Secretary of the ministry ensures the stability for ministry functioning, the management continuity and the achievement of functional links among the ministry structures. He coordinates the adequate functioning of the departments and activities with functional feature from the ministry, ensures the operational connection between the minister and the heads of all departments from the ministry and subordinated structures, the whole staff of the ministry and the activity for elaborating the personnel policy, the flow of projects and normative deeds, initiated by the ministry (initiation and authorisation). The ministry college functions as consultative body of the Minister (it debates some problems on the ministry activity under the Minister management and on his request), being approved by Minister's order.

3. Among ministries, agencies, national authorities, the coordination is achieved at the level of the ministry, especially by the ministries and agencies responsible for coordination, by the Prime Minister and Cabinet, respectively the Government.

One practice met in the two systems consists in organising the interministerial conferences, the consultative councils and

commissions, created in order to deliberate the problems requiring governmental policy coordination, involving more ministries.

XII. The distribution of the responsibilities of the ministries, agencies, other functional structures of the Cabinet, respectively the Government is indispensable for ensuring the efficiency in functioning of administration.

According to specific laws (Cabinet Law, Law on Organisation of the National Government, Constitution of Romania, Law on organisation and function of the Government of Romania), the head of the Prime Minister Office and the Ministers from Cabinet of Japan exert *control* on the administrative aspects and the Ministers that are members of the Government are accountable to the Government and Parliament of Romania for their ministry activity – they organise, coordinate and control. The Government of Romania exerts the control function on the application and observance of regulations in all fields of activity and on the functioning of the institutions and bodies performing their activity in subordination or under its authority.

The Prime Minister of Government submits reports and statements on government policy to the Chamber of Deputies or Senate. Within the parliamentary control of the activity of the Government and other public administration bodies, they are obliged to submit documents to the Parliament or its specialised commissions.

Summarizing the above-presented aspects, we identify *common and specific shaping elements for public administration systems* in Japan and Romania.

The *common* shaping elements:

- according to the principle of separation of powers, the three state powers are exerted: legislative, judicial and executive power;
- the legislative power is exerted by Diet in Japan (House of Councillors and House of Representatives) and by the Parliament in Romania (Chamber of Deputies and Senate);

- the executive power is exerted by the government, called Cabinet in Japan and Government in Romania, representing the supreme body of decision-making, being managed by a prime minister;
  - there is own legislative framework both for the organisation of government and its structures (Constitution, law on organisation of the government);
  - the government has two central tasks: the framework of the major governmental policy and making the priorities operational;
  - the power given to the prime minister by the authentic authority (the one with which is invested) awards the right to appoint and dismiss ministers, to approve the creation of structures in order to make more efficient the act of governance, to coordinate and control the structures in subordination;
    - the public authorities have a pyramidal, hierarchical structure;
    - the structures have two levels of configuration, the management level and the operational level, regulated by law;
    - the government comprises ministers, ministers of state and other members;
    - the government has own operational structures and specialists body, subordinated to the prime minister;
    - the government meetings are convened and managed by the prime minister;
    - the internal configuration of a ministry identifies at least four hierarchical levels;
    - the management of a ministry is regulated by law, it belongs to the minister, assisted by one or more deputy persons (vice minister or state secretary, administrative vice minister or general secretary);
    - the management, delegation of authority, coordination and control are attributes exerted by the representative of the executive power stipulated in law;
    - the government exerts hierarchical control on ministries, specialized bodies.

The *specific* shaping elements:

- different cultures and traditions:

**Box no. 3.1****Culture - the core of Japanese Public Management**

The Japanese organizational cultural dimension has to be understood in the context of YAYOI period, since 2000 years ago.

A dimension is grouping a number of phenomena from a society, community, corporation. In this respect, the understanding of the cultural opinions of Japanese public management has to be based on the main issues with implications on the operation of the community, groups: the relation with authority; the conception on the ratio individual – society and the individual conception of masculinity and feminist trend; the way for conflict-solving; the expression of feelings.

In order to understand the influence of Japanese cultural elements on public management, we shall discuss about some terms, specific for Nippon culture, namely:

- IE, that signifies the power of the state or of the political party in a totalitarian system that places the group's interest on the first place. This concept emphasizes the individual's power, as leader, manager etc. and the fact that the person without official authority belongs to the community, corporation etc.
- MURA or the village community is found in the case of the family, community or corporation. This concept leads to the achievement of the social unity aiming joint prosperity. The harmony (wa) of the social unity is supervised by a person designated in this purpose (not as a leader), who plays the role of "the wise man" of the community.
- DOZOKU, understood as an ensemble of households of families, linked by a system of economic relations. The traditional examples of the rice communities are well known, and we find "a division of roles, strengthening the rules and obligations in the vertical relations between the supervisor and the subordinated person". At the same time, this concept is met also in the interior of the large corporations.
- IEMOTO, found under the form of a club of members, who are meeting on a voluntary basis, and through "the own system of values reflects the commitments between the master and the disciple".
- ON, expression of the obligations and duties, due to the voluntary social changes. From the moral point of view, the explanation for ON consists in the fact that the moral obligations are established between friends and colleagues and they are expressed through GIRI. The payment is never complete (GIMU) in spiritual sense for ON obligations.
- OYABUN – KOBUN expresses the commitments inside the community or group, the relations and hierarchical obligations, such as parent – child, employer – customer. OYABUN characterizes the superior hierarchical position, held by an older person, with a larger length in service and long activity in the corporation. KOBUN represents the person to whom it has been entrusted OYABUN friendship. This person grants equally the friendship to more KOBUNI, so that his status will be recognized. The concept OYABUN– KOBUN signifies the dynamics of social responsibilities and obligations within the framework of the decision-making structures.

**Source:** Matei, Lucica (1999), *Management and Public Administration. Japanese Model*, Bucharest, Economica Publishing House, pp. 27-28.

- two different traditional models of public administration: Anglo-Saxon and French models, which have shaped two governmental systems with some different practices and mechanisms;
- the Emperor' role in Japan: symbol of the state and of the unity of the Japanese people; the President of Romania represents the Romanian state, he is the safeguard of national independence, unity and territorial integrity of the country and he is elected by universal, equal, direct, secret and freely expressed vote;
- the Prime Minister of Japan is elected from the members of Diet and he is appointed by the Emperor, while in Romania he is designated by the President of the country after the consultation of the party who holds the majority in the Parliament;
- most of the members of the Cabinet are members of the Diet; the members of the Government may be also members of the Parliament;
- it is well known the fact that the Japanese people are valuing the sobriety and perseverance;
- the Japanese management and governance are based on the skill to make syntheses;
- the mechanisms of coordination are specific at different levels of the internal structure of the Cabinet;
- the Japanese public management is acknowledged for its practical synthesis;
- ordered organizational system, where the functions and responsibilities of the structures of the Cabinet do not overlap.

If we try to define the characteristics of Japanese public management “with sobriety and perseverance”, we make the following distinctions:

- the Japanese public management understands the community, the corporation as a whole – as a system, more than the sum of its components;
- it is determined historically, reflecting the development of community in time;
- it is grounded from the social point of view and well defined by the group of people that are forming the community;
- it can be hardly changed, but it accepts the new things;
- it is connected to symbols (even the writing and the words represent symbolic expressions) and rituals.

### 3.2. The Local Governance and the relation mechanisms in Japan and Romania

#### 3.2.1. Definitions and concepts

The term of *administration* has many meanings in theory and practice. Thus, administration means: the main content of the activity of the Executive of state, system of public authorities that achieve the executive power; managing economic agents or social-cultural institutions; a department in productive units or social-cultural institutions that do not achieve a productive activity.

Consequently, we may award three main meanings: activity, structure or organization, institution.

In the broad sense, *administration* represents one of the most useful human activities aimed to meet social requirements.

*Public services* represent useful activities designated to meet a social need. The public services, understood in broad sense, represent assembles of persons and things, created in order to satisfy a public need by a public community, under its authority and control.

*Local governance* is the developing country’s degree of decentralization and effectiveness and responsiveness of its formal local government institutions to the community [1]. It’s governing at the local level, which includes not only “machinery of

government”, but also the community and its interaction with local community.

*Local autonomy* represents the effective right and capability of local government authorities to solve and manage, according to law, an important part of public affairs, in the interest of local communities, that they represent.

*Local community* means the total number of citizens in the territorial administrative unit.

The concept of *local autonomy* in government implies the right of the local entity, such as the right of prefectures, cities, commercial centres and villages to decide and administer a series of public rights from their own initiative, with relative discretion of supervision (“collective autonomy”) and the citizens’ rights to participate to such a policy (“civic autonomy”).

*Decentralization* is a process of transferring power to elected local government. Transferring power means providing local government with greater political authority (referred to as *political decentralization*), increased financial resources (referred to as *financial* or *fiscal decentralization*), and more administrative responsibilities (referred to as *administrative decentralization*).

The *political decentralization* involves the transfer of political authority to the local level.

The *financial decentralization* refers to the financial power of local level. It involves increasing or reducing conditions on the inter-governmental transfer of resources and authority to generate their own revenues.

The *administrative decentralization* involves the full or partial transfer of functional responsibilities to the local level, such as health care service, the educational service, the building and maintenance of roads, and garbage collection.

The administrative decentralization has three forms: *deconcentration, delegation, devolution*.

*Deconcentration* is used to redistribute decision-making authority and financial authority and management responsibilities among different levels of the central government. It means the

transfer of power to an administrative unit of the central government, usually a field or regional office.

*Delegation* is the transfer of managerial responsibility for a specifically defined function outside the usual central government structure, and transfer responsibility for decision-making. Government delegates responsibilities when they create public enterprises, corporations, housing authorities, and transportation authority's special service local community.

*Devolution* means the devolve government's functions, and transfer authority for decision-making, finance, and management to "quasi-autonomous units" of local government with corporate status. It transfers responsibilities for services to municipalities that has own mayor and councils, and independent authority to make investment decisions.

**Box no. 3.2**

**Historical elements**

*The prefectures system and municipalities system* were organized according to the Prusac model [2]. Except small modifications, both systems have remained practically unchanged for 60 years, until 1947. Their main characteristics are as follows:

*1) The prefectures system*

The prefectures played a double role, on one hand, as local bureaus of central administration and on the other hand, as autonomous local bodies, with legal person status.

The central administration appointed civil servants / bureaucrats in the office of governor (with increased powers as executive body). In the subordinated civil service positions, national servants/bureaucrats were appointed. There were also prefecture assemblies, legislative bodies that made decisions concerning the budget, accounts, establishing and collecting taxes.

The governor was assisted by a commission of councillors on various issues, directly under his subordination.

The Ministry of Home Affairs was the authority that controlled the prefectures, both on general and specific problems, such as approving the issue of bonds, dissolution of prefecture assembly etc. The appointment of governors in each prefecture was also under central administration authority.

*2) The municipalities system*

The municipality management structures, including the big cities, small cities and villages were local autonomous authorities with legal person status. At beginning, there were few differences in the executive area between cities and villages. After

1911, the local assembly elected a mayor. The municipal assembly, whose members were elected by popular vote, made decisions on the budget, accounts, taxes etc. The Ministry of Home Affairs and the governors of the prefectures, as executive bodies of central administration exerted general control on the municipal structures and specific areas: approving the enforcement of municipal laws, issuing bonds, dissolution of prefecture assembly, disciplinary punishments for mayors.

*Local autonomy (CHIHO JICHI), and local governance (CHIHO SEIJI)*

The concept of local autonomy in government implies the right of the local entity, such as the right of prefectures, cities, commercial centres and villages to decide and administer a series of public rights from their own initiative, with relative discretion of supervision ("collective autonomy"), and the citizens' rights to participate to such a policy ("civic autonomy")[3].

Although the term of CHIHO JICHI (local autonomy) was widely used since Meiji period (1868 – 1912), the small local authority, local governance (CHIHO SEIJI) in both senses, exists before 1945. The Constitution from 1947 comprises the principle of local autonomy, giving constitutional status to local self-governance (Chapter VIII, Articles 92-95). In the same year (1947), the Law on Local Autonomy (CHIHO JICHI HO) was implemented [4].

In 1949, a successor of the Ministry of Interior, who resisted to before-war centralisation, the Local Autonomy Agency (CHIHO JICHI CHO) was created and became the Ministry of Internal affairs (JICHI SHO) in 1960.

The education and police, decentralised under occupation, were recentralised on a large extent. Many duties performed on local level are governed by national laws. The administration of these laws is often delegated to governors and mayors as agents of the national government.

The type and proportion of local charges are determined by Law on Local Charges (CHIHO ZEI HO). The local charges represent 1/3 of the revenues, the rest being allocated from funds of the national government.

The funds transfer to local level is often interrupted and consequently the financial dependency and the financial acuteness are limiting the local autonomy. The general trend in local governance (CHIHO SEIJI) after Meiji period (1868) was focused on local authority expansion in decision-making in areas of local interest and more intense participation in the local events, except the years during the Second World War.

**Source:** Matei, Lucica (1999), *Management and Public Administration. Japanese Model*, Bucharest, Economica Publishing House, pp. 162, 166.

### 3.2.2. The organisation of Local Government in Japan

#### A. *Types of Local Public Entities: prefectures and municipalities*

After war, a total revolution has been remarked in Japan in the administrative structures, acting on a double level of the territorial division and autonomy of the community.

In Japan, the system of local government is founded on two principles:

- autonomous local public entities,
- “citizens self-government”.

*The Constitution and the Local Autonomy Law of Japan* specify the types and organizational framework of local public entities and the basic relationships between these local entities and the central Government.

Japan is divided into *provinces* (or *regions*) from the administrative point of view: Hokkaido, Tohoku, Kanto, Chubu, Kinki, Chugoku, Shikoku, Kyushu, corresponding to a geographic division into four main islands, the island Honshu being in the centre. Each province is divided into a certain number of *departments* or *prefectures* (see Annex 3.2, Figure 3.2.1).

For the time being, there are ordinary departments or *ken*, private urban prefectures or *fu* (corresponding to Kyoto and Osaka cities), Tokyo prefecture or *to* and Hokkaido province or *do*, which in spite of its vast area represents only one department. These differences are historical – there are in effect no systematic differences between *do*, *fu* and *ken* [5].

Regarding the *communes*, the law in Japan specifies many expressions, without any legal difference and without revealing a genuine subordination related to departments.

The *city* or *shi*, the burg or *macho* and the village or *mural* are simple territorial elements of the department: they are not hierarchically subordinated.

In Japan, the system of local government is two-tiered: *prefectures* and *municipalities* function as local public entities handling a broad range of public services.

Local authorities are classified as *ordinary* or *special*; *prefectures* and *municipalities* are *ordinary local authorities*, whereas the *special authorities* include the *special wards, unions of local public entities, property wards and local development corporations* [6].

Municipalities may be formed of several *cities, towns* and *villages*; they form the level of local government that is closest to the ordinary citizen.

*The Local Autonomy Law* designates for such cities a number of special regulations that differ from those affecting ordinary cities, towns, and villages. The classification of municipalities into cities, towns and villages depending on the size of their populations, the density of buildings, the structure of industry, the extent of urban facilities.

Japan is divided into 47 administrative divisions:

1 administrative unit – metropolis (*Tokyo-to*),

2 urban prefectures (*Kyoto-fu* and *Osaka*),

43 rural prefectures (*ken*) and,

1 region (*Hokkaido-do*).

Japan's 47 prefectures range as population from Tokyo Metropolis with more than 10 million, to Tottori Prefecture with 600,000, and in size, from Hokkai-do Region with an area exceeding 80,000sq km, to Kagawa Prefecture with a little under 2,000sq km (see Annex 3.2, Figure 3.2.2).

The big cities are divided in *districts (key)*, which are split into *sections (macho or chow)* or *comitates (gun)*.

The large cities can be assigned to three special categories, the largest being the *designed city (seirei shitei toshi)*, which must have a population of at least 500,000 (almost all are over 1,000,000). In 2003, there were 13 such cities: Osaka, Kyoto, Nagoya, Yokohama, Kobe, Kita Kyushu, Sapporo, Kawasaki, Fukuoka, Hiroshima, Sendai, Chiba, and Saitama.

Another category is that of the *core city (chukaku shi)*, which must have a population of at least 300,000 and less than 500,000, the city's land area must be at least 100 sq km. This category comprises 35 cities.

The third largest category is that of the *special city (tokurei shi)*, which must have a population of at least 200,000, and which numbered 39 cities.

The cities (*shi*) are administrative units, self-managing, independently of the jurisdiction they belong to (see Annex 3.2, Figure 3.2.3). In order to obtain the status of *shi*, a jurisdiction should have at least 30,000 inhabitants, out of which 60% should be employed in the urban environment.

The districts (*ku*) from the big cities elect their own assemblies, which designate the superintendents.

The terms of *machi* and *cho* designate urban parts, self-governing, independent of the big cities. They have their own mayor and assembly.

The villages (*son* or *mura*) are the smallest entities from the rural space. They often comprise many rural small villages (*buraku*) with thousands of people. The villages have mayors and councils elected for 4 years. Japan's local governments numbered as follows: 547 villages (*mura*), 1,942 towns (*machi* or *chow*), 23 special wards (*tokubetsuku*), 681 cities (*shi*), and 47 prefectures (see Table 3.2.1).

**Local authority chart**

**Table 3.2.1**

Ordinary Local Authority	Prefectures	47	Metropolis (to) 1 Province (do) 1 City prefectures (fu) 2 Prefectures (ken) 43		
	Municipalities	3,190	Cities	677	<i>Government-designated cities</i> 13
					<i>Core cities</i> 35
					<i>Special cities</i> 39
<i>Other cities</i> 590					
Special Local Authority	Special wards			23	
	Municipal cooperative				
	Property ward				
	Local development corporation				

**Sources:** *Local Government in Japan, CLAIR, 2002, p. 44;*  
*An Outline of Local Self-Government in Japan, 2003, p. 7.*

Japan has a governing system more unitary than federal, where the local jurisdictions depend on the national government from the administrative and financial point of view.

The Local Autonomy Law divided and distributed the functions between prefectures and municipalities. In reality each tier of government shares responsibility for functions in the same field. Consequently, there is a high level of standardisation between different local management bodies. The standardisation / uniformity are the result of two basic elements:

1) the quality and level of the services provided should be similar throughout Japan, in line with those provided by the central government;

2) the circumstances specific to any area should wherever possible apply national unified solutions.

In the same time, the law enables to local authorities organizational and functional uniformity - with the exception of Tokyo's central districts, and the 12 designated cities. As the revenues from charges are insufficient, the prefectures and governments of the cities depend on central government from which they receive subsidies.

### **B. Assemblies and Governors, and Mayors**

Local government in Japan is based on the presidential system, where governors, mayors, and councillors are directly elected, and functions on the principle of separation of powers and internal checks and balances to ensure democratic local administration [6], [7].

The prefecture and municipality are included in the executive and legislature power.

The executive power implements the policies decided by legislature. It includes governors, mayors and their executive committees. Also the executive power includes a number of administrative committees independent of the governor or mayor, for example, board of education, or public safety, and election. These committees are responsible for the management of their respective functions.

The legislature is the elected council; it determines budgets, enacts local legislation and makes decisions on its policies. It includes the prefecture' or municipality' assemblies.

The main rulers of these communities, the *governor*, or *mayor*, the members of local assemblies and all the other local agents, stipulated by law are elected by universal, direct vote in various communities.

During their mandate, of four years, they cumulate a double function, as state bodies and representatives of the local communities' interests. As state bodies, they are subordinated, legally to the ministers' authority, but their designation by the electorate from a certain circumscription provides them an envied authority and independence, related to the central power; as local authorities, they may dictate regulations, within well-defined limits.

Each of the 47 local jurisdictions has a governor, unicameral assembly, both elected by popular vote every 4 years. All prefectures are obliged to include the General Affairs Department, Finance Department, Health Department and Labour

The Departments for Agriculture, Fishery, Forestry, Trade and Industry are optional, depending on the local needs.

The governor is responsible for all the above activities, supported by charges collected on local or national level.

The city management is achieved by a mayor, elected every 4 years by popular vote, and an assembly/council, elected also by popular vote.

Governors, mayors, and members of local assemblies are directly elected by the communities they serve. Governors and mayors take the leading role in policy-making, and have strong relationships with the elected councils.

Mayors and councillors of wards are directly elected.

They are responsible for ensuring the overall consistency of the local authority's services and functions, and are authorized to represent the authority externally.

Governors and mayors thus exercise general control over other executive organs such as administrative committees.

They have powers that include rights to enact regulations, to draft budgets, to introduce bills, to appoint members of administrative committees such as board of education, public safety, as well as vice governors, deputy mayors, a chief accountant, treasurer, and other officials of their respective local authorities.

Governors and mayors are responsible for the execution of all affairs of the local authority excluding those of the elected council and the administrative committees.

They personally carry out all these broad functions. To assist them in actual execution, there are vice governors (deputy mayors for municipalities) and a chief account (treasurer for municipalities), and a large number of divisions, departments and sections, carrying out their respective assigned duties.

### **C. Local Authority Functions and Responsibilities**

Local government is oriented to the local community.

Local government's responsibilities cover all aspects of the country's domestic life beyond diplomacy, national security, trial and prosecution (The Local Autonomy Law was amended in July, 1999, by the Law concerning the Provision of Related Laws for the Promotion of Decentralization of Power). The functions are divided into two categories: local functions (*jichi jimū*), and entrusted functions (*hotei jutaku jimū*) [8].

The responsibilities of local authorities include providing services for the community and carrying out the necessary activities. Also, the enactment and implementation of bylaws and regulations, structural organization, financial administration, and elections are the main responsibilities of local authorities.

Local government provides comprehensive services in its administrative region-its local development and culture policies. The responsibilities of local government include: family and resident registration; building and management of daycares centres, kindergartens, primary and secondary schools, libraries, public halls and similar facilities; construction, maintenance and waste management, sewage disposal facilities, water supply and sewage

works; development and improvement of roads and parks; police and fire-fighting services.

One of local government's main duties is the promotion of efficient agriculture, forestry and fisheries management to enable a stable supply of food.

*Prefecture* responsibilities are as follows:

1. functions over a wide area, for example drafting comprehensive local development plans, forest conservancy and river improvements;
2. functions involving communication between the central government and municipalities, or entailing advice and guidance for streamlining organization and management;
3. functions whose scale of operation is deemed inappropriate for municipalities, for example the establishment and management of upper secondary schools and hospitals.

*Municipalities* provide the basic services most familiar to the public. They are the following:

1. functions related to day-to-day matters, for example resident and family registration, residence designation and various certificates;
2. functions concerned with public health and safety and environmental conservation, for example fire services, waste and sewage disposal, water supply, and public parks;
3. functions connected with urban development, for example city planning, construction and maintenance roads, rivers and other public facilities;
4. functions concerning the establishment and management of various municipal facilities, including halls, nurseries, primary and lower secondary schools, and libraries.

*Designated cities* are authorized to administer the same level of governmental jurisdiction as prefectures in 19 policy areas including social welfare; public health, urban planning, and they are delegated in such areas as national road management and compulsory education.

*The core cities* establish public health centres, and may undertake all of the functions delegated to the designated cities.

*The special cities* are delegated the same functions as core cities.

*The special local authorities* are as follows: *special wards, municipalities' cooperatives, property wards, and local development corporations*. *Special wards* have functions similar to municipalities but, there are some exceptions, for example, fire services, which are the municipality's responsibility and are provided by the Tokyo Metropolitan Government, the prefecture authority.

Two or more municipalities to carry out functions that would be more effective and efficient than if provided alone form *municipal cooperatives*. The types of municipality's cooperatives are:

1. partial cooperatives formed to provide specific services such as the establishment and management of schools and hospitals;
2. wide-area unions formed to plan and provide services over a wide area in a comprehensive and systematic manner;
3. administrative cooperatives formed to carry out all the administrative duties of a number of towns and villages;
4. full cooperatives formed to carry out all the services of a number of towns and villages (for 3, 4 although at present no examples).

*Property wards* are special authorities formed by certain property-owning areas or districts within a municipality for the purposes of property management. They are fairly common in farming or mountain villages, but less so in urban areas. The most common properties involved are mountains forests, while others include irrigation channels, marshland, cemeteries, housing land, farms, and hot springs.

*Local development corporations* formed by two or more ordinary local authorities. They are set up specifically to acquire and prepare sites for the construction of public facilities in areas subject to comprehensive development plans.

#### **D. Relationships between Prefecture/Municipality, Governors/Mayors and Councils and Central and Local Level**

The relationship between prefectures and municipalities is not one of superior and subordinate. They are mutually independent entities; while a prefecture is a regional public entity covering a wide area that includes multiple municipalities within that area, a municipality is a basic unit of local government closely related to people's daily lives.

The governor and mayor are independent of one another and on an equal footing; governors, mayors and elected councils each have their own responsibilities, each providing a check on the other.

In Japan, local authorities are positioned within a system of national government comprising central and local components. The Omnibus Decentralization Act (established in July 1999) has revised the comprehensive powers of control and supervision that central and prefecture governments had over municipalities; the autonomy and independence of local authorities must be taken into account. The present system of local autonomy obliges the central government, to respect the independence of local authorities, and to limit the exercise of its administrative powers and involvement with local affairs only to cases requiring nation-wide comprehensive policies.

The central government may intervene in local authorities' affairs by legislation enacted by the Diet, but it recognises the idea of local autonomy stated in the Constitution.

However, the relation between central government and local governments is interpreted in various ways. Some authors consider that the following aspects are relevant in this context [2], [8].

- *Inefficiency of public matters administration in local governments*

Because local and national priorities sometimes differ, the interests of local and central governments are often debated. The central government signals sometimes the inefficiency of financial and administrative matters administration by the local governments.

- *The delegation system of public affairs administration*

This way of organisation was correlated to the system of introducing the prefecture governors and municipal mayors as bodies of the central government, administering the public affairs, initially situated under the jurisdiction of the central government (environment protection, urban planning, preventing the public scandals etc.). Each position delegated to local executive bodies was legally stipulated. The number of delegated positions had increased annually (the local governments sustain that the greatest part of these delegated positions should be retransferred to local governments). This formed a key part of Japan's centralized administrative system. But now, in accordance with the amendment of the Local Autonomy Law by the Omnibus Decentralization Act, which took effect in April 2000, delegated functions were abolished and the functions of local government were restructured into self governing functions and statutory entrusted functions.

- *Intervention by subsidies*

The subsidies are awarded for specific projects developed by local governments. It assumes that the central government exerts control on public affairs administration and finance at local government's level on a high level and it diminishes excessively the local governments' autonomy, by establishing a big number of indicators for subsidies (roads construction, creating kindergartens, and approx. 400 types of subsidies). There are too many conditions for awarding subsidies, fact also criticised. Sometimes, the local governments require that certain specific funds, i.e. subsidies, should be changed into general funds, which may be used with a greater discretion by local governments.

Moreover, the local governments criticise the central government, as many local bureaus of central government (The Regional Administration Offices of Agriculture, Regional Bureaus of International Trade and Industry etc.) are overlapping with those of local governments. This overlap generates complications in the administrative procedures and the central government coordinates sometimes too excessively the local governments.

### 3.2.3. The organization of Local Government in Romania

#### A. Types of Local Public Entities: *communes, towns, counties*

In Romania, the public administration from the territorial-administrative units is organized and function on the basis of the following principles:

- local autonomy;
- public services decentralization and devolution;
- the local public administration authorities' eligibility;
- legality;
- as well as the citizens' consultation on local problems of particular interest (*Constitution of Romania, Art. 120, Law no. 215/2001, Art. 2*).

At functional level, the Romanian administrative system comprises two types of authorities, those having *general material competence*, that develop their activity in all areas of the social life (the Government, local and county councils, the mayors), and those *specialized*, responsible for specific areas or activity fields (the Ministry of Defence, the Ministry of Justice, the Ministry of Labour and Social Solidarity, the Ministry of Finance, or their decentralized structures in the territory).

According to the territorial structure of the Romanian public administration, the authorities may be divided in:

- *Central authorities*, whose competence lies over the entire territory of the country (the Government, the ministries and all the other central public administration bodies);
- *Territorial authorities*, whose competence lies over some part of Romania (decentralised public services belonging to ministries and other central bodies), and
- *Local authorities*, which are held to act within the limits of the territorial-administrative units (local councils and mayors) (see Annex 3.2, Figure 3.2.4).

According to the provisions of the *Constitution of Romania (Article 3)*, from the administrative point of view, the territory is organised in *communes, towns* and *counties* (see Annex 3.2, Figure 3.2.4). The communes, towns and counties are territorial-

administrative units (*Law no. 215/2001, on local public administration, Article 18*), where the local autonomy is exercised and in which local public administration authorities are organized and function (*Constitution of Romania, Title III, Section 2*). The communes may be formed of one or several villages.

Some towns may be declared municipalities, according to the law.

In municipalities (80), territorial-administrative subdivisions may be created, the delimitation and organization of which are made, under the Law no. 215/2001, Article 18. Bucharest Municipality is organized in 6 administrative-territorial subdivisions, named sectors (Article 92, Law 215/2001).

The communes (2686), towns (262), and counties (41, plus Bucharest Municipality) are public legal persons. They have full legal capacity and they own a patrimony. The communes, towns and counties' territorial limits are established by law.

The first level of governance being the national tier, the second level: county, and the third level: municipality (with subdivisions represented by sectors/Bucharest Municipality, towns, communes).

The public administration authorities, through which the local autonomy\* is achieved in communes and towns, are the *local councils* (elected\*\*), communes councils, town councils as *deliberative authorities* and the *mayors* (elected) as *executive authorities* (*Law no. 215/2001, Article 21(1)*); the *county councils* (elected), in each county, represent at the same time, the authority of the local public administration, for the coordination of the activity of the commune and town councils. Each sector of

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\* The local autonomy shall be understood as the right and the effective capacity of the local public administration authorities to solve and to manage, in the name and interest of the local communities they represent, the public affairs, according to the law (Law no. 215/2001).

\*\* The elections are developed in electoral districts. For local councils, the commune, town, municipality, subdivisions of Bucharest Municipality are the electoral districts, and for county councils, the county is the electoral district.

Bucharest Municipality has a mayor and a vice-mayor, while Bucharest Municipality has a general mayor and 2 vice-mayors (Article 93 (1), Law 215/2001 on local public administration).

In each county and in Bucharest Municipality the Government appoints a prefect. The prefect is the Government's representative at the local level and shall manage the decentralized public services of the ministries and of the other central bodies in the territorial - administrative units (see Annex 3.2, Figure 3.2.6). The appointment and dismissal of prefects is made by Decision of the Government. The prefect is assisted by a vice-prefect. The appointment and dismissal of vice-prefects is made by Decision of the Prime Minister, on the proposal submitted by the prefect and Ministry of Administration and Interior.

In the counties with broad area, with localities placed at high distances related to the city residence of the county, the prefect may organise, with the approval of the Ministry of Administration and Interior, prefecture offices, managed by a director, who is appointed or dismissed by the prefect.

The *regions* are territorial structures for regional development, they are not territorial-administrative units and do not have legal personality (*Law no. 151/1998, on regional development in Romania*).

#### Administrative Organisation of Romania territory

**Table 3.2.2**

County	Area (Km <sup>2</sup> )	Number of cities and municipalities	Out of which: municipalities	Number of communes	Number of inhabitants on 01.07.1996
Total Romania	238391	262	80	2686	
<i>Alba</i>	6242	10	3	66	403494
<i>Arad</i>	7754	8	1	67	477711
<i>Argeş</i>	6826	6	3	93	677246
<i>Bacău</i>	6621	8	2	79	745463
<i>Bihor</i>	7544	9	1	86	628501
<i>Bistriţa-Năsăud</i>	5355	4	1	53	327262
<i>Botoşani</i>	4986	4	2	68	461793

<i>Braşov</i>	5363	9	2	43	637463
<i>Brăila</i>	4766	4	1	39	389881
<i>Buzău</i>	6103	4	2	81	510718
<i>Caraş-Severin</i>	8520	8	2	69	362498
<i>Călăraşi</i>	5088	5	1	48	334164
<i>Cluj</i>	6674	6	3	74	726790
<i>Constanţa</i>	7071	11	3	52	747122
<i>Covasna</i>	3710	5	1	33	231872
<i>Dâmboviţa</i>	4054	6	1	76	554410
<i>Dolj</i>	7414	5	1	94	751938
<i>Galaţi</i>	4466	4	2	56	641561
<i>Giurgiu</i>	3526	3	1	46	300615
<i>Gorj</i>	5602	7	1	63	396990
<i>Harghita</i>	6639	9	2	49	344323
<i>Hunedoara</i>	7063	13	5	56	543848
<i>Ialomîta</i>	4453	4	3	49	304985
<i>Iaşi</i>	5476	4	2	85	822573
<i>Ifov</i>	1593	1	-	38	277476
<i>Maramureş</i>	6304	8	2	62	535124
<i>Mehedinţi</i>	4933	5	1	59	327521
<i>Mureş</i>	6714	7	3	90	604263
<i>Neamţ</i>	5896	4	2	70	584780
<i>Olt</i>	5498	7	2	94	517597
<i>Prahova</i>	4716	14	2	86	868099
<i>Satu Mare</i>	4418	4	2	56	394133
<i>Sălaj</i>	3864	4	1	55	261040
<i>Sibiu</i>	5432	9	2	53	444873
<i>Suceava</i>	8553	8	4	90	710845
<i>Teleorman</i>	5790	5	3	83	470280
<i>Timiş</i>	8697	7	2	75	692645
<i>Tulcea</i>	8499	5	1	43	266897
<i>Vaslui</i>	5318	4	3	71	462703
<i>Vâlcea</i>	5765	8	2	77	435274
<i>Vrancea</i>	4857	5	1	59	392571
<i>Bucharest Municipality</i>	<b>228</b>	1	1	-	<b>2037278</b>

They are constituted on the basis of conventions concluded between the representatives of county councils (after consulting the local councils), and, such is the case, of the General Council of Bucharest Municipality, and the area that comprises territories of the respective counties will be declared Development Region (see annex 3.2, figure 3.2.5).

The regions are created with the view to achieve objective of inter– regional and/or inter-counties joint interest.

Each region (there are 8 Development Regions) has a Council of Regional Development (deliberative regional body, without legal status); the council comprises presidents of the county councils and one representative of each category of local, municipality, city and commune councils, and it is led by a president and a vice president, elected from its members on a period of one year. The National Council for Regional Development represents a national structure, with a partnership nature, and decision-making role in elaborating and implementing the objectives of the regional development policy.

### **B. Local and County Councils and Mayor**

Local councils and mayors are operating as autonomous administrative authorities and they manage public affairs in the respective territorial administrative unit. Local council is a collegial authority of local government, elected in order to manage the matters of local interest of the commune, town or county.

The local public administration authorities in the Bucharest Municipality are: the General Council of Bucharest Municipality and the local councils of the sectors, as deliberative authorities and the general mayor of Bucharest Municipality and the mayors of sectors, as executive authorities. The local councils of the Bucharest Municipality's sectors are constituted, function and can be dissolved in the conditions stipulated by the present law. At the same time, the General Council of Bucharest Municipality is constituted, function and has the prerogatives stipulated by the law.

The local council elects the vice mayor(s), from the councillors. The mayor's and the local councillor's, respectively

county councillor's mandate is a 4 years mandate. The local council elects the vice mayor(s), from the councillors.

The county council shall be the authority of the local public administration, constituted at county level, for the coordination of the activity of commune and own councils, aimed at the carrying out of the public services of county interest. The county council elects from among its members, for four years of exercising the mandate, a president and two vice-presidents.

Each commune, town, county or territorial-administrative subdivision of the municipalities has a secretary, who is management civil servant, with legal or administrative higher education; he/she cannot be member of a party.

The mayor, the deputy mayors, the secretary of the commune, of the town or of the territorial-administrative subdivision of the municipality, shall, together with the own specialised body of the local council, constitute a functional structure with permanent activity called *city-hall* of the commune or town.

### **C. Local Authority's Functions and Responsibilities**

The local councils and the mayors as authorities of the local public administration shall solve the public matters in the communes and towns.

The local council and the General Council of Bucharest Municipality are organized specially and function with the following specialized commissions, for the main fields of activity: economic, budget –finance, urbanism, public –works and territory planning, water, sewerage, thermo-energy and energy, sanitation, transport, streets, parking, ecology and environment protection, culture, education, sport, media, law, health and social security, local administration modernization, privatization, international relation and European integration, patrimony, trade and consumers' protection, liaison with employers associations, trade unions and non-governmental organizations.

The mayor executes an office of public authority. He shall be the chief of the local public administration and of the own

specialised body of the local public administration authorities, which he manages and controls.

The prefect manages the activity of decentralised public services of the ministries and of the other specialised central public administration authorities, organised at the level of the administrative-territorial units. In order to exercise his/her assignments, the prefect has his/her own specialised body and a general secretary, management civil servant. As representative of Government, the prefect supervises the activity of the local councils and mayors, of the county councils and presidents of county councils, in order to be achieved according to the provisions of the law.

The Ministry of Administration and Interior may propose to the Government, in exercising its hierarchical control, the cancellation of the orders issued by the prefect, if they are considered to be illegal or inopportune.

In each county and in Bucharest Municipality, a *county advisory commission* will be organized and will function. The county advisory commission is formed of the prefect and the county council's president, the sub-prefect and the county council's vice-presidents, the prefecture's general secretary and the county council's general secretary, the cities municipalities' mayor as well as the Bucharest Municipality's general mayor, vice-mayors and general secretary, the communes and towns' mayors, Bucharest Municipality sectors' mayors, the ministries and the other central authorities organized at the county and at the Bucharest Municipality's decentralized public services.

The advisory commission's sessions are led by turn by the prefect and by the county council's president.

The advisory commission discusses and adopts, by consensus, the responsibility for the county or Bucharest Municipality's yearly economic-social development orientative programme elaborated on the basis of the Government's Programme accepted by the Parliament.

*Delegation of authority*

The mayor delegates to the vice-mayor or, such is the case, to the vice-mayors through an order issued at most 30 days from his mandate's validation, the exert of the duties stipulated by Law 215/2001, the Article 68, paragraph 1, in his competence, except those of civil status registrar (his duties as the civil status registrar can be delegated to the vice-mayor, to the secretary or to the other public officers with competence in this domain).

The prefect may delegate some of the sub-prefect's prerogatives.

The sub-prefect achieves the prerogatives given by normative deeds, as well as delegated prerogatives, by prefect's order, from the areas of activity of the own specialised body.

**D. Relationships between local public administration authorities**

The relations between local public administration authorities from communes and towns and county public administration authorities are based on the principles of autonomy, legality, responsibility, cooperation and solidarity in solving the problems of the whole county.

There are no relationships of subordination between local public administration authorities and the county council, on one hand, as well as between local council and the mayor, on the other hand.

Between the prefects and the local councils and mayors, as well as the General Mayor of Bucharest Municipality, on one hand, and county councils and presidents of county councils, on the other hand, there are no relationships of subordination. Concerning the existent relationships between the mayors of the sectors and the General Mayor of Bucharest Municipality, one may note that the decisions of the General Council of Bucharest Municipality and the general mayor's dispositions with normative character are compulsory also for the local public administration authorities organised in Bucharest Municipality' sectors (Article 99, Law 215/2001, on local public administration). The mayor may propose to the local council to consult the population by referendum, on the local problems of special interest (Law 215/2001, Art. 68, c, k ).

The central public administration authorities can in the process of the new public services foundation or decentralization neither establish nor impose any responsibilities to the local public administration authorities without ensuring the proper financial resources for them to accomplish these responsibilities.

#### 3.2.4. Practical aspects of public management in local administration

The local government systems and practice met in Japan and Romania hold significant characteristics for each country, but a great part is defined by similar elements. Local governments are being granted functions of fundamentally local purpose. They have the authority to design and use participatory mechanisms to receive community input. The central government is granting local government clearly defined responsibilities that significantly concern communities and generate public interest in local affairs.

1. Concerning the legal system of local governance, it comprises Constitution of Japan, respectively of Romania and specific laws for local administration: Law on local autonomy/Japan, Law on local public administration/Romania.

The law ensures local autonomy, establishes the statute of local authorities, including the relations between central and local administration, between the local authorities and other dispositions concerning local authorities activity.

2. Concerning the number of levels of administrative units in the two countries, we specify that it is corresponding to the typical structure of unitary states, comprising three levels:

- national;
- prefectures (Japan), counties (Romania) and
- municipalities.

The administrative structure on many levels enables more democratic governance, which represents a legal process, awarding power and legal responsibilities to the administrative subunits of the country.

Japan is divided into regions from the administrative point of view.

Romania has also a regional structure, which does not correspond to the structure from other countries as the constituted regions are not administrative-territorial structures, do not have legal status and they are designed as regional development instruments, being called development regions.

3. The Japanese local government system is a two-tier system. The upper-tier local government is called prefectures (*TO-DO-FU-KEN*), and the municipal one called cities, towns, and villages (*shi-cho-son*).

4. Public administration authorities are:

- for Japan:
  - ordinary local authorities, prefectures and municipalities;
  - special local authorities;
- for Romania:
  - deliberative authorities, local councils and county councils;
  - executive authorities, mayor.

5. The prefectures management (Japan) is ensured by governors and the municipality management is ensured by the mayor and an assembly; they are elected by direct, expressed vote of the citizens, for a mandate of 4 years and they are accountable to citizens.

The local councils, county councils and mayors (Romania) are elected by universal, equal, direct, secret and freely expressed vote for a period of 4 years.

In each county, the government appoints a prefect.

The number of the members of councils is stipulated by law, is established direct proportional to the number of inhabitants (Japan); in Romania, the number of councilors from the local and county councils is provided by the prefect's order and it is stipulated in the law on local public administration.

There are provisions for the assembly of Tokyo metropolis, which has 127 members, and Bucharest Municipality with 55 councilors.

6. The governor, the mayor cannot be member of the Diet during his/her mandate; we meet this incompatibility also in Romania, when the councilor or mayor cannot be prefect or subprefect, civil servant, member of Parliament or trading companies.

7. The management structure of local authorities observes the hierarchy principle, being defined as follows in Japan:

- governor/mayor;
- vice governor/vice mayor;
- treasurer / treasurer;
- manager of the public enterprise.

For Romania, the county council and the city hall are managed by

- president of the local council/mayor;
- vice president/vice mayor;
- general secretary (civil servant)/secretary of the city hall (civil servant).

8. Local governments have the authority to design and use participatory mechanisms to receive community input. The local authorities have full power awarded by Law on local autonomy (Japan), Law on local public administration (Romania), for the organization, functioning and management of local public services.

9. The executive power of local governance is ensured by the head of the executive, representing the local public entities and he manages local public matters together with specialised departments.

In Japan at the prefecture level, there are: education council, elections management commission, personnel commission, public security commission, council for local labour relations, audit, and at municipality level, there are: education council, elections management commission, personnel commission agriculture commission, audit. We mention the fact that both the prefecture

and municipality are organizing their activities on departments, respectively divisions identified in their assignments.

In Romania, at local council level, specialized commissions are organized and function, such as: economic, budget-finance, urbanism, public works, education, health and social protection etc. At the same time, specialized divisions and departments are functional, set up in the specialised body of the city hall, respectively of the prefecture or county council. We mention that the city hall represents a functional structure, with continuous activity, comprising the mayor, vice mayor, secretary, of the commune, city and specialised body of the local council.

10. The assembly of the local public entity (Japan) represents the highest decision-making body.

As bodies for debates and decision-making, the assemblies, the local, county councils together with the head of the executive system have the following responsibilities: finalizing the ordinances, adopting the budget, good administration and function in order to provide services for citizens. At the same time, the local assembly elects the vice governor, vice mayor, members of the education council, public safety commission.

In some situations, the governor has transferred the decisional competence and the administrative mechanisms to cities, also the control and authority.

11. The system for authority delegation is used in both cases, from central to local level, from a superior authority level to the immediately inferior one, from governor to vice governor, from mayor to vice mayor, secretary or other servants with competence in the area, according to law.

In Romania, the prefect may delegate some prerogatives to subprefect (the prefect is the Government representative on local level, he manages the decentralized public services of ministries and other central bodies in the administrative – territorial units, and does not hold similar position with the governor in a prefecture from Japan).

12. The relations between local public administration authorities in communes and cities and those at county level are

based on the principles of autonomy, legality, responsibility, cooperation and solidarity in solving the county matters. In the relations between local public administration authorities and county council, on one hand, as well as between the local council and mayor, on the other hand, there are no subordination relations. Between prefects, on one hand, local council and mayor, as well as the General Council of Bucharest Municipality and the general mayor of Bucharest Municipality, on the other hand, there are no subordination relations.

13. At local council level, the mayor ensures the coordination, supervision and control of the activity for all public institutions and services subordinated to the local council. According to the principle of local autonomy, the institution of the prefect represents the only institution, outside the local administrative system that may exert control, may supervise the activity of councils and mayors in order to be performed according to the provisions of Romanian law.

14. In Japan, the control is exerted from central level in various ways. MPMHAPT is supervising the local matters together with the three important ministerial offices: administration, finance and local charges.

15. ICT is a new phase in local administration development process; ICTs play an important role in the improvement of access to information and services , 365 days per year, 24 hours per day, seven days a week, by means of information kiosks, specially established in public sites, communities centres, other public places.

*E-government* (Japan) and *e-administration* (Romania) strategies provide an opportunity to develop a new relationship between local governments, citizens, service users and business, by using new ICTs.

16. In Japan the central government decide on and propose a standard information system plan for local governments. It supports the establishment of the local information infrastructure connecting across local governments [11]. Electronic voting, for example, is still at a local rather than central government level. In

June 2002, the city of Niimi in Okayama Prefecture became the first municipality in Japan to implement electronic voting, when it allowed voters to cast their ballots in the mayoral and local assembly elections from electronic voting machines [12].

17. “The Romanian Government’s Strategy concerning the National Action Plan; *e-administration*”, enacted in October 2001 by the Romanian Parliament supports the idea of getting the governance closer to its citizens, modernizing public administration and public services, use of ICTs in health, environment protection, transports, education [13].

18. At the local government level, Gifu Prefecture is applying IT in developing the “Digitalization of Municipal Government” (D-Government), starting the very first IT outsourcing contract for e-municipalities services, including electronic documentation management, electronic applications and electronic procurement [12]. In Romania, during 2002-2004, a series of pilot projects have been developed, at the local level, such as: portal for online administrative documents, portal for access to e-government services, electronic system of tenders for public procurement (e-Procurement), information system for searching jobs (e-Job).

### 3.3. Management: the decision-making process

#### 3.3.1. Theoretical problem: the decision-making system

The public administration involves the elaboration and application of the public strategies, designed to ensure services and/or to enforce regulations to individuals, groups and organisations in the political community.

A great part of the public administrators’ obligations means that they make decisions, defining the objectives of the public strategies and they choose the adequate means in order to achieve them. Making an administrative decision consists in choosing from the competent alternatives of the aims and means that an

administrative programme is going to attain. *But how will the public administrators make the choice from these alternatives?*

*In practice, how will they make effectively the decision?*

*How can the phenomenon of making the administrative decision be improved?*

*Which are the inherent limits for making the administrative decision?*

Decision-making and executing represent one of the main aims, maybe the only one, of any organization, of any type of manager; any organisation depends of the nature of the decisions made inside and on the decision-makers, either the decisions are made by the individual or the group.

The experience in decision-making represents a phenomenon that depends on information and should be tightly connected to the new information and communication technologies, in general to the information systems.

*Can we learn how to decide?*

This definite introduction in a text of D.C. Carroll (Myers, 1967) announced the birth of decisional interactive systems: in particular, it has the merit to emphasise a key concept which before the latest years seemed to be unknown or even denied in the specialised literature and in management learning. Management means decision (Le Moigne, 1974), thus accepting to ensure a broad sense to the word *to decide*: **To decide means to identify and to solve the problems faced by any organisation.**

Placed in the core of the management activity, the decision becomes a theme of thinking, and why not, of knowledge.

**“Can we learn how to decide?” “Can we identify the best decision-makers?” “Can we benefit of their experience?” “Can we improve slightly the efficiency and effectiveness of the decision-making for an individual, group, organisation?” “What do we know about this phenomenon – the decision, which is familiar and at the same time quite confusedly defined?”**

**Within the framework of an analysis concerning decision in a public organisation, we should always start with the executive persons in the organisation, identifying them with decision-makers. They are supervising for a long period of time, the environment in which the organisation exists, the economic, technical, social, political factors, trying to identify the new conditions that are justifying the new actions. The real problem of the decision-maker consists in his/her capacity to solve and identify the genuine problems of the organisation.**

If we quote Aristotle or Machiavelli, Montaigne or Descartes “Born champion, but success represents more the result of training than the methods used in practice”, the following questions occur. “Which are the qualities of “the human being in an organisation“ as a person who makes decisions trying to be rational?”

We cannot give a “prescription” answer, as we cannot apply a pattern of the decision-making process in general to the organisation, and in particular to the public organisation. We shall remark this aspect also from the analysis that we wish to achieve for a public service, provided by specialised organisations, with autonomy limited according to law.

Apparently, decision is management, the practitioners will say. But, decision represents a process, and we shall conceive its anatomy according to the following key aspects for a public organisation:

1. existence of a problem, or in a simple way, aims and objectives of the organisation – *ensuring the conditions of efficiency and effectiveness in provision of the public service of primary, secondary, high school and special education at local level;*

2. knowing the data and the factors of environment that may influence the organisation and provision of the service: *economic, demographic, social, legal factors.*

3. establishing and acknowledging the decisional authority in organisation and at local level, how decision is made and how the authority is delegated: *by law on organisation and functioning of local public administration, law on local autonomy, law on*

*organisation of the central institutions, law on education, other laws and regulations specific for local authorities and schools;*

4. elaborating the scenarios in order to put into value the predictable consequences, direct depending on the information about environment; *economic local development correlated with the request for a certain education and specialisation, local training needs according to the demographic development, local financial capacity for introducing the computer assisted learning system in schools, prolonging the duration of compulsory education or the week for school, local social and cultural factors;*

5. the results of the activities at point 3 and 4, are based on identification of problems;

6. conceiving the possible solutions;

7. choice;

8. action to apply, follow up and control the decision.

The pyramidal model proposes three levels inscribed in a traditional organisation:

- *Level 1* – the decisions, no matter their nature, made by one or more decision-makers are placed in the top of the pyramid; we shall call them *high or strategic decisions*.

- *Level 2* – the other decisions that are not made by the top or bottom level will be called *medium or tactic decisions*, or even in some cases, management decisions, understanding that management means the action to administer a good.

- *Level 3* – the decisions, no matter their nature are made by bottom level individuals and we shall call them *small or operational decisions*.

#### **A. The managerial approach of decision**

The managerial approach seeks to enable the public managers to make rational decisions in the most efficient, economic and effective way. A modality to introduce rationality into the decision-making process consists in designing a system that will help the public manager to choose among the competent alternatives by: (1) reducing the number of alternatives that will be taken into account; (2) reducing the number of values that should

be analysed in choosing among alternatives; (3) ensuring that the administrator knows to make a rational choice and (4) providing information necessary to the manager in order to select among alternatives. In a broad part, such an organisational project will be bureaucratic, and it is often met in the American public administration (Rosenbloom, 1998).

Concepts, like *specialisation*, *hierarchy*, *formalisation*, merit are accompanying the managerial practices of the public sector in decision-making.

*The specialisation* represents the dominant means in cutting off the number of alternatives taken into account by a public administrator, when making a decision. The specialisation limits the jurisdictional authority. The specialisation divides the functions of public institutions into units that may be easily managed. The specialisation limits the principles taken into account by a public administrator when he/she has to choose among more competent alternatives. The public administrators should be concerned to promote the public interest when this is connected to their authority. They are not free to choose deliberately from political alternatives.

*The hierarchy* defines also the public administrators' authority. Typically, those persons with less authority have more limited possibilities to face. Some public administrators do not make important decisions; they are rather in charge with routine cases that are repeating. The hierarchy limits the officials' accountability and this thing helps to define the values they are promoting. The hierarchy limits the managerial authority.

*The formalisation* is important in the decision-making process in order to reduce the valid alternatives by precise specifications of the factors and information that should be taken into account when making the choice. As suggested by the term of *formalisation*, the standard forms may be used when requiring relevant information. The formalisation may also include more statements with values. It may indicate to the decision-maker the relative importance assigned to various factors when there is a potential conflict among them.

### **Critics for the rational understanding model**

The rational understanding model, resulted from the managerial perspectives for public administration, presents some important benefits. It is broad and it provides the guidelines to choose the potential means, to identify the objectives of the strategy. It encourages the public administrator to solve directly a problem and to take advantage of his technical experience in identifying the best solution.

1) In practice, this model does not always comply with the genuine governmental decision-making process.

2) The public administrators have time to approach rationally the problems, to identify in details and comprehensively all the potential means for achieving the defined objectives, to evaluate all these means from the efficiency, economy and effectiveness point of view.

3) The specialisation may become a burden. In a way, specialisation may make difficult the cost analysis for any particular governmental action.

4) As it is based on theory and abstract professionalism, it may lead to decisions that are inadequate in practice, that are not according to the nature of current administrative operations, requiring the administrators to have a level of rationality and competence (professionalism), which exceeds their skills.

### **B. The political approach of decision: the growth model**

It is apparently a model that should be more often used, as it is compatible to the political approach of public administration and it promotes an approach specific for administrative public operations.

The theoreticians emphasise that this model acknowledges ambiguity of many stated objectives of the public policy. In this respect, the public administrators should be responsive to political community, should be policy representatives for the groups to which they belong and accountable to the elected officials. The public administration should be based on the development of political coalitions and political consensus.

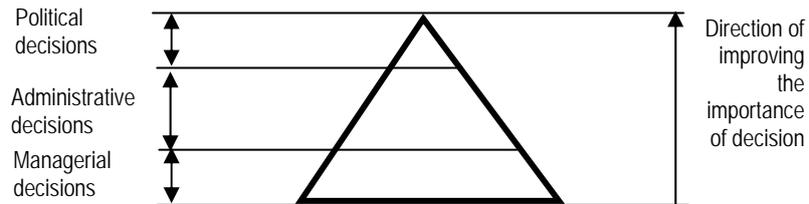
The test for a good decision represents the agreement or consensus for that policy and the implementation method that will be developed. The means and aims are not approached as distinct forms; they are approached as packages, more or less accepted by the relevant groups of interest. The most acceptable package is supported by the most powerful consensus and it is considered the best approach. In this context, representativity and responsiveness replace efficiency, economy and effectiveness, which should be taken into consideration in choosing the means. The traditional managerial values are not favoured as having a dominant position. The final outcomes of the governmental strategy are often defined by means used in the former practice, tending not to support too much on the theory. The political decision-makers will consider some packages of means – aims and will select a satisfactory one. This model promotes the encouragement of participation of important groups of interest, members of legislative, individuals concerned with the decisional process on a strategy.

This model does not fit to the basic decisions, aimed to redirect the society or to engage it in a broad initiative.

### **C. The administrative approach of decision**

This model of decision may be found, more often when applying laws, ordinances, decisions, as well as a distinct procedure, adjudication.

Adjudication represents an important way for administrative decision-making in many areas of policy, especially in regulations, personnel administration and safeguarding the social welfare. It enables to the public administration organisations to behave free of the political pressures, to have an opinion on long-term on the public interest, to make decisions supporting this point of view and to develop a prospective organisational behaviour in identifying the public interest. Adjudication places the public administrators and the individuals or organisations in an antagonist position, where such a relation is not adequate for public policy, being ostentatiously promoted.



### 3.3.2. Synthesis of the approaches on decision-making

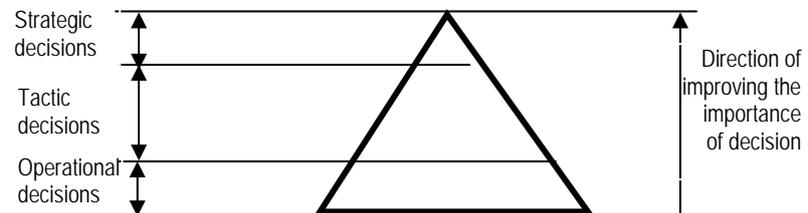
Each of the approaches on decision-making has advantages and disadvantages and does not comply entirely with all the fields of public administration.

The mix scanning tries to combine the growth model with the approach on rational understanding. Amitai Etzioni developed this approach on decision-making.

The mix scanning requires to decision-makers to make the difference between basic decisions for long-term aims and more limited decisions, made in the context of the aims. This distinction between basic and limited decisions is similar with the distinction made by the managerial approach between politics and administration.

However, Etzioni acknowledges that the public managers may make both decisions and he states that they should be clear in their actions, and moreover, they believe that by clarifying the relation between decision-making in the rational understanding way and growth way, their disadvantages may be significantly reduced.

The public manager is subject to many sources of pressure: *time, interested groups, members of legislature and personnel, media, executive directors and personnel, personal promotion and personal aims.*



The specialisation may limit the public manager's perspective and definition of reality. Moreover, decision-making brings inside a trend towards conformance, stopping the disagreements and steady strengthening the traditional point of view of agency on the problem. At the same time, it is hard to know precisely when to decide and when we have to wait further the development, before adopting new strategies and procedures. The most identified common obstacles that occur in the administrative decisions are as follows:

1. *The lack of clarity and aims.* As suggested by the growth model, sometimes, the political price in order to have an administrative programme consists in the lack of clear targets.

2. *The confusion of the public interest with the interest of a group of clients or an electoral circumscription.*

3. *Rigid conservatism based on strict adherence to previous rules, procedures and practices.* From different reasons, the bureaucratic organisation – especially the hierarchy – may determine the public managers to feel unsafe. In these circumstances, the rigidity is often a favourite way of action.

4. *The specialisation determines the public administrators to simplify too much the reality.* It is possible that any social or economic problem represents the result of many factors and has more effects. The specialisation may limit the vision of any group of public administrators to one or few current causes and effects and therefore, we lose the assessment of the whole problem.

5. *“Extra quantification” determines the public administrator not to focus on qualitative factors in decision-making.* The pressures for accounting, political neutrality and safety of jobs, as well as the increased focus on the objective of technical competence determine the public administrators to resist to “subjective” judgement. Consequently, they are looking for quantitative indicators of the qualitative achievement. Sometimes, these indicators are satisfactory, but other times they determine the public administrators to decide in favour of what it is best looking from the quantitative point of view.

6. *Resistance to involvement in programme policy and evaluation.* It is axiomatic that the decision-makers need information about the impact of their decisions in order to improve. However, from political reasons, the administrative agencies may oppose to collect information and to involve in analyses that will determine their previous decisions and programme application to seem inadequate.

Such analyses facilitate the skills of the external persons to review and to understand the operations of an agency. Consequently, sometimes there is the trend that the most careless and superficial type of strategy and programme evaluation would be involved. The agencies may employ private companies in order to make evaluation studies from time to time, being a tacit understanding that a powerful critical review will prevent agencies to use the same company in future. The administrative culture tends to be intolerant to internal and external critics. Thus, the public administrators are often in a powerful defensive position when they face contests from their internal hierarchy, previous decisions and current procedures.

### 3.4. Case study: The Public Service in Japan and Romania

The clarification of the term of *public service* will help us in unravelling the coordinates for its provision by local authorities in Japan and Romania.

Thus, the term of *public service* is used both in *organic sense*, meaning organisation, social body, that achieves an activity of public interest (a body, a public or private legal person), and in *material sense*, in functional way, designating the activity achieved by this organisation or body.

The service of education meets the local public needs of education, for the direct benefit of the citizens and it should function regularly and continuously, under equal conditions for all persons, and the procedures aiming its functioning should be able

to be modified in any moment by the competent national and local authorities.

We assist at the most dynamic period of public sector restructuring, especially concerning the provision of public services. There is currently a global trend of decentralisation education systems. The process transfers decision-making process from central ministry (Ministry of Education) to local governments, communities and schools. The process of decentralization can substantially improve efficiency, transparency, accountability, and responsiveness of educational service. Decentralised education provision promises to be more efficient, to reflect better local priorities, to encourage participation, and, improve coverage and quality.

The public service of education is more often met in the area of local authorities' preoccupations in Japan and Romania.

In Japan, education has been considered "National Project", representing the major force for country modernisation after the 19<sup>th</sup> century.

Japan has a three-tiered structure for governing and administering education with national, prefectural, and municipality components, all under the general supervision of national authority the Ministry of Education, Culture, Sports, Science and Technology (MEXT), commonly shortened to Ministry of Education (*Monbusho*).

MEXT has responsibility to organise and implement the "national curriculum" in the system of the public service of education, to formulate some "targets", "contents", "methods" and "standard hours" allocated/distributed for each field of study/discipline and also for each level of education.

Based on the *law on re-organization and functioning of local administration for education*, the prefectures and municipalities have own boards of education, responsible for local education. The structure of the education system for elementary and secondary school is organized along the lines of the common American 6-3-3 model [11]. The total structure includes the following types of levels of institutions:

- Preschools (*yochien*) and daycare centers (*hoikuen*).
- 6-year elementary schools (*shogakko*).
- 3-year lower secondary schools (sometimes called middle school, *chugakko*)-corresponding to high junior school in the United States.
  - 3-year upper secondary schools (sometimes called high school, *kotogakko*) - corresponding to senior high school in the United States.
    - Schools for the handicapped (various terms are used depending on the type of school).
    - 4-year colleges and universities (*daigaku*), most of them also have graduate programmes.
    - 2-year junior colleges (*tanki daigaku*).
    - Technical colleges (*koto senmon gakko*) offering 5 and 5 ½ year technical programmes, which span the upper secondary and 2-year college levels.
    - Special training schools (*senshu gakko*) offering vocational training at both the upper secondary and 2-year college level.
    - Miscellaneous schools (*kakushu gakko*) offering practical or vocational courses.

The *Fundamental Law of Education* and *School Education Law* have represented key aspects of the reform in Japan, thus establishing the current school system, which comprises primary school for 6-year elementary and 3-year lower secondary school period.

In Romania, the responsibility for organisation and functioning of the educational system belongs to central administration, the Government of Romania, the Ministry of Education and Research (MER), and at local level it belongs to local authorities, respectively to local councils, city halls; it is worth to mention that their role consists in supporting from the administrative point of view the preschool, primary, secondary education and pre-higher education. The pre-higher education (high school) is organised according to the law, with the following forms: full-time, part-time, with reduced frequency and distance

learning. The Law on Education no. 84/1995 and Law 128/1997 on the Statute of Teaching Staff represent the legal framework for the organisation and functioning of education in Romania.

As a common starting point in the analysis of educational systems, under the competence of local authorities, concerning their organisation and functioning, in the two countries, we consider the existence of:

- *general and special legislation*, of the normative deeds elaborated by the ministries of education, of the decisions and regulations elaborated at local level by the authorities responsible for education;

- three levels of development for the educational network: *national*, designed as a balanced and efficient network, *regional/prefecture and county level*, identified with the needs for labour force, mobility of labour force and capacity of recruitment, and *local level*, designed in relation with traditions, and especially with local needs for economic and social development, according to the demographic development.

We identify the educational system with a hierarchical structure and we distinguish easily the distribution of activities and responsibilities on levels.

### **Japan:**

#### *Central level*

▪ Ministry of Education, Culture, Sports, Science and Technology(MEXT)	Minister Superior Vice Minister (2) Parliamentary Secretary (2) Vice Minister Deputy Vice Minister
Internal structure	

#### *Local level*

Board of Education at the prefecture level	Superintendent Vice superintendent (2)
Board of Education at the municipality level	Superintendent Vice Superintendent(2)

*Local administration authorities*

Prefecture	Governor
School of the prefecture/without universities	Principal
Other educational units of the prefecture	Principal
Municipality	Mayor
Schools of the municipality/ without universities	Principal
Other educational units of the municipality	Principal

**Romania:**

*Central level*

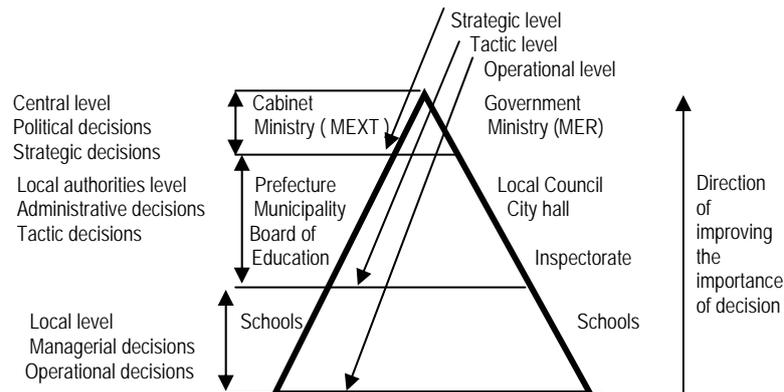
▪ Ministry of Education and Research (MER)	Minister State Secretary for Pre-higher Ed.
General Division for Pre-higher Ed. Specialised services	Director General/Directors Heads of the services

*Local level*

County School Inspectorate/School Inspectorate of Bucharest Municipality Subordinated units: kindergartens, schools, high schools, special schools	School General Inspector  Director
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*Local administration authorities*

Local Councils/Local Council of Bucharest Municipality	President
Commission for education, culture, sports City hall	Head of commission Mayor
Community Relations Division	Director
Education, Health, Culture Department	Head of Department
Audit for social-educational institutions Dept.	Head of Department



### I. The strategic level

**Japan:** Ministry of Education, Culture, Sports, Science and Technology (MEXT)  
Central Council for Education

**Romania:** Ministry of Education and Research (MER)  
National Council for Education

#### A. Political decisions

- *these decisions have a horizon of time of minimum 4 years (period of an electoral mandate);*
- *these decisions require coordination among several political factors, in charge with objectives achievement;*
- *decisions are made for the whole educational process, influencing the future of the educational system*

#### **Japan:**

1. MEXT is involved in developing budget estimates for education.
2. Drafting national legislation for education.
3. Responsible for the coordination and evaluation policy of education, organisation and implementation of national curriculum.
4. Approves the national educational standards.

5.”Digitization of education” is the national project which has targets at providing Internet access to all the public elementary, junior and high schools.

7. International activity.
8. Equality and impartiality in education.
9. Authorisation of manuals.
10. Lifelong learning.

**Romania:**

1. MER is involved in developing budget estimates for education.
2. Drafting national legislation for education in Romania.
3. Government approval of a *Memorandum on compulsory education in Romania* (in 2002).
4. Setting up and dissolving the educational units.
5. Equal opportunities.
6. Lifelong learning.
7. Investments.

*B. Administrative decisions:*

- *decisions concerning the exert of the delegation of authority in the functional hierarchy of governance, observing the fixed rules of delegation resulted from the laws on organisation and functioning of the Cabinet of Japan and Government of Romania,*
- *decisions aimed to apply and observe the legislation*

**Japan:**

1. MEXT is involved in developing budget estimates and drafting national legislation for education.
2. Authorizing the establishment of colleges and universities.
3. Providing general supervision of private institutions of higher education.
4. Up-dating the legislative system.
5. Decentralisation from central to local level.

**Romania:**

1. Approving the regulations of organisation and functioning of state and private education units.
2. Adequate correction of the legislation in order to ensure the legal framework for the application of the strategy and programmes in education.

*C. Strategic decisions:*

- *the decisions have a complex feature*

**Japan:**

1. Organising the education for various forms.
2. Providing guidance and financial assistance to the prefectures and municipalities.
3. Elaborating the curriculum standards which are specified in a national Course of Study (approved by Cabinet).
4. Revising and up-dating the national curriculum every 10 years/ committee of MEXT specialists.
5. Promoting the “pilot school” system at national and local level, where educational researches are carried out, reflecting the impact of the changes in the society requirements.
6. Introducing the educational computerised system.

**Romania:**

1. Structure of the compulsory education, especially concerning the duration /ten grades.
2. Decreasing the inferior limit of access to compulsory education to 9 years.
3. Approving the programme: *Alternative system of computer-based education (2001-2005)*.

**II. The tactic level**

- Japan:** Elementary and Secondary Education Bureau,  
 Lifelong Learning Policy Bureau - MEXT  
 Prefectures  
 Board of Education at prefecture level  
 Board of Education at municipality level

**Romania:** General division for pre-higher education,  
Specialised services of MER  
County school inspectorates  
Local councils – Specialised commissions  
City halls – Community Relations Division,  
Education, Health, Culture Department

*A. Administrative decisions:*

- *concrete decisions are made concerning the educational system, taking into account its administration according to the conditions provided by law*

**Japan:**

1. The Elementary and Secondary Education Bureau - MEXT establishes the curricula standards of the elementary school, lower and upper secondary school, special schools (blind persons, deaf persons, other deficiencies) and for kindergartens.
2. The bureau authorises the manuals.
3. The bureau is responsible for local education.
4. The Boards of Education at prefecture and municipality level are autonomous bodies, independent in relation to prefects and mayors.
5. Prefectural Board of Education is responsible for appointing the prefectural superintendent of education (with the approval of Monbusho).
6. The Boards of Education decide the setting up of schools.
7. The boards at prefecture level are in charge with the high school and those at municipality level are in charge with the elementary school and junior high school.
8. The Boards of Education organise and coordinate special programmes for social education.
9. The governors hold legal authority on private elementary education, on secondary schools and other schools.
10. The governors decide the setting up of special schools, including higher level in high school for disadvantaged persons.

**Romania:**

1. The National Council for Curriculum in the framework of MER has elaborated key milestones for the development of *National Curriculum*, compulsory for the educational system. Thus: a) framework curriculum for grade 1 and 2, in primary education, for 9th grade, arts and vocational schools; b) school syllabi, the Japanese language L2, grades 5 – 8 from the secondary education and cycle 9–12 from high school education (Minister's Order no. 5201/24.12.2002).

2. MER establishes and approves the structure of organisation of the county school inspectorates and School Inspectorate of Bucharest Municipality. *The school inspectorate represents the only specialised decentralised body of MER, with prerogatives established or delegated by the ministry.*

3. The general division for pre-higher education MER coordinates the application of the strategy of reform for pre-higher education.

4. The general division for pre-higher education MER elaborates proposals for curriculum, syllabi, drafts for normative deeds, regulations, methodologies.

**B. Managerial decisions:**

- *the necessary resources for the educational system/human resources, infrastructure and material endowment/planning the investments, financial resources/allocated budgets;*
- *the decisions are made on short term and they are components of the decisions made at strategic level.*

**Japan:**

1. Subsidies for educational local authorities/investments.

2. The Elementary and Secondary Education Bureau - MEXT establishes standards for the size of classes, number of teachers for schools, payment for teaching staff, improving the facilities for the public schools.

3. Prefectural Board of Education is responsible for licensing teachers.

4. The Boards of Educational provide programmes for social education.

5. The boards are in charge with the authorisation, approval and pay system for the teachers.

6. The boards set up libraries, museums.

7. The boards ensure infrastructure for the sport and entertainment activities.

8. Municipality Board of Education is adopting textbooks for compulsory school use from Monbusho's approved list.

**Romania:**

1. Restructuring the basic and in-service training system for the teachers in primary education,

2. Training the teachers in the area of continuous evaluation, based on a system of evaluation standards.

3. Distributing the amounts allocated from the state budget on categories, for example, in order to ensure the training of the personnel from education.

4. MER delegates assignments to the school inspectorates.

5. The school inspectorates decide the size of the activity of preschool and primary education, secondary and high school education, technical vocational education, private, special education, education for minorities – the curriculum.

6. The general school inspectorate may delegate to the principal of an educational institution, assignments for coordinating the activity of other schools in the area of the city or commune where they are situated.

7. The Council of Bucharest Municipality, the local and county councils through the own commissions of education, health, culture, sports and through specialised services and departments within the framework of the city halls support from the administrative point of view, the education institutions of preschool level/kindergartens, primary and secondary level/general, high school, vocational and post high school level.

*The higher education is not in charge of local authorities.*

8. The Community Relations Division from the city hall ensures that the mayor knows the problems specific for the activities of educational units under the competence of the local council and city hall.

9. The Community Relations Division from the city hall makes an inventory of the network of education and manages the database.

10. The technical / investments / supply / departments / services from the County School Inspectorate (CSI)/ School Inspectorate of Bucharest Municipality (SIBM) coordinate the activity of repairs and investments at school units level.

11. The technical/ investments/ supply/ departments/ services from CSI/SIBM ensure the stock and quantity of necessary school manuals and distribute the manuals and syllabi.

12. The local councils ensure by means of the local budget (from the state budget) financing with approximately 75% of the teaching staff and the non-teaching staff from the assigned education institutions.

13. The education, health, culture department from the city hall draws up draft decisions concerning the education, culture and health activities.

*C. Tactic decisions:*

*a. these decisions require coordination on horizontal level.*

**Japan:**

1. The Boards of Education ensure school management, library and museums management.

2. The Boards of Education provide information, consultancy and assistance for future school development.

**Romania:**

1. The education, health, culture department from the city hall ensures the liaison with the education units and specialised commissions of the local council.

2. The “school management” department from CSI/SIBM ensures the link with the city hall and other public institutions.

3. The “school network/curriculum/study documents” commission of SIBM achieves the sizing of the activity of educational units (ex: curriculum).

4. The school inspectorate organises in collaboration with the specialised service from the city hall, cultural-artistic, humanitarian, scientific, sport activities.

### **III. The operational level**

**Japan:** Board of Education at prefecture level  
Board of Education at municipality level  
Educational units

**Romania:** School inspectorates  
Educational units  
City hall

*A. Managerial decisions:*

- *decisions with an objective established by the immediately superior*
- *hierarchical level. The application and execution of the decisions and assigned tasks.*

#### **Japan:**

1. The educational units are in charge with the internal management.

2. The schools are responsible for their own curriculum, for their staff.

3. The schools ensure the conditions for provision of education.

#### **Romania:**

1. The institutions of pre-higher education, general, preschool education are managed by a principal assisted by one or two vice principals, depending on the school dimension. The principal is subordinated to the general school inspector, he/she

delegates to the vice principal assignments on determined periods of time, except the right to sign the accounting acts and the study documents.

2. The teaching board of the educational unit plays the role of a decision body in the training/educational area.

3. The principal issues decisions for achieving the objectives of the educational policy and institutional development.

4. The board of directors of the education institution plays the role of a decision body in the administrative area.

5. The board of directors of the education institution comprises also representatives of the local authorities.

6. The audit department for social-educational institutions from the city hall achieves activities of internal audit in the pre-higher education and special education units, concerning the funds allocated from the budget of the local council.

*B. Operational decisions:*

- *decisions controlled from inside the organisation, namely by those from the educational units.*

**Japan:**

1. Creating the conditions for introducing IT in the schools with classes of 20 pupils.

2. Introducing "A Learning Environment for New Generation" system in schools.

3. Promoting the syllabi adapted to community needs.

**Romania:**

1. Introducing the computer-based learning in high schools/introducing the lessons in curriculum.

2. Endowment with IT equipment/during 2001-2004, 1384 high schools from the urban and rural environment were endowed.

3. Achieving the computer-based lessons.

4. The "school management" department from SIBM together with the school units are solving the problems of the schools.

The reasons of the specificity of decision-making process in the area of the decisions made by public administration authorities concerning the public service of education should be analysed and inserted in the framework of the “Japanese philosophy”, in the culture and traditions, as well as in the national characteristics of Japan.

We identified the core features of Japanese management also in the analysis on the public service of education as unique, based on organisational philosophy and culture, namely:

a) a philosophy specific for the organisation of the education service for community:

*To realize a learning environment where each citizen of Chiba Prefecture can foster “the power to create the next generation” always feeling “enjoyment in learning” (philosophy of Chiba prefecture).*

*“Promoting a new philosophy of education in accordance with the 21<sup>st</sup> century” (The Rainbow Plan).*

- b) implementing the consultative management;
- c) communication in double direction on vertical plan;
- d) a manner of discussion and decision-making that avoids confrontations;
- e) consensus in decisions and actions;
- f) the formulation of the development strategy for the education service is based on systematic data and information/example: “Pilot schools” and redefining the curricula each 10 years, based on the results of researches and studies of the teachers in “pilot schools”;
- g) the long-term planning for the organisation and provision of education service;

*“YUME, MIRAI 2025 (Dream and Future 2025)”*

as a goal of Chiba’s education.

h) well- structured organisation, with a hierarchical structure and power distribution on horizontal and vertical plan within the organisation. The organisation belongs to the group of the organisations with organic structure, proving superiority in relation with the mechanicist structure by its great capacity of adaptability to the changing environment;

*"To create a local community where each citizen of the prefecture can live at ease and display their ability".*  
*"To improve the provision for education"( The Rainbow Plan).*

- i) inter-departmental distribution of influence;
- j) importance awarded to the structures of group/department/division, supported also by the exchange of values and information among the members of these structures; factors ensuring the adequate harmonisation of the structure with the organisational process; thus, the human relations represent the core of the organisation;
- k) developing and training the employees;
- l) formalisation consists in the definition of authority and responsibility for each decision-maker (legal person: MEXT, Education Board (BE), Planning and Administration Department (BE), and Educational Promotion Department (BE), Prefecture, Municipality, Schools, or individual person: minister, vice minister, superintendent, vice superintendent, heads of departments, divisions, local offices, principal);
- m) uniformity:
  - we find the same structures in the whole local authorities system with responsibilities for the education service. Comparing the system with an organisation, it forms a mechanism combining the parts, comprising sections (education boards, prefectures, municipalities, schools) that cannot exist independently but are acting daily in an independent manner;
  - in the organisation of the educational system;
- n) centralisation may be interpreted as a relation of parts within a system, so we accept a systemic approach of organisation and functioning of the education service in Japan.

Analysing the public institutions' role in the organisation, functioning and management of public service of education in the two systems, we may identify both common elements for definition and specific elements. Thus, as a general statement, in Japan and Romania, the Constitution, the general laws and specific laws on education ensure the functioning of the educational systems.

The decision-making system observes the general rule of belonging to the "*pyramidal traditional model*", placing the central administration (represented by Cabinet, respectively Government and ministries of education from Japan and Romania) at strategic level, making political, strategic and administrative decisions. The decisions have a horizon of time determined also by the "electoral mandate" (4 years), they emphasise the consensus and capacity of collaboration among several political factors and they are in the framework of the laws on the organisation and functioning of the Cabinet, respectively Government concerning the delegation of authority, observing the hierarchy. The issues subject to the decision-making act at central level are similar in the two systems, built in different cultures, having specific traditions. We mention: the national educational standards, reorganising the education on different forms and cycles and bringing into line with the educational international standards (ISCED, *International Standard Classification of Education*, ISCO, *International Standard Classification of Occupation*), national curriculum, IT education, lifelong learning, equality and impartiality in education.

From the tactic level of the decisional pyramid, the two systems start to reveal already, on one hand the local public administration "actors" involved in the public service of education, and on the other hand, centralisation or decentralisation of its organisation and management and the issues approached.

As specified in the previous chapter, the local public administration authorities have responsibilities on local governance, derived from the Law on Local Autonomy that distributes the functions to prefectures and municipalities. In this respect, local governance covers all aspects of the internal life, such as diplomacy, security, public ministry etc.

In Japan we have to remark the role of an autonomous body, set-up at local level, namely *The Board of Education*, existent at the level of prefectures and municipalities, but not subordinated to governors and mayors. Its structure, role and relational system sustain the philosophy of prefecture for public service of education.

This philosophy demonstrates that the organisation is based on values, it has a clear vision and mission and we are in front of an organisation built on specific culture and tradition.

*Basic Philosophy:*

*To realize a learning environment where each citizen of Chiba Prefecture can foster "the power to create the next generation" always feeling "enjoyment in learning".*

*Mission:*

*To create a local community where each citizen of the prefecture can live at ease and display their ability.*

*To create a school education environment where each pupil can learn basic concepts and principles and show their individual characters for life.*

*To create a learning environment where each citizen can aim at realizing their self-expression depending on their respective lifestyle.*

*Vision:*

*The system of the Long-Term Education in Chiba Prefecture.*

The Board of Education shall have one Superintendent who assists the Vice-Superintendent in such away as to keep in order the activities regarding the education public service and to supervise the working of departments.

The Administrative Board of Education is hierarchically structured, at the top it comprises Superintendent, Vice-Superintendent, Head of Department, Division, Branch Offices.

The organisation of Chiba Prefecture' Board of Education is the following: - 2 departments: a) Planning and Administration Department; b) Educational Promotion Department.

The Board of Education has 11 branch offices in: Chiba, Funabashi, Higashi-Katsushika, Inba, Katori, Kaiso, Sanbu, Chosei, Isumi, Awa, Kimitsu.

The responsibilities of the Board are in general affairs of school (Board meetings, public relations, public hearings, information disclosure, personnel affairs, wages, documents, regulations, public service corporations, and emergency information diffusion system), planning and finance, facilities, teachers' welfare. The divisions take care of school education reform, lifelong learning, special education, health education, cultural education and properties, physical education and sports, through which they control and coordinate the activities of branch offices by general affairs division and of various centres, and museums.

While in Japan the Board of Education exists at local level, in Romania the County School Inspectorate (CSI) functions and for Bucharest Municipality, the School Inspectorate of Bucharest Municipality (SIBM) functions, the only specialised decentralised body of the Ministry of Education and Research, with prerogatives established or delegated by the ministry. There are only relations of collaboration between CSI/SIBM and local public administration authorities (local council and mayor). SIBM organisation observes the principle of pyramidal hierarchical structures, with matrix organisation and a structure of distributing the authority on the vertical level of the organisation. A school general inspector, 2 deputy school general inspectors and a director ensure the inspectorate management. SIBM is organised in 14 functional structures, the Municipal Center for Psycho-Pedagogical Assistance and the Teaching Staff Home. The names of the functional structures reveal the activities ensured by SIBM:

1. Budget, accounting, pay system;
2. Internal public audit;
3. Contentious;
4. Chancellery (secretariat, registration, archive, councillor, public relations);
5. Psycho-Pedagogical Assistance Centre;
6. The Teaching Staff Home;
7. School management;

8. Coordinating, monitoring and evaluating the school inspection;
9. Ethnic, investments, supply, services;
10. School network, curriculum, study documents;
11. Information network, functioning and development;
12. Institutional development;
13. Human resources;
14. Strategy.

Bucharest Municipality, organised in 6 administrative-territorial subdivisions, called sectors (Law no. 215/2001, Art. 92) provides the framework of organisation for (6) sector school inspectorates. The local public administration authorities from Bucharest Municipality are as follows: the General Council of Bucharest Municipality and (6) Local Councils of Sectors as deliberative authorities, as well as the general mayor of Bucharest Municipality and the mayors of the sectors, as executive authorities.

The managerial decisions on the organisation and provision of education service, at local level, in Japan case belong to local administration, Board of Education, Prefectures, and Municipalities and in Romania case, to School Inspectorates. Local Councils through the commissions of education, health, culture, sport and the specialised services from the city halls support from the administrative point of view the education activity, create conditions necessary for the provision of the scientific, cultural, artistic activity, collaborating with the sector school inspectorate and municipality inspectorate.

In the local budgets, there is a chapter designated for ensuring the wages of the personnel in education by allocation from the national budget, 50% (Japan) and 75% (Romania), the rest being the local authority's task.

Summarising, but not ending the subject approach and research, we can provide the following statements on the practice in Japan:

- the public service of education represents the meeting place of the practices on decision-making from the three-dimension

perspective: managerial, political, administrative dimension. It is organised and managed in organisation, where there is an organisational culture, a set of values, procedural and formal mechanisms. We should not exclude the fact that in Japan we find standardisation of public service, based on the governmental policy, concerning the uniformity of public service all over the country.

- consequently, we remark in the decisional practice of local authorities from Japan the *jurisdictional specialisation* between public institutions and inside them, contributing to delimitation of public administrators' authority to well-determined areas of competence, subjects and problems concerning the policy of public service of education. Specialisation divides the functions of public institutions and local authorities on departments and divisions (see the Education Board, Prefecture, Municipality), structures that can be easily managed. But, the practice demonstrates that specialisation limits the principles that public administrator should take into account in the moment he/she has to choose among several alternatives. The competence framework is quite restrictive; the public administrators are more concerned to satisfy the need/public interest concerning the education service. At the departments and divisions level, the public administrators formulate strategies and rules (for example: Planning and Administration Department, School Education Reform Division, Educational Promotion Department, Lifelong Learning Division), and other divisions apply them (Special Education Division, Facilities Division).

The two activities are correlated, the civil servant from the department, division is involved in execution and may make some choices, just concerning the means for objective achievement, subject of the decision made at superior level (Board of Education).

- The *hierarchy* is emphasised in the structure of the Education Board, by identifying the hierarchical levels (superintendent, vice-superintendent, head of department, chief of division, manager of branch offices), and it defines the public

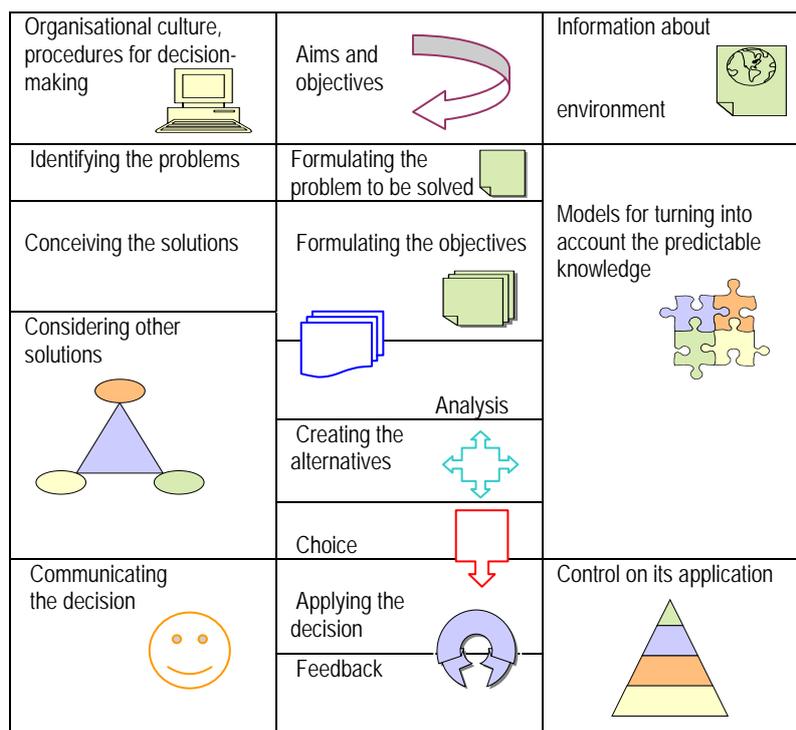
administrators' authority. Some of the persons holding management positions in the hierarchy of the organisation do not make important decisions and execute routine activities, repeating ones (registers, inventories, applications for subsidies etc.). They simply establish the problem-framing in a category.

- The information is relevant in the decisional process; we find the formalisation practice in requiring the useful information for decision-making also in the decision-making process of the Education Board. This feature of the decision-making process is called *formalisation* and it consists in the activity specifying the factors and information taken into account in the choice process; it may influence the decision-making process as it includes several valuable statements assigned to different factors and information and indirectly achieves their differentiation. And, in the same time, the informational exclusions may represent valuable statements.

On the basis of the features of the decision-making process revealed by the analysis carried out and taking into account the theoretical elements, we may formulate a model of decision-making, characterised as follows:

- the decision is often made on the basis of experience, knowledge, intuition and tradition or sometimes on the basis of routine;
- the decision represents the result of a systematic activity, passing through the next stages, even if they are not clearly emphasised.

We identify the anatomy of decision-making process in the following stages (figure 3.4.1).



**Figure 3.4.1.** *Anatomy of decision-making process*

**The general responsibilities for providers and beneficiaries of public services related to those of central, local administration**

Table 3.4.1

Involved parties	Responsibilities
Central public administration	<ul style="list-style-type: none"> <li>▪ to formulate national policy on local administration;</li> <li>▪ to formulate and to propose for approval laws on local public administration;</li> <li>▪ to establish economic and technical standards;</li> <li>▪ to ensure the application of in force laws and regulation;</li> <li>▪ to ensure counselling for local authority;</li> <li>▪ to control local public administration.</li> </ul>

Local public administration	<ul style="list-style-type: none"> <li>▪ to ensure services at qualitative levels established by local administration;</li> <li>▪ to deliver services according to regulations and contract clauses;</li> <li>▪ to observe in force laws and norms;</li> <li>▪ to observe the basic principles and rules of public services;</li> <li>▪ to maintain, develop the services, according to the delegation and approvals given by governing authority;</li> <li>▪ to manage efficiently the human, financial and material resources;</li> <li>▪ to inform quickly and fairly the local authority;</li> <li>▪ to fulfil the contractual obligations;</li> <li>▪ to respond promptly to beneficiaries' needs.</li> </ul>
Service providers	<ul style="list-style-type: none"> <li>▪ to ensure services at qualitative levels established by local administration;</li> <li>▪ to deliver services according to regulations and contract clauses;</li> <li>▪ to observe in force laws, norms and basic principles and rules of public services;</li> <li>▪ to maintain, develop the services, according to the delegation and approvals given by governing authority;</li> <li>▪ to manage efficiently the human, financial and material resources;</li> <li>▪ to inform quickly and fairly the local authority;</li> <li>▪ to fulfil the contractual obligations;</li> <li>▪ to respond promptly to beneficiaries' needs.</li> </ul>
Beneficiaries	<ul style="list-style-type: none"> <li>▪ to observe in force laws as well as the decisions of local administration;</li> <li>▪ to be informed about the new regulations;</li> <li>▪ to pay in time the services provided.</li> </ul>

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The Constitution of Japan

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The National Government Organization Law (Law No.120 of 1948, as Amended)

The Local Autonomy Law

The Law on Education

The Law on School Education

**Romania'Laws**

The Constitution of Romania (1990, as Amended in 2003)

The Law on Local Public Administration (Law No.215 of 2001)

The Organization and Functioning of Romanian Government and Ministries (Law No. 90 of 2001)

The Law on Regional Development in Romania (Law No.151 of 1998)

The Law on Education (Law No.84 of 1995)

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## **Annexes**

### **Annex 3.1**

Figure 3.1.1. The Separation of Power under the Constitution

Figure 3.1.2. Structure of the Japanese Cabinet

Figure 3.1.3. Attributions and Functions of Japanese Cabinet and Romanian Government

Figure 3.1.4. Management of the Japanese Cabinet Office

Figure 3.1.5. Typical Internal Structure of the Ministry

Figure 3.1.6. Structure of the Romanian Government

Figure 3.1.7. Management of the Romanian Government

### **Annex 3.2**

Figure 3.2.1. Prefectures, Prefectural Capitals, and Number of Municipalities by Prefecture in Japan

Figure 3.2.2. Organisation of a Typical Prefecture in Japan

Figure 3.2.3. Organisation of a Typical Municipality in Japan

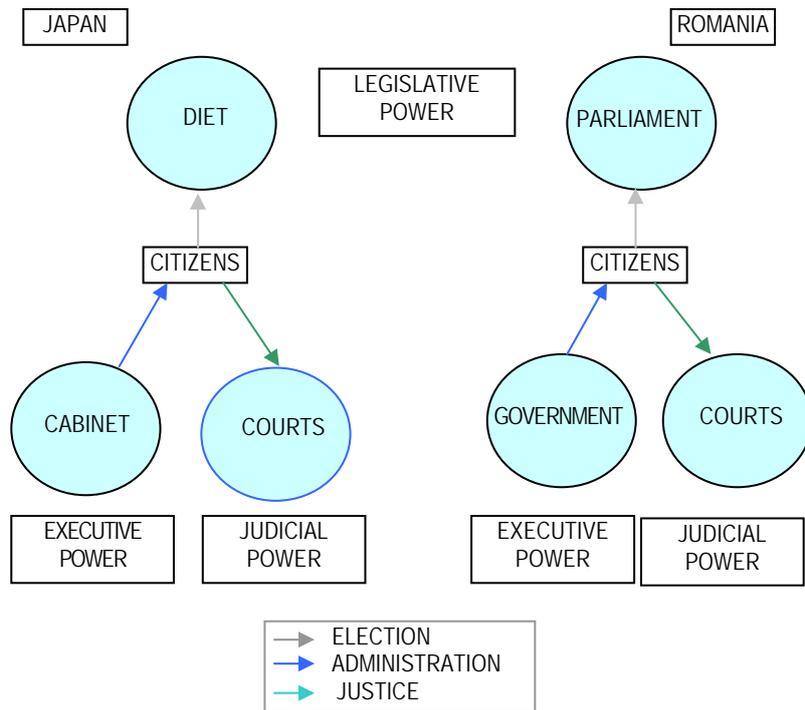
Figure 3.2.4. Public Administration System in Romania

Figure 3.2.5. Romanian Development Regions

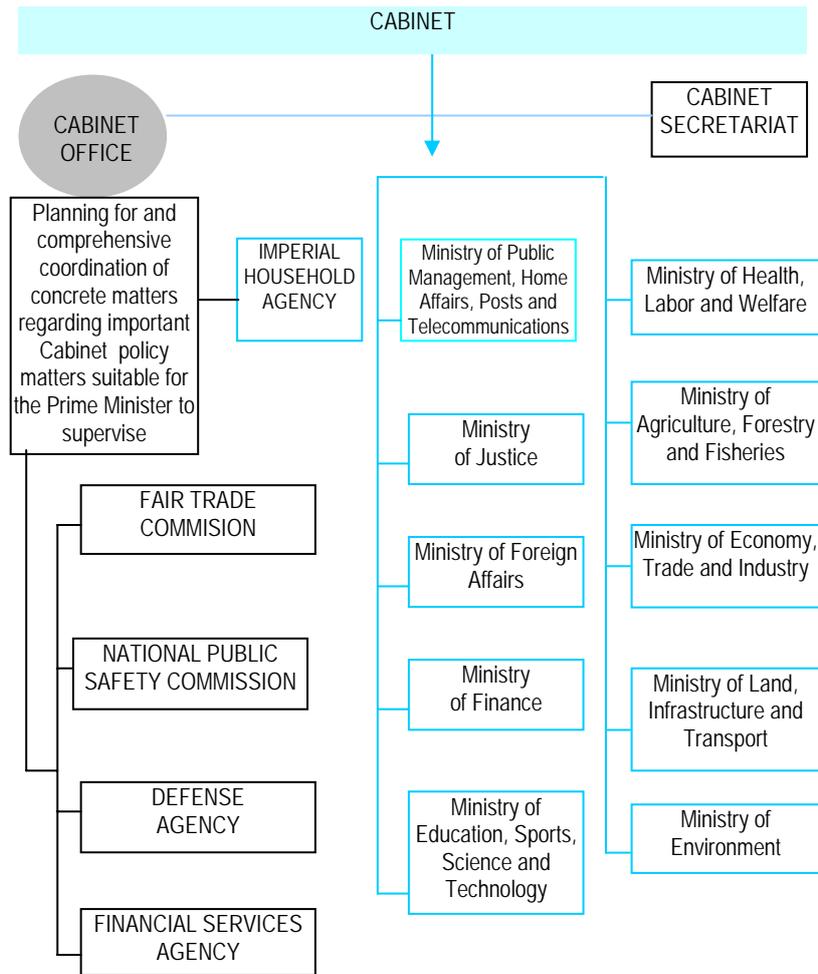
Figure 3.2.6. Organisation of a Typical Prefecture in Romania



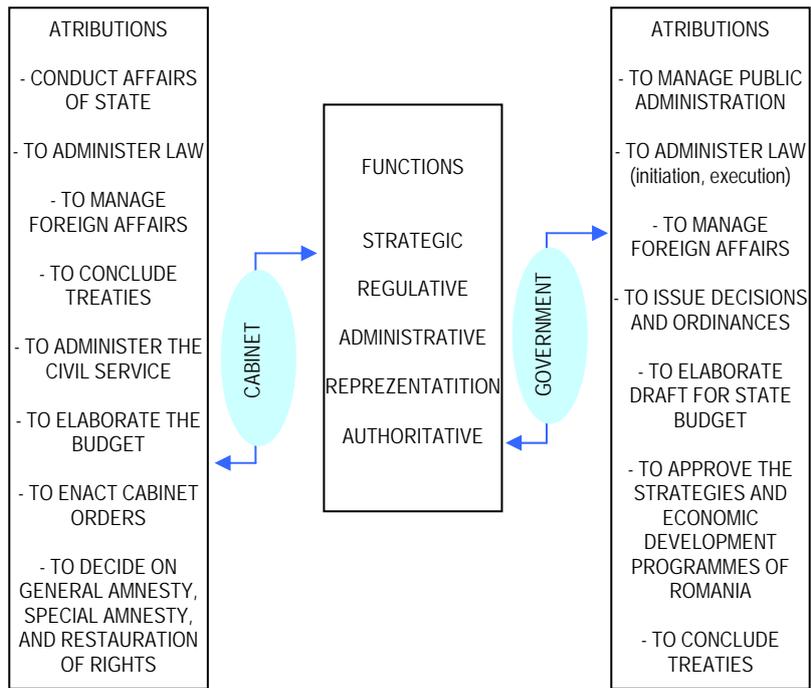
Annex 3.1



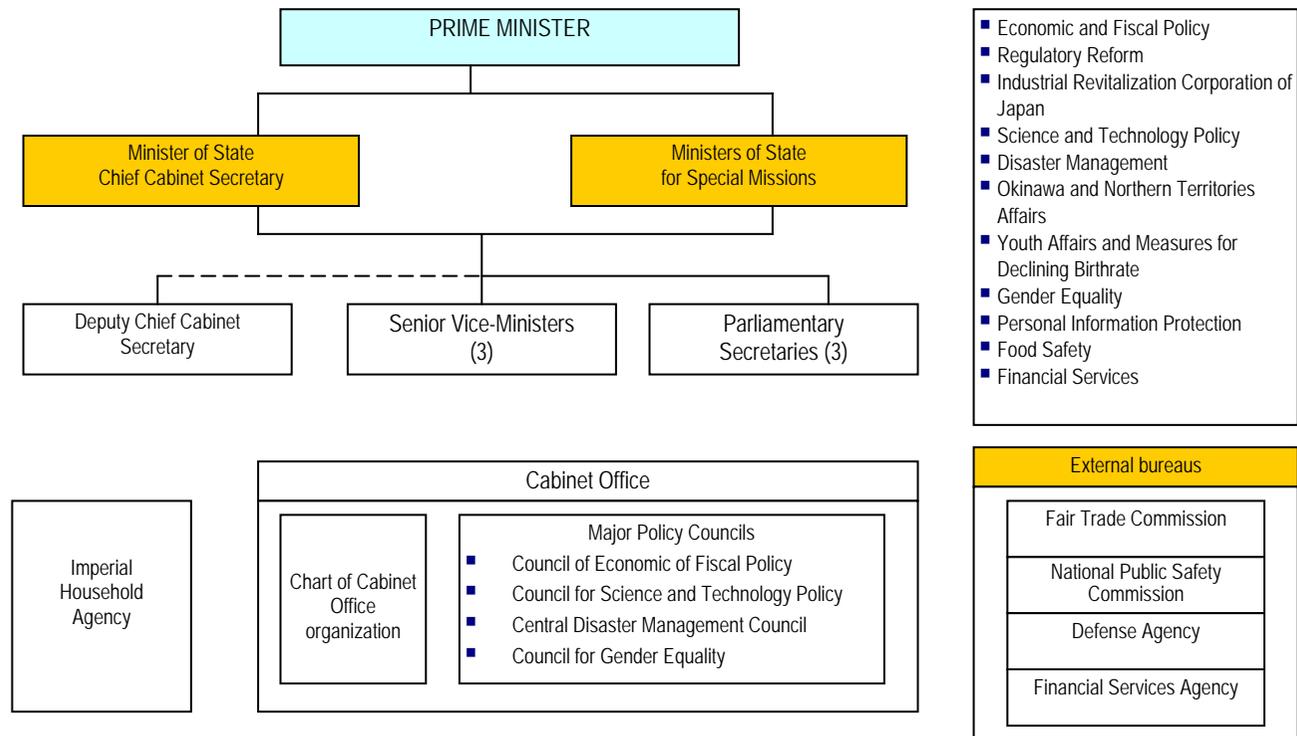
**Figure 3.1.1.** *The separation of power under the Constitution*



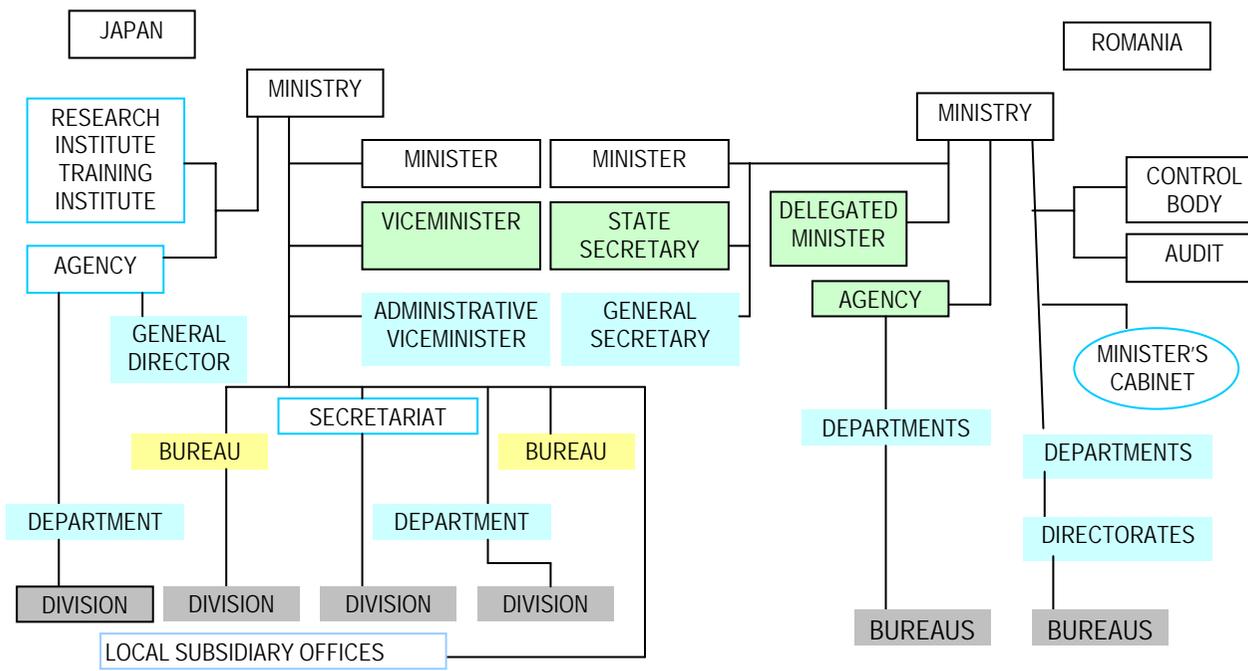
**Figure 3.1.2.** Structure of the Japanese Cabinet



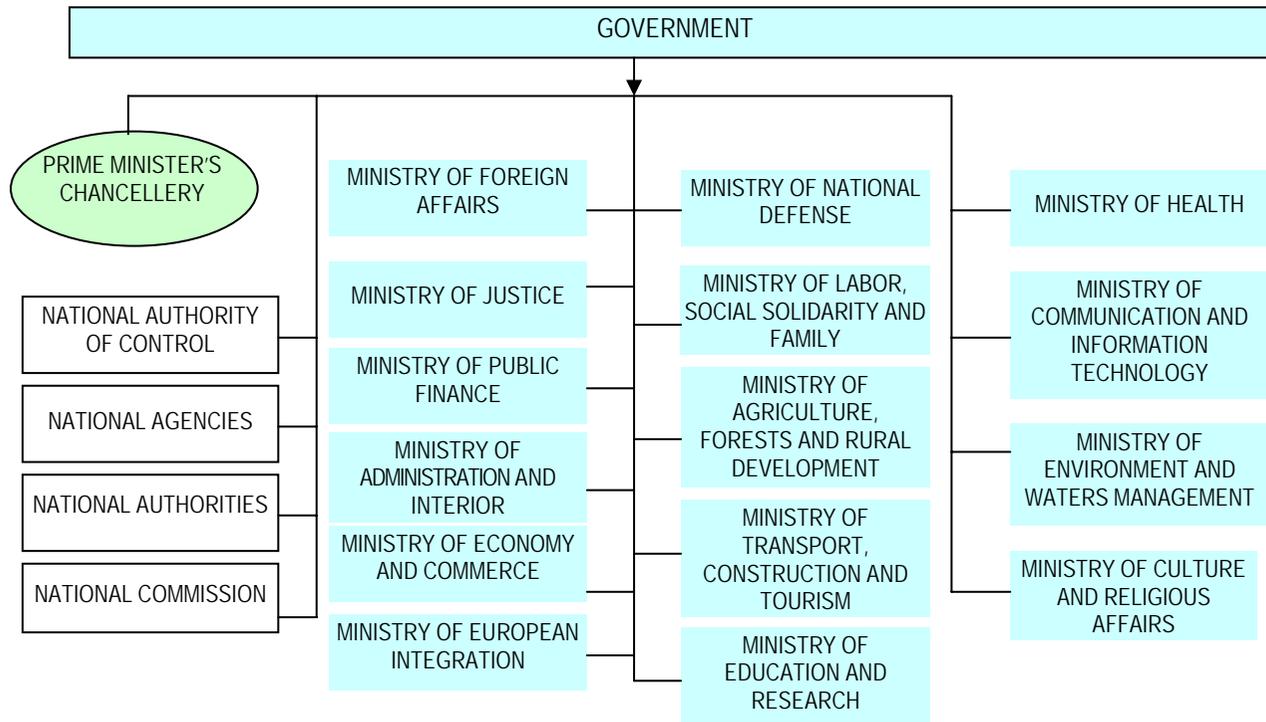
**Figure 3.1.3.** *Attributions and functions of Japanese Cabinet and Romanian Government*



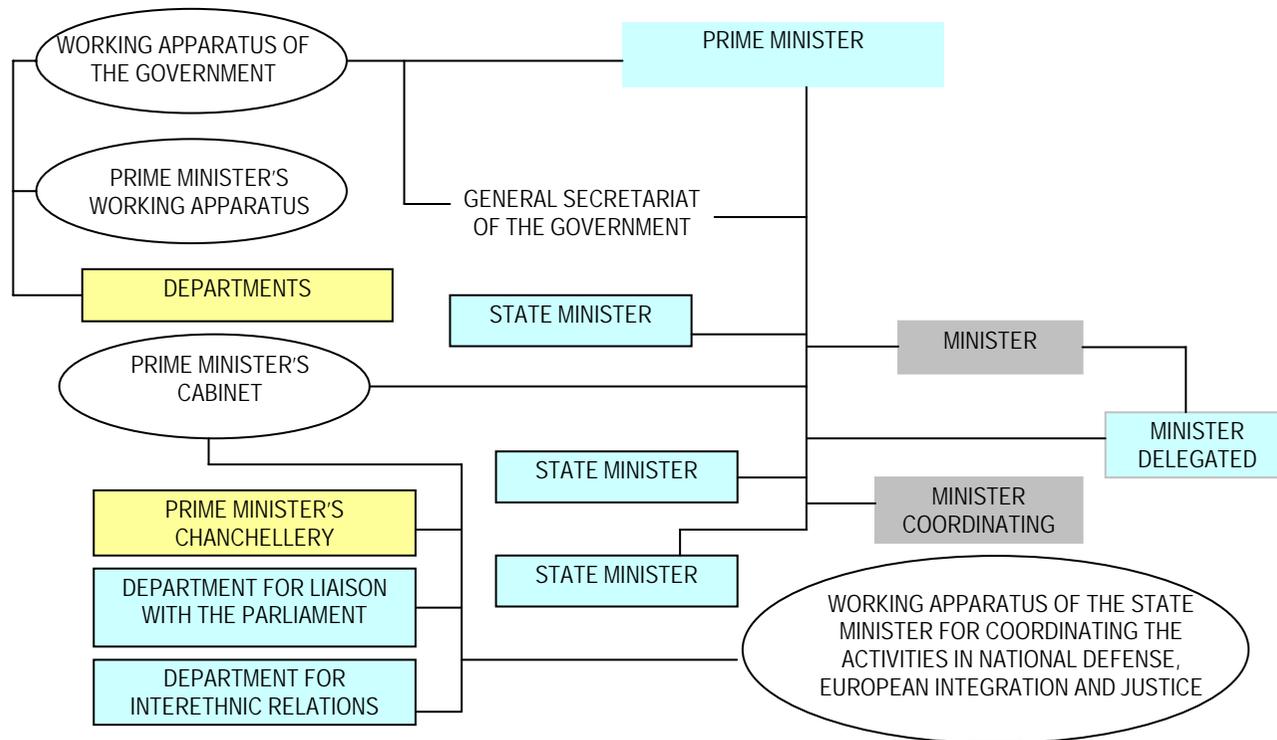
**Figure 3.1.4.** *Management of the Japanese Cabinet Office*



**Figure 3.1.5.** Typical internal structure of the ministry



**Figure 3.1.6.** Structure of the Romanian Government



**Figure 3.1.7.** *Management of the Romanian Government*

Annex 3.2

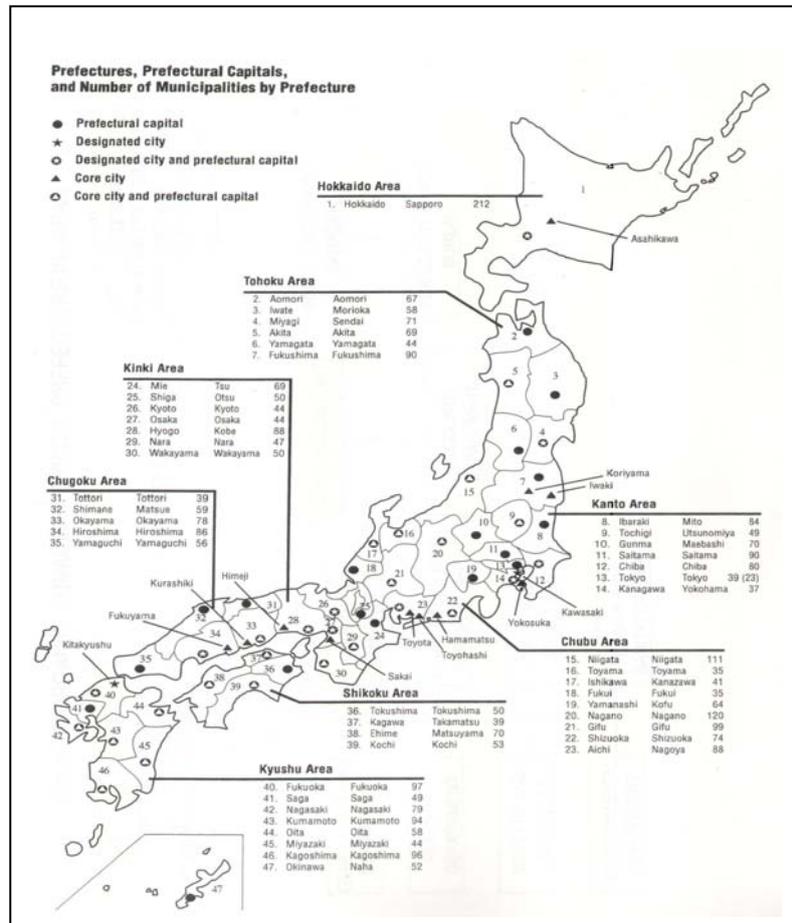
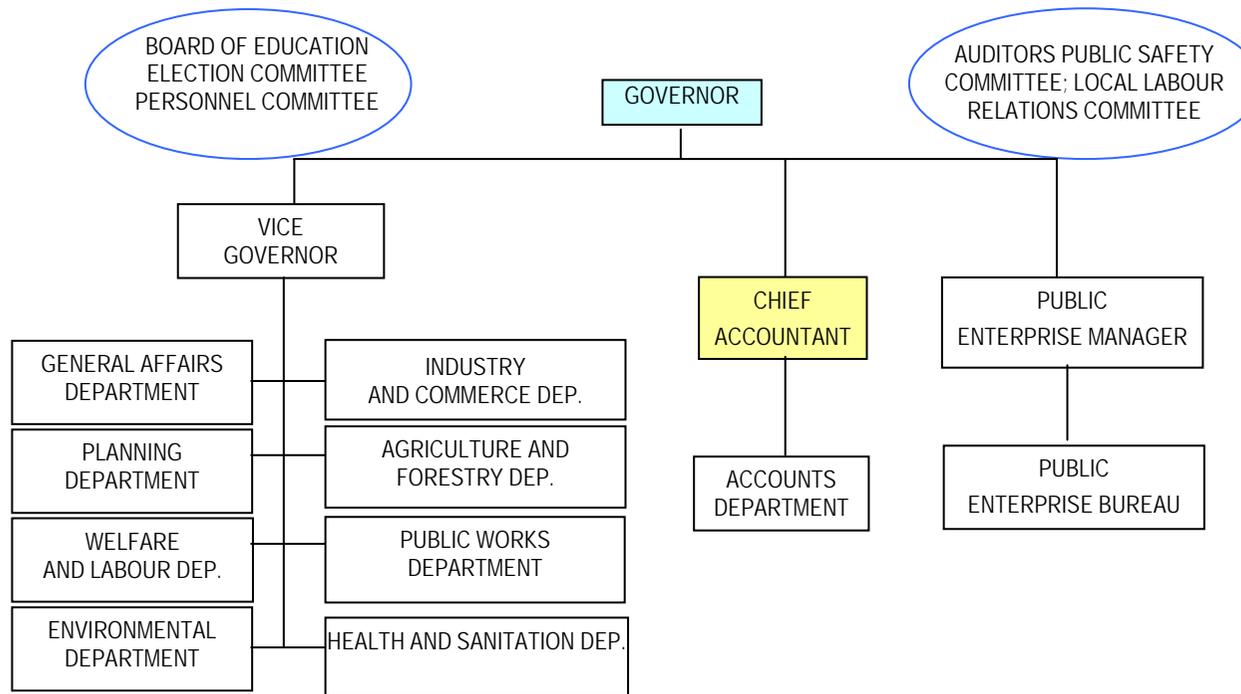
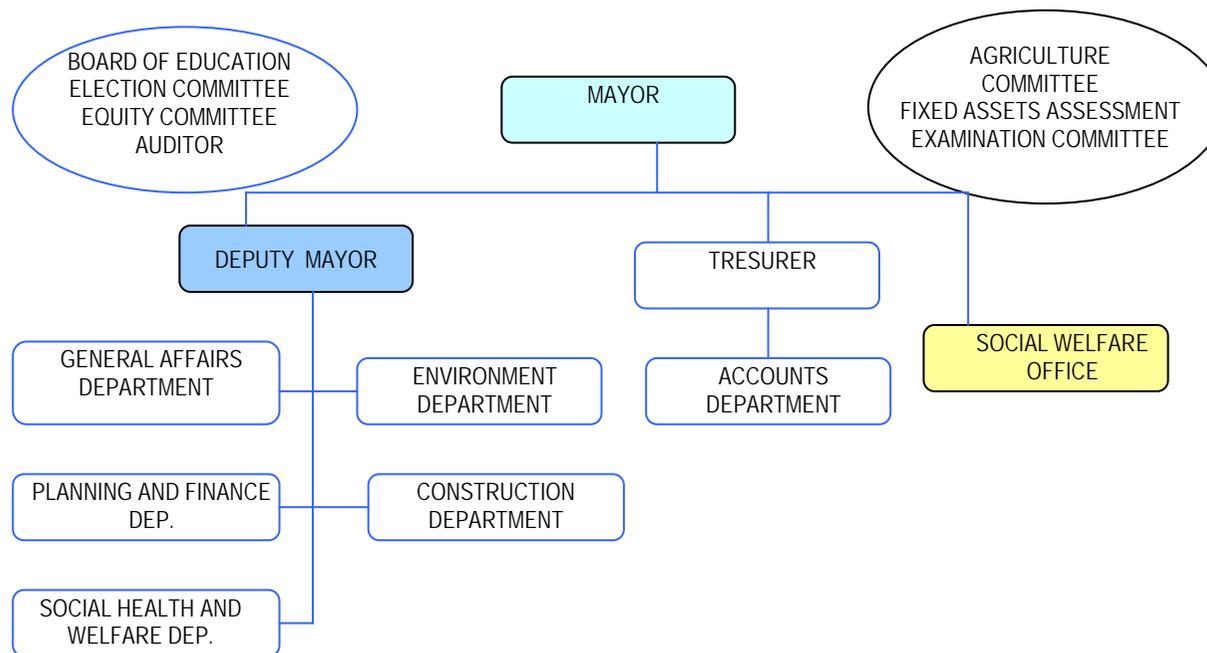


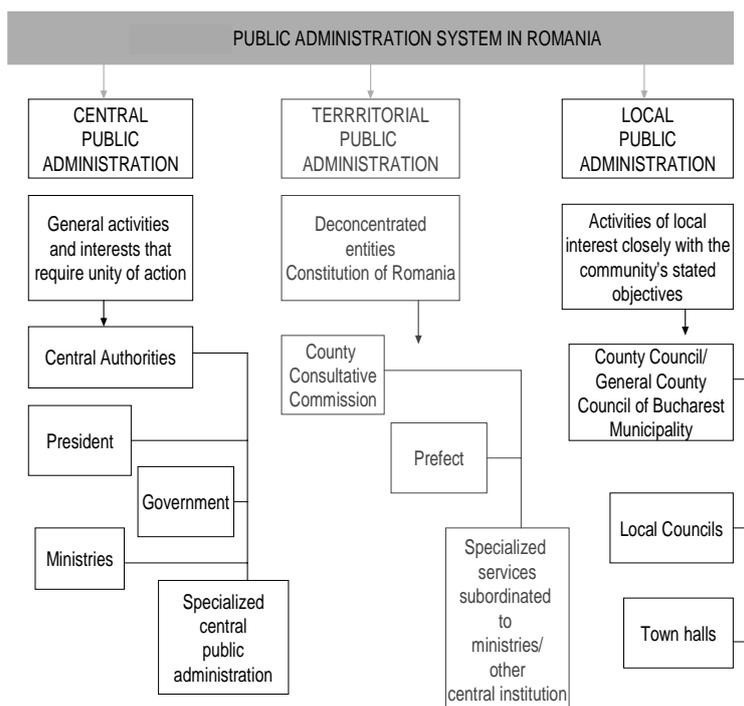
Figure 3.2.1



**Figure 3.2.2.** *Organization of a typical prefecture in Japan*



**Figure 3.2.3.** *Organization of a typical municipality in Japan*

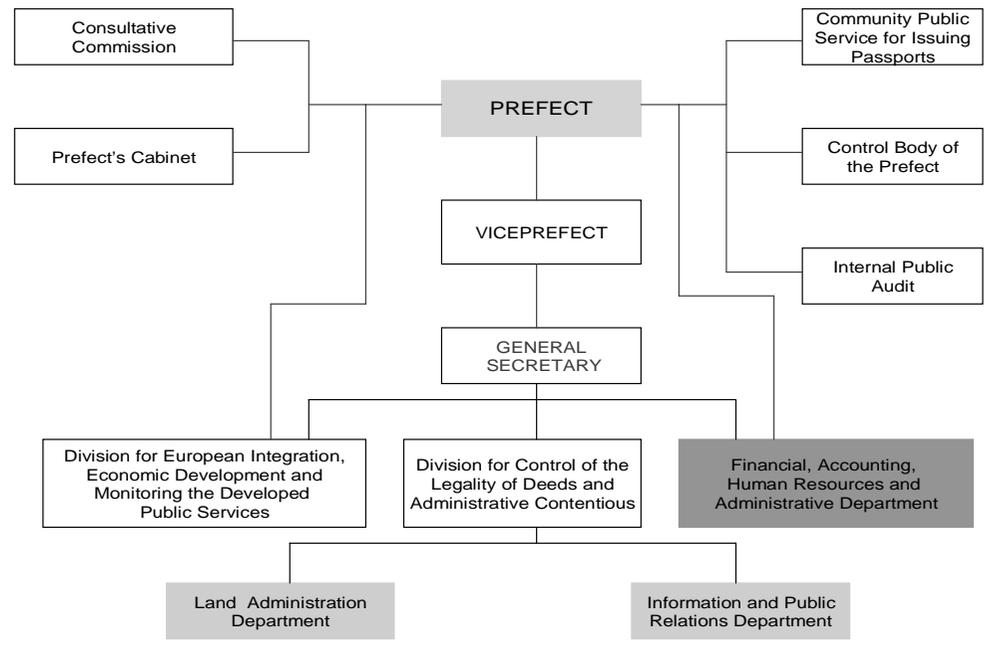


**Figure 3.2.4.** *Public administration system in Romania*



**Figure 3.2.5.** Romanian Development Regions

1. North-East Region
2. South-East Region
3. South Region
4. South-West Region
5. West Region
6. North – Western Region
7. Center Region
8. Bucharest Region



**Figure 3.2.6.** *Organization of a typical prefecture in Romania*

