

# ***Critical Analysis of the Public Administration System in Romania and its Directions for Reform***

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**Abstract:** *This paper addresses from a conceptual angle the public administration reform and its necessity, and in the second part analyzes the state of the art of public administration reform in Romania and the main weakness of the public administration system in our country as compared to the indicators of administrative capacity developed by SIGMA /OECD.*

*In the end, several directions for further reform are developed aiming to strengthen the Romanian administrative capacity for the European Union integration and adaptation to the principles of the European administrative space. They cover the following aspects: the culture of results, taking into account the expectations and proposals of citizens in order to improve the users' service, the funds allocated for monitoring and evaluation activities, the decentralization process, outsourcing of tasks, the public procurement system and the budget control mechanisms.*

**Keywords:** *public administration reform, administrative capacity, weakness of the public administration system, reform directions*

## **Introduction**

The existence of an efficient and democratic administration is one of the most important criteria of defining the modernity of a country.

According to the Oxford English Dictionary (1964), the reform is “the removal of political abuses, the disposal or abandonment of imperfections and errors”.

The idea of administrative reform is the testimony of a time of crisis. Faced with the crisis of the welfare state, unable to increase public spending since the 80s, Western countries had reactions in order to maintain, modernize, marketize or minimize public sectors (Pollit & Bouckaert 2004).

The administrative reform has particular characteristics for Central and Eastern Europe that arise from the fact that all these countries have undergone a profound process of democratization and changes in the economy and to the entire society since the 90s (OECD/SIGMA, 2003).

Thus we can speak about the existence of two main phases of the reform of public administration management in CEE countries (NISPAcee, 2008):

- The phase of democratization, building new systems of public administration in the early 1990s
- The pre-accession to the European Union in the late '90s and early twenty-first century.

### **1. Conceptual clarification of public administration reform in Romania**

In Romania, public administration reform was not a priority although so far it constituted a distinct chapter in all government programs; on the contrary the centralist methods were largely perpetuated and the expected changes were too slow and fragmented. At the beginning it was necessary that the government focused on *the economic reform issues*; but only later it became clear that *its implementation was impossible without a public administration reform*, which also explains the delays and distortions produced in implementing the economic reforms.

In our country, public administration reform is seen as a broad concept that includes all aspects of public sector organization, among which stands out : the general "architecture" of ministries and agencies, local organizations and institutions, systems, structures, processes, motivations, and the way to monitor these and adjust periodically the system (Profiroiu M, 2005).

Creating a modern and efficient public administration, that is closer to the citizen, was one of the priorities included in the schedule for preparing Romania's EU adhesion. The recommendations formulated in the country Report of the European Commission (2003) referred to the need to strengthen administrative capacity, both in terms of *institutional structures* and that of *formulating policies and strategies, redefining tools for their implementation and monitoring* and not least, *strengthening management capacity in implementing decentralized responsibilities*.

*Administrative capacity is the ability of institutions and public authorities to conduct effective, efficient and sustainable actions* (NISPAcee, 2005)<sup>1</sup>.

The administrative capacity is an assessment of the functioning of hierarchical structure of civil servants, and thus representing only one of the elements of public administration reform. Thus, the reform means more than improving the *administrative capacity*. However, the administrative capacity is essential for the reform and for the state functioning, but this is only a part of that complex vision and, alone, it cannot provide the results expected from a modern administration. In fact, increasing the administrative capacity may be an

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<sup>1</sup> For more details, please see NISPAcee -*Administrative Capacity Building in Prospective and New EU Member States – Reference Guide for Horizontal Integration*, published by Peter Goldschmidt, Marta Darulova, Toni Niculescu , Anton Stemberger, Bratislava, 2005

impediment in getting results because it depends on how it is organized and conducted, but also on the manner of their engagement with staff and on their attitude towards the achievement of duties.

In order to combine administrative classic hierarchy with modern, creative and results-oriented management into an unified public sector organization, it is necessary to change the general architecture of the system, the various forms of public sector employment, the roles and functions of agencies, to redesign systems and internal decision making processes, to change patterns and levels of participation and social inclusion in the decision making process and policies implementation, systems for targeting, performance measurement, resource allocation, accountability, oversight and control, etc. Public administration reform includes all aspects of state organization and each of these should be checked, tested and, if necessary, adjusted in order to obtain the best combination of hierarchical structure and administrative capacity with managerial effectiveness and efficiency and ability to achieve results and performance (Profiroiu M., 2005).

## **2. The stage of the reform and the analysis of the dysfunctions of Romanian public administration**

Strengthening administrative capacity, as an essential element of reform, must lead to a better functioning of the state through its central and local structures and to a better implementation of the *acquis communautaire* and to a greater absorption of EU funds.

In order to support the process of transforming public administration, in accordance with the requirements of European Administrative Space, it was necessary to establish a coherent set of measures in three directions:

- ✓ *in public function field* by creating a professional corps of civil servants, stable and politically neutral,
- ✓ *in local public administration field* by continuing the process of decentralization/deconcentration of public services
- ✓ *in central public administration field* by improving the public policy process.

In recent years public administration reform was aimed at achieving the three main priorities proposed by the Government Program – 2005-2008 (Profiroiu A., Profiroiu M. & Pradeilles, 2006):

### *I. reform of basic public services and public utilities of local interest*

In this area a lot of measures have been taken in order to organize services and utilities in relation to population requirements.

### *II. the continuation of the administrative and fiscal decentralization process was achieved by taking measures and actions that refer to:*

- the preparation of the draft amendment to law on local public administration. Through this the competences of the county council were clarified.

- the insertion of the relevant provisions in the new law on community services of public utilities and in the new law on local public administration.

It was emphasized the work of county councils, the coordination of development plans at county level, ensuring their correlation with regional development plans and operational plans, the implementation of infrastructure projects.

- the development of a guide for collecting local taxes, in cooperation with the Ministry of Public Finance and associative structures of local public administration authorities.

*III. the strengthening of the institutional capacity of central and local public administration structures*, which was carried out both in terms of outstanding measures and measures in advance. It was taken into account the followings: (Romanian Report, 2006):

- the strengthening of the capacity of the Central Unit for Public Administration Reform and Modernizing National Network.

- the establishment of *Public Policy Unit* (PPU) in the General Secretariat of the Government (GSG), including young professionally skilled specialists.

- the formation of the *public policy units* in line ministries;

- the introduction of the weekly meetings of State Secretaries (preparatory meetings of the government);

- the reduction of the number of *interministerial councils* to 11, the setting up of the *Strategic Planning Council*.

However, there are **many problems** in the Romanian public administration at present, which can be grouped according to several basic categories:

- ***The system is mainly based on expenses, not on results, due to a faulty planification and budgetary control mechanism.***

Focus is placed on whether the voted sums are spent respecting the legality and regularity rules and not on the results achieved after spending the public money. The budget is based on the nature of expenses and not on programs and public policies with quantifiable results. It is thus impossible to evaluate the efficiency of spending public money, which could lead to a better allocation of budget appropriations according to the results of public action. An effective mechanism for planning and budgetary control involves the followings: (SIGMA/OECD, 2001)

- A logical, sequential and transparent budget process established by clear and well defined rules

- Effective arrangements for public investment budget management

- Effective monitoring mechanisms for implementing budget

- The existence of a common, compatible with EU standards classification regarding the accounting and reporting

- The capacities for updating public expenditure management systems.

In the specific case of public subsidies, the logic of spending is often very misleading. Administrations do not deal with assessment results (and hence

efficiency) of these subsidies, but they have an interest to spend all that they have been awarded. Each service (or each ministry) is looking to increase the budgetary allocations assigned, and it tries to consume everything that has been allocated. Public subsidies are not generally unnecessary or inadvertently distributed but they are distributed in a culture of spending money and not in a culture of results. This explains the fact that in Romania, few public programs have been evaluated and as regards policies, their assessment is almost completely missing.

- ***The system proves examples of good practice in the field of EU programs monitoring and evaluation, but cannot offer information about the same type of activities financed by the public budget.*** In most cases there are not enough human and financial resources for the above mentioned activities. Insufficient financial resources makes it difficult to outsource the assessment and monitoring services, except for those contracted through international technical assistance projects. Insufficient human resources are a consequence of that fact that both offer and demand for technical assistance and training programs in this field are very low.

- ***The system gives a disproportional importance to norms and laws.*** This is a generalized trend at the level of public administrations and public sector employees, who tend to exaggerate when respecting rules, which leads to confusion between goals and instruments and too much attention given to internal rules and procedures rather than to results. This represents a problem in relationships with users: rule takes precedence over expectations, often in an irrational manner.

A paradoxical consequence but still significant of these excessive regulations refers to the fact that rules are often not implemented and sometimes avoided. Faced with an abundance of instructions emanating from the central administration, operational services have generally difficulties in applying all the legal rules. Under these circumstances informal practices are used in order to avoid rules that cause many constraints. But in fact, there is a conformity control line, which refers only to compliance with the rules and put a distance between public action and purposes that it should have: the rules are implemented so that the controllers (whose investigation capacity is limited) do not apply sanction.

- ***The evolution of the system is slow, inert and incapable of adapting to changes in real time.*** This problem appears from the decision making scheme of the administration. The decision must be adopted in accordance with certain rules, which makes it slows down a lot (without its being improved, because this is the aim of existence of rules). Given the importance of standards in the administration and their orientation on users' satisfaction, the system is very slow when it is necessary its adaptation to changes occurred at users' level. The adoption of the decision is slow and imperfect too, because of centralization of the system. The closer the decision-making process to the local level, the more chances for decisions to better adapt to the various changes.

- ***The decentralisation process was not completed successfully***

“Although theoretically Romania is a decentralized state, as the Constitution guarantees local self-government, abolishes hierarchical relations between central and local administration and subsequent laws endow local authorities with extended competences in the fields of education, health, social protection, public utilities, etc., in reality things are entirely different, often because of financial matters. Moreover, at local level, the effects of decentralization were inconsistent until present, and most of the times annual budgets are adjusted during the financial exercise, depending on the effective fiscal incomes and expenses, which forces various local communities to request to the Central Administration supplementary funds if necessary”. (Profiroiu A, Profiroiu M. & Pradeilles A., 2006).

- ***The system is reticent to the citizens and civil society participation in the decision making process.*** Although the legislation was created on the participation of citizens in public decision-making, there are many occasions when citizens, as taxpayers, and non-governmental organizations, are invited to take part in more or less formal public consultations. Participation and public consultation are reduced to simple conversations, in an inadequate framework for an effective consultation, many times without being previously prepared. Most of the times they are regarded as “events of consultation type” that must be checked off the public or politic agenda.

Civil society is still not „strong” enough to support an enough active consultation, as there are several problems related to aggregation of interests, formulation of requests and sometimes even of competences. The sources of information for NGOs on decisions of public interest adopted by the public administration are: Internet, media, other NGOs, personal contacts, email list of public administration, government publications, telephone, and notice board and recently the inquiry for public information on the basis of Law 544 of 2001 regarding the free access to information of public interest.

- ***The system is characterized by low capacity of interministerial coordination and public policies making process.*** Coordination of public policy making process is vital for Member States in order to achieve a coherent national position in the European decision-making system. Interministerial coordination capacity can be measured by the following: the consistency of public policy making framework, the existence of mechanisms for interministerial consultation and planning governmental agenda, mechanisms of conflict resolution and coordination capacity at central level, the general strategic capacity and the capacity of coordination of European affairs, and government involvement in budgetary decisions and the ability to evaluate the impact of public policies and programs (OECD/SIGMA, 2003a).

Although some progress has been made through the establishment of permanent inter-ministerial councils, they are still not functional. Their role is not clearly defined and also, it seems that they do not seek involvement in the

procedure applied by the Government on the development, approval and submission of draft public policy papers, draft legislation and other documents.

All governments need intra-governmental coordination at national level in order to “be more efficient, to have fewer conflicting and *redundant programmes*, and to utilize scarce *public resources* more rationally in achieving their policy goals”. (Kasim H. & others, 2000).

Interministerial coordination is essential in order to ensure the coherence of government activity and to avoid the negative consequences of ministerial specialization. A good coordination allows avoiding conflict or overlapping each other and ensures a better implementation of decisions. Interministerial coordination allows having a clear position and accepted by all members of the government by overcoming any contradictory logics and resolving conflict award. (Oberdorff, H., 2002).

• ***The system is characterized by a high degree of corruption, a lack of efficiency in spending public money, especially in organizing irregular tendering procedures.*** European Union and also the WTO (World Trade Organization) recommend that countries should establish open professional and impartial corrective procedures in order to support the formulation of appeals by efficient and effective mechanism and supervision of public procurement process.

In our country it may be noted, however, an improvement of the legal and institutional framework of public procurement highlighted by the following aspects:

- Adoption of Emergency Ordinance no. 34/2006 concerning the award of public procurement of public works concession contracts and services concession contracts. Through it were modified and defined new principles underlying the award of public procurement: non-discrimination, equal treatment, mutual recognition, transparency, proportionality, efficiency of funds use, accountability;
- Establishment of the National Authority for Regulation and Monitoring of Public Procurement;
- Establishment of the National Council for Public Procurement Claims Settlement;
- Publication, for the public procurement contracts of certain amounts, of advertisements, in the Official Journal of the European Union.
- Introduction of the framework agreement, as special procedure of public procurement;
- Creation of the electronic system of public procurement.

It was envisaged that this system works as an instrument of government procurement market adjustment, bringing efficiency, transparency and objectivity in selection of proposals.

However, there was a low level of purchases made electronically. During the year 2008, out of 11187 contracting authorities, registered in the ESPP

(Electronic System of Public Procurement), only 2253 of them have used electronic media for auctions. Also during that year, out of a total of 14000 applications, only 520 open or restricted tenders were made by ESPP, or out of 14000 direct purchases only 3,300 procedures were made by ESPP.

### **3. The main directions of further reform in the Romanian public administration**

In Romania, the process of transforming public administration has acquired new dimensions. It must respond to new changes in the global economy related to financial crisis but also to European Union requirements. Public administration reform involves substantial changes of its major components, both at central public administration and local public administration and public services.

On the other hand, the development of democracy requires the establishment of a new relationship between citizens and administration, increasing and strengthening the role of authorities and reconsidering partnership with civil society and local elected.

Although the European Union pressure for reform has decreased significantly after adhesion, the current economic crisis restricting budget makes reform of the administrative machinery even more necessary, both in terms of structure (uncontrolled multiplication of the number of government agencies) and in terms of wages of those working in these institutions.

Regarding the areas that it is necessary to insist on government reform, they are derived from the previous remarks:

a) *Promoting a culture of results, that is the shift from a government by rules to a government by objectives.* This involves promoting services to users as a central purpose of public action and developing an appropriate human resource management.

b) *The active participation of citizens in public service modernization in order to improve the users' service.* Taking into account their critics, expectations and proposals is necessary so that administration gets closer to users' needs. However, moving towards logic of service for users is related to the participation of users' associations. The aim is to make them participate in developing solutions to problems. It is necessary that the decision of the public service should be preceded by a genuine negotiation, although administrations are still far from this spirit of involving users in the decision making process.

As regards the **consultation process**, the Law no 52 of 2003 on decisional transparency in public administration was published in our country. It establishes the minimal procedural rules to ensure decisional transparency within central and local public administration authorities that use public financial resources, in the relations established between them with the citizens and their legally established associations.

However, in Romania we can not speak of a culture of communication between the central public administration and the stakeholders, in order to facilitate the understanding of process of drafting regulations by the latter. Therefore, it is necessary **to improve the consultation process and the social dialogue** by creating a mechanism and developing practices that involve people interested in the consultation process before drafting the regulations. (Profiroiu, Păceșilă, Manolache, May 23-24 2009).

c) ***Increasing the level of training and the volume of funds (internal or external) allocated for monitoring and evaluation programs.*** The key element for developing a culture of evaluation is to understand the value of evaluation and use effectively the findings of the evaluation. The objective of evaluation is to provide useful information and reduce uncertainty about policies and programs studied. It is necessary to strengthen the capacity of the Romanian administration in the evaluation of economic, social and environmental impact on policies and public programs.

In our country, ministries face a keen shortage of financial and human resources needed for monitoring and evaluation activities. This leads to difficulties in contracting for external evaluation services and to the development by the institutions of their own evaluation capacities. Lack of human resources does not necessarily refer to the fact that there are not enough employees, but especially that they are not paying attention to training their employees in evaluation activities. In Romania a series of training programs were organized, but unfortunately they are focused on understanding and evaluation procedures required by international funding programs or have considered only some ministries (GGS, 2009).

„An important mechanism for raising the standards in the assessment refers to strategic planning of assessment activities. Adopting a strategic approach involves:

- the organization of an evaluation program in order to match the needs and priorities;
- evaluation planning of policies and programs as they are developed;
- the development of mechanisms for learning from evaluation results.”  
(Report United Kingdom of Great Britain and Northern Ireland, 1999)

Also, this approach should be strengthened by employing a person as a ***"smart client"***, responsible for handing, planning and receiving each evaluation report and a person responsible for dealing with monitoring the measures taken. They must be prepared to face short-term pressures that would not prevent them to develop clear specifications of the desired results at the beginning of the programs and policy making process.

d) ***The finalization of the decentralization process and the adoption of measures so that its effects are visible in the field.*** We consider that it is necessary the operationalization of normative acts regarding decentralization of health, education, culture and social welfare. This process must take place through

consultation and involvement of associative structures: the mayors of villages, cities, municipalities, county councils and NGOs with relevant activity in this area.

e) ***Outsourcing of tasks that are not specific to public sector and that can be accomplished by private enterprises.*** Outsourcing does not really represent a reform of the administration. It is rather a work around problems, even if it can then help to restructure the remaining public tasks after an outsourcing. The logic of administration reform consists in trying to improve employees' work than entrusting the delivery of this service to other actors than those of the state.

In the case of outsourcing we have to speak only of tasks that are not specific to public service, considering the fact that it would make no sense to outsource specific tasks as they are provided more efficiently by the state itself than by an external organization.

f) ***Greater attention to public procurement system by:***

- Improving the internal market conditions, including the public procurement market.

- Ensuring the conditions of effective competition of public procurement market and discouraging the monopoly masking techniques by detailed and transparent regulations of conditions for participation in public procurement (increasing the percentage of the public procurement carried out through electronic procedure).

- Streamlining public procurement procedures by shortening time required for carrying out the procedures for awarding public contracts

- Improving and modifying public procurement legislation by additional provisions on subcontracting in order to encourage participation of Small and medium enterprises in public procurement contracts.

Public procurement systems must be protected against waste, abuse, fraud or corruption. There are several mechanisms that can help anticipate and prevent such problems as:

- ✓ establishment of provisions in the legislation regarding conflict of interest;
- ✓ written records (minutes) regarding public procurement process, publicly available;
- ✓ codes of ethics;
- ✓ management and internal control systems.

g) ***Strengthening budget control mechanisms***, which should cover all revenues and expenses through efficient arrangements about the extra budget funds transfer. It is also necessary to develop a medium term expenditure framework. The budgetary management of public investment should take into account the preparation of adequate instruments, such as, for example, multi-annual budgetary programming and co-financing procedures specified in pre-adhesion programs or sectoral operational programs.

In the budget process the fiscal responsibility of government to citizens and businesses should be strengthened.

### **Conclusions**

All these directions of reform must lead to a restructuring and improving of the functioning of Romanian administrative system in order to enable it to ensure a smooth integration of Romania into the European Union for the benefit of citizens and in order to successfully cope with the challenges of the XXI-st century.

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