

Management of the communal local public administration in Romania

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Abstract

The public administration may be defined as the fundamental form of activity of the state, applied by the bodies of the public administration, which consists in exercising the law by establishing some obligatory conducts, as well as by providing services.

Keywords

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Local Public Administration

Public administration was thoroughly researched in the technical literature in this field. The opinions coincide over some issues, but they are also different from other points of view.

Leaving aside the special elements of the various definitions assigned to the public administration, we underline their common elements:

public administration – an activity for the execution of juridical acts.

the public administration is embodied by the bodies of the public administration

„The public administration may be defined as the fundamental form of activity of the state, applied by the bodies of the public administration, which consists in exercising the law by establishing some obligatory conducts, as well as by providing services”.

The authorities of the public administration have the social mission to create and apply the state internal and external politics, by applying the law, as given by the Parliament, as well as the other acts given for the application of the law. The public administration is a juridical activity, like other state activities. The state has a generally juridical activity, because it organises the social relationships; it should generate juridical rights and liabilities in order to be efficient.

Beside the juridical facts, this activity includes¹ non-juridical facts, to the extent to which they are necessary for the coming out and performance of the juridical facts. The activity run by the authorities of the public administration includes norms and individual regulations, with the purpose to apply the laws and the other juridical regulations. The regulations that the authorities of the public administration must apply are issued to execute the power of the state, therefore they can be applied and if necessary the state power of authority may be used. When those who must perform the juridical regulations do not apply them willingly, the organs of the public administration may proceed with the forced execution and may obligate them by the power of the state to their execution.

The authorities of the public administration, through their activity, want to satisfy the social requirements, under the best conditions, and to contribute to the development of the society

¹ Mircea Preda(2007), Drept administrativ, Lumina Lex București, p.26

as fast as possible and at all levels, to assure the legal order, the democratic rights and liberties.

The organs of the public administration must be directly, immediately and efficiently involved in all the problems of the internal and international life, the adoption of operative measures meant to solve them.

The purpose of the public administration may be fully accomplished only if the organs of the public administration are operative in concretely solving all the issues of interest of the population, both general and local or special ones.

Any state, in order to be well managed and administrated, organises its territory in administrative-territorial units with juridical personality, and gives them public law and private law attributions. Along time, the administrative organization of the state territory had various forms, trying to answer to the requirements of those times.

Etymologically speaking, the term “administration” comes from the Latin word “ad”, which means “at” and “minister”, translated as servant. In Latin there is also the verb “administrare”, which means to serve for something or to serve somebody.

Having in view this linguistic significant, the issued idea was that administration must act for the benefit of the society, must serve the society, and the administration clerks, and first of all the ministers, should be servants of the society.

The notion of “public administration” has several definitions.

One of them is the activity, with a functional meaning. In another perspective, the concept of public administration recalls a system of organs, in an organisational sense.

In a functional sense, the term of public administration indicates an activity, and in organisational sense it indicates an organ system. In both senses, the public administration is indissolubly related to the state. In the absence of the state, there is no public administration, because it is a state activity, performed by the state bodies.

In the Third Section of the Constitution, called Public²¹ Authorities, the 5th Chapter, with the title Public Administration, has two sections.

The first section is dedicated to the specialized central public administration, ministers, other central bodies, and the second section is dedicated to the local public administration, county councils, local councils, mayors. Undoubtedly, both sections refer to state bodies, performing a state activity. Both specialized central bodies of the public administration and the local bodies of the public administration are state organs, and the activity run by them is a state activity.

Therefore the terms “*public administration*” and “*state administration*” designate the same concept, but differently formulated. The authors of the specialized literature consider that public administration and state administration are different concepts.

The state administration is created and applied by the state authorities (the President of Romania, the Government, the ministries), and the public administration is created and applied by the local autonomous authorities. Such affirmation is found not only in the doctrine but also in the legislation.

In Art.2, comma (1), letter “b” from the Law no. 554/2004 – the law of contentious administrative matters, is provided that it is considered as public³ authority any state organ or any organ of an administrative – territorial unit.

In the technical literature it is shown that the functions of the authorities of the public administration may consist in action, consultancy and deliberation. The public administration, starting from this opinion, was classified in active administration, consulting administration and deliberative administration. The administration is active when it executes the law or when it adopts a public utility measure; it is consulting when it gives notices to the active administration; it is deliberating when a body makes decisions which are mandatory for the active administration.

² Constituția României

³ Law no. 554/2004, p 1

ROMANIA'S EVOLUTION IN TIME

In fact, the evolution of a country, region or community connected to the time trends represent the essence of modernisation. The history shows that this operation was done each time as a project assumed by the creative segments inside the territorial entities. No cases of miracles are known. Everywhere and anywhere the civilization settled and gave its fruit by traditionalizing the innovation on various plans, from the social one to the technological one. The compensatory mechanism between the appeal to the good practice entered into the historical heritage and the inclination towards the progressive change, by testing the new, and the traditional practices, proved to be the most solid realization of the developed societies. Invariably, where this mechanism of the performance production failed, the underdevelopment became a way of life, and the fact to escape from the suburbs was a really long and painful adventure. One should notice that the formulas of connection to the tendencies of coming out from the suburbs was each time related to the idea of order, including in relation with the conducts, of disseminated knowledge, of institutionalized innovation, but also to the idea of control of the resources, of concentration of the economic or military power, etc. In fact, rationalization remains the absolute determinant of modernization, as it appeared simultaneously with the illuminist ideology. Rationalization constitutes even the purpose of the human action, free from the emotional constraints of the supernatural. In other words, the evolution, as product of a battle for tendency, is not self-generated; it is the consequence of a project, of a wide and long-lasting vision, even if sometimes it failed in the social engineering.

The solutions were differently suggested from country to country. Where the miracle of the social engineering was taken for granted, the failure was impossible to be avoided, and where the organic vision of the rationalization prevailed, as a reference point and as validation test for the individual initiative, the welfare accumulations imposed the rule. Most of the times, the historical context decides.

The well-known metaphysical inclination of the Romanian people is, for the first time in the history, forced to become derisory in front of the expansion of the European integration model. It claims the compatibility with the efficient performance and seeks the identification with the universe of the good practices. Thus, the self concentration on the guiding lines of the specific destiny and with self-sufficient vocation is diluted by the promises of the euro-concentration. It is the beginning of an exercise which exceeds, due to its effects, the cycle opened by the myth of the foundation of our Latinity and of our dependence on the way created by the Roman Empire through the history.

Conclusions

Romania is the country with the largest rural administrative-territorial area, representing 87% from the area of the state, with 2858 communes. The communal administrative-territorial units are in a process of change when all the economic, social, politic, civic elements have a new dynamics in trying to adapt themselves to the present conditions. This gives a vital importance to the rural development policy. A communal administrative-territorial unit is functional when the economy is successful and when a democratic spirit develops in the social mentality. During this change we cannot live aside the public administration system, the need to introduce an European dimension in this field, in conformity with the values of this administrative space.

The performance of the communal administrative – territorial units depends to a great extent on the competency and the professionalism of the human resources there activating, on the way in which the personnel understands the objectives which stand in front of the public

authorities, on the way in which they are solved, on the way of undertaking the responsibility for the consequences of their activities, on the way in which they co-work with the citizens.

There is a considerable difference existing between the law and the reality in the field. The reality seems way behind, many times for financial reasons. For example, the taxes are not paid up to the date, there are even remaining from the previous years.

The consolidation of the rural development policy became a priority.

The inexistence of a real local involved accountability: the annual budgets are indicative and they are adjusted during the year according to the collected incomes and the actual payments.

Therefore, two of the three communal administrative units are always requesting the state (and the county government) to be allotted additional funds in case of necessity.

One aspect which seems fundamental is the need to be more transparent in the management of the public money and more objective in the financial relationships between the state and communities. The new governmental program reuses these ideas, particularly insisting on the need of a public debate regarding the preparation and execution of the local budgets.

The rural development is an integrated concept, which uses a multidisciplinary, inter-sectors and territorial (regional) methodological approach. All the directions included in the new reform of the *Common Agricultural Policy* found their correspondence in the financing mechanism of the rural agricultural and development, included in the new European agricultural pattern defined by the 2000 Agenda, according to the Agreement of Berlin in March 1999;

There is a preference for the communities with a population of over 10.000 inhabitants in order to be profitable.

The territorial dimension – as a consequence of the restructuration of the industry, the differences between regions appeared very fast, and they continued growing. The disparities between the urban environment and the rural one are also important and in permanent growth.

For an efficient democratic control, the preparation of the budgets should be improved (by introducing the differences between the necessary budget and the budget for investments) and by improving the control and audit techniques, inevitable counterparties of the new responsibilities attributed to the elected ones.

The reformation of the public administration must approach with priority this essential resource, thus being in front of an important challenge – to establish the modality through which the creativeness of the human resources must be developed. To realize this it is necessary to appropriately approach the elements of the management process of the human resources: recruitment, selection, employment – stimulating the merit and the competences; appropriate salary, combined with other types of incentives; training according to the personal needs and to those of the institution; assessment of the objective performances; proper conduct according to the mission of the public administration; guaranty the stability in the public office; creating a body of professional managers; regarding the recruitment and the selection of the personnel, the administration must establish and identify the ways to attract the possible candidates which prove to have real aptitudes and motivation for a career in a public office.

Moreover, there is the need to identify the efficient selection ways for the suitable candidates, corresponding best to the requirements of the vacant offices. *The economic life* of the communes must be re-established and developed in all of the fields: agriculture, livestock, industry, commerce and forestry.

The local public authority will have to invest in order to re-establish the economic life of the commune, which must be the number one priority, because it produces the most profitable effects. *The infrastructure* needs permanent improvement; therefore the investments must be done according to certain economic criteria in order to produce benefit: the safety and the security of the inhabitants of the commune against the calamities; the ratio investment value / number of beneficiaries.

Another important issue in order to increase the *attractiveness* of the commune refers to the *cultural and leisure facilities* in the commune, to increase the social comfort of its inhabitants.

The rural development policy is based mainly on three juridical instruments: strategic orientations of the Union for the rural development policy, the Council Regulation regarding the awarded support for rural development and the Commission Regulation for application. The six strategic directions are: the improvement of the competitiveness of the agriculture and forestry; improvement of the environment and of the rural regions; the growth of the life quality in rural areas and the encouragement of the diversification; the creation of programs for the priorities; the construction of the local employment capacity and diversification; complementarity with other communitarian instruments.

This strategy is addressed particularly to the local community, which showed its interest for its objectives, supported by us, as you can see from the results of the questionnaire applied to the inhabitants of the community.

The funds management at the local level, their allotment for the realization of the public goods in conformity with the requests of the local community, in an optimum way, it generates a much higher process of development of the administrative-territorial unit, compared to the case of centralization and equal distribution without taking into account the existent local request. It could be seen in most of the developed countries. The management of the funds at local level, their allotment for the realization of the public goods in conformity with the requests of the local community, in an optimum way, generates a higher process of development of the administrative-territorial unit, compared to the case of centralization and equal distribution without taking into account the existent local request.

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