

DECENTRALIZATION PROCESS IN ROMANIA

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Public administration reform reflects substantive changes in its major components, both at central government and local administrative level, and in the delivery of public services in general. On the other side, democratic consolidation requires the development of a new relationship between citizen and administration, a strengthened role of the authorities and the redefinition of the partnership with the civil society and the local elected officials.

This article makes specific comments on the decentralization challenges based on the study in "Public administration reform in the context of the European integration".

The document is focused on the technical questions related to the decentralization. The angle from which problems are observed is the angle of the local governments. The first "Conceptual framework" part aims to introduce the underlying principles on one hand, and the rules derived on these to be respected when designing decentralization policies. The next part "Analysis and findings" is structured according the current conditions in Romania. The final section will try to orient the readers' attention to possible risks of the reform process.

*Transylvanian Review
of Administrative Sciences,
16 E/2006, pp. 115-123*

Decentralization is the transfer of authority and responsibility for certain public functions from the level of the central government of a country to sub-national government levels or autonomous institutions². Depending on the transferred responsibilities, the decentralization falls under three categories: political, administrative and fiscal.

Political decentralisation means greater power for the citizens in the decision making process, guaranteed by the democratic processes. One argument supporting political decentralisation is: "Decisions made with a greater participation from the citizens are better fundamented and more relevant, including more social interests than those decision made at the level of national political authorities. This concept implies that voters get to know their political representatives better and at the same time the elected officials know the needs and expectations of their voters better"³.

¹ Research study: Profiroiu M, Andrei T., "Public administration reform in the context of the European integration", financed by the European Institute of Romania, Bucharest 2005

² Rondinelli, D.A., J.R. Nellis, G.S. Cheema, "Decentralization in Developing Countries: A Review of Recent Experience." Staff Working Papers Number 581. Washington, D.C.: World Bank, 1983

This aspect also comes out of the answers given by the respondents interviewed for the current research. Thus, approximately 50% of answers showed there is a high political influence in local public administration.

Administrative decentralization is, according to literature, the “transfer of responsibility on the planning, financing, and management of certain public functions from the central government and its agencies to subordinated units, semi-autonomous public authorities or regional or local authorities”⁴.

The subcategories of administrative decentralisation are frequently defined according to the type of institution or agency receiving the transferred responsibility.

1. The conceptual framework

The first conceptual element leading our research is the “lean public sector” that is achievable through the decrease of redistribution, the limitation of the use of control and regulation mechanisms and through the possible retreat of the public sector from all domains where its presence is not necessary. This proposed “retreat of the public sector” – can also be legitimized by the *scarce resources* and the requirement for creation of functional market economy. According to this concept the role of the public sector is restricted to the safeguarding of social justice, the supply of public goods and the correction of market failures.

The second principle is the consistency in the allocation of rights and responsibilities to specific government units. Effectiveness of the public sector can only be achieved when the allocation of responsibilities is coupled with adequate resources and decision-making power. The consistency of the allocations is also a necessary condition for redefining hierarchic relation of government units and establishing increased accountability of public bodies to the citizens. Consequently, the consistency of the allocations is a means to democratization as well.

The third principle is subsidiarity defined as the allocation of responsibilities for the public services to the lowest level of government compatible with the benefit area associated with those services and the allocation of resources to the lowest level capable to manage them. In our conceptual framework the implementation of the principle of subsidiarity is defined as a means to democratization and the increase of efficiency, accountability and transparency of the public sector. The acceptance of the principle of subsidiarity can lead to rational argumentation on the distinction between those services that should be kept de-concentrated and those where decentralization could be considered (i.e. the devolution of decision making power over management and financing of public services to popularly elected, autonomous local government units). As an alternative means for creating efficiency, we would recommend solutions promoting cooperation between local governments.

The fourth principle is the desire for stable, transparent and rule-based coordination. For cherishing the innovative capacity, efficiency and effectiveness of all actors the possibility for individual strategies must be inherent in the system. For this the mechanisms of direct control have to be changed to a clear set of rules coupled with a posteriori control limited to the review of compliance with the rules.

1.2. The basic rules of decentralization policy design

The above principles lead to the following rules to be applied in policy design. In the first phase of the policy process stakeholders should agree on the basic principles and rules leading the

³ Rondinelli, D.A. “*What is Decentralization?*” In Litvack, J. and J. Seddon (eds.). “Decentralization Briefing Notes”, Washington, D.C.: Word Bank Institute, 1999

⁴ Rondinelli, D.A. “*What is Decentralization?*” In Litvack, J. and J. Seddon (eds.). “Decentralization Briefing Notes”, Washington, D.C.: Word Bank Institute, 1999

process of decentralization. Such one time agreements could have lasting influence in rationalizing and simplifying the public debates.

1.2.1. Rules for responsibility transfer

In accordance with the economic and redistribution policies of the central government, the definition of local government functions should be based on the following rules:

- ❖ use of *professionally sound concepts* that are accepted by the professional community
- ❖ apply the principle of subsidiarity as a means for transparent, accountable and efficient public service delivery;
- ❖ allocate consistently rights and responsibilities
 1. define clearly the minimal service outputs and *universal standards*;
 2. create clear and *stable system regulations* that encourage local strategies and cherish innovative solutions;

1.2.2. Rules for revenue and financial management transfer

In accordance with the macro economic and fiscal policies of the central government, local government finance should be based on the following rules:

- *revenue allocation should be adequate to decentralized responsibilities*
- financing of public functions should be based on the consideration of the public good character of the given function and on clearly defined universal rights (i.e. central government definition of guaranteed desired minimum levels of provision for certain public services at the local level),
- transparency of the allocations should be secured by *objective criteria and clear normative rules* including task proportionate, revenue localizing and equalizing elements
- subsidiarity in the allocation of revenue sources should lead to the transfer of the management of revenue sources by the lowest level that can implement it
- *predictability* and stability of the system of allocations should allow for local planning
- budgeting regulations should create *transparent budget systems* and procedures and facilitate local financial management
- local autonomy in financial management should be coupled with *hard budget constraints*.

2. Analysis and findings

During the last fifteen years, Romania has made important steps in the area of decentralisation. The process went through four stages. In the first stage (1991-1994)⁵ important changes were made in the structure and funding of local authorities, including the introduction of the local taxation system. In the second stage of the reform policy (1998-2000) administrative and financial decentralisation became a priority. Based on the new legislation on financing of local public authorities⁶, the share of GDP going to local budgets increased (from 3.6% in 1998 to 6.5% in 2001), but also the share of local expenditure in total public expenditure increase (from 14.4% in 1998 to 26.6% in 2001). In the third stage (2001-2004) the new laws set new rules for certain functions of local authorities⁷, especially for public services or utilities⁸.

⁵ Law on Local Public Administration no. 69/1991, Government Ordinance no.15/1992 on Local Taxes, and Law no.27/1994 on Local Taxes

⁶ Law no. 69/1991 and Law no. 189/1998 on local public finance were amended

⁷ Law no. 215/2001 on local public administration

⁸ Example: Law no. 326/2001 on public community services, Government Ordinance (GO) no. 86/2001 on local passengers public transport services, GO no. 84/2001 on the public service for people's registration, GO no. 88/2001 on the public services for emergency situations, GO no. 202/2002 on the integrated management of the

The fourth stage (after 2004) started with the design and approval of the Updated Strategy for Accelerating Public Administration Reform (Government Decision no. 699/2004). One of the most important components of this strategy is the continuation of the decentralisation and deconcentration processes. For implementing this strategy, a legislative package was drafted to support the entire process (the Framework Law for Decentralisation no. 339/2004, the Law of the Prefect no. 340/2004 and the Government Decision no. 2201/2004 on the Inter-ministerial Technical Committee and Working Groups on Decentralisation).

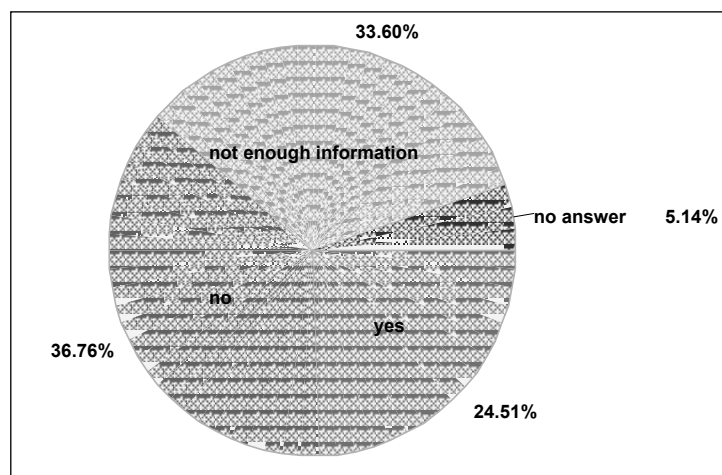


Figure 1. Are there any public services in your community that would improve performance if decentralised from central to local level?

The answers from local community mayors allow us to formulate the following conclusions:

- There is a favourable opinion towards the decentralisation process and the advantages it may generate;
- Smaller communities, which do not benefit from public services provided by the central level, have a more negative opinion. According to surveys by foreign experts, there is a strong sense of frustration among local elected officials who think that the decentralisation defined by legal texts is insufficiently implemented and ultimately depend on their ability to negotiate with the state and to accept the corresponding political risk. Moreover, according to these experts, the sense of frustration is stronger in the poorer communities that have fewer own resources. Because transfers from the central government depend especially on the resources from income tax and VAT collected from that territorial unit, a significant equalisation effort is needed for communities to be able to fund the basic, legally compulsory functions. It is almost impossible for these communities to generate resources for funding investments, although these are necessary. In turn, richer communities do not have the incentives to mobilise their fiscal potential and often prefer to give deductions or waivers and ask for central government support to finance the deficit.
- An important number of respondents are not familiar with the topic of decentralisation.

The interviewed local elected officials considered the possibility of privatising some local public services in order to make them more effective and reduce local budget expenditures.

coastal area, GO no. 21/2002 on the management of urban and rural communities, GO no. 32/2002 concerning on the public services for water distribution and sewage, GO no.71/2002 on setting up local public services for the management of public and private domains of local interest.

Fiscal decentralisation relates to an enhanced control of local authorities over financial resources, whether it comes to distributing expenditures or generating revenues. Much of the specialised literature on fiscal decentralisation focuses on the nature of inter-governmental transfers and on the differences between the revenue generating capacity of various types of institutions. A basic feature of fiscal decentralisation is the proper balance between the responsibilities and the financial resources needed to meet those responsibilities.

Over 60% of the interviewees believe that the steps taken so far in fiscal decentralisation are not sufficient and in some cases are inadequate to support a proper financing of the public services delivered to citizens.

Both foreign and Romanian experts point out that “the decentralisation and deconcentration process has not been completed, meaning that the necessary financial resources have not been transferred and the competencies to be transferred and decentralisation levels have not been clearly established” (*The PAR Strategy, 2004*).

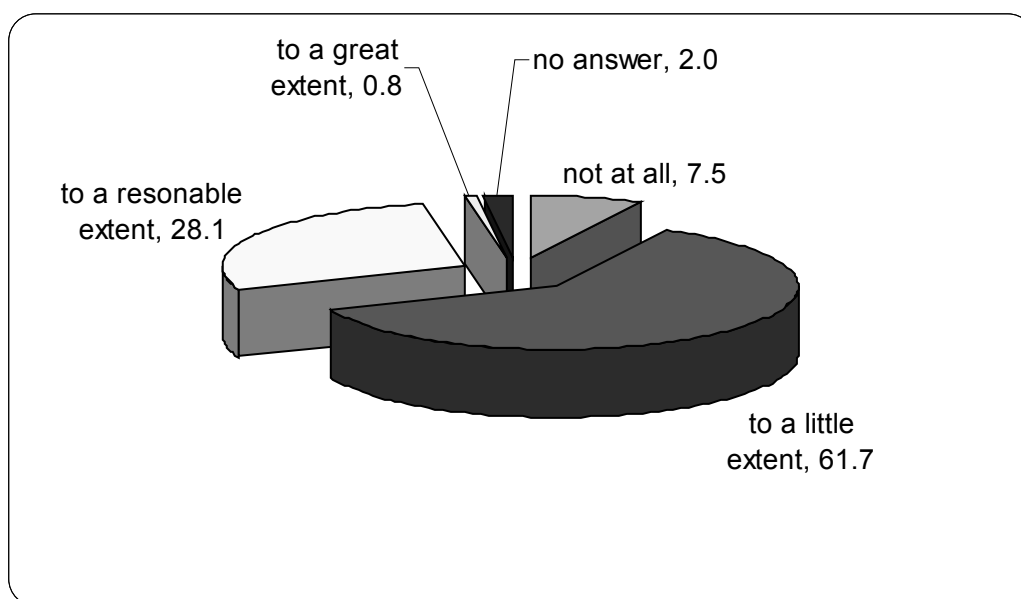


Figure 2. Does the current system for financing local public services meet your needs?

The National Union of County Councils and the Association of Economic Directors from County Councils undertook a detailed review of the current stage of financial decentralisation throughout Romania and for the most important policy areas (education, health, social security, public order and safety, agriculture, local development services).

Besides the positive aspects, several weaknesses of the decentralisation process were identified:

- The local public administrations do not have enough authority, which limits their capacity to organise the services efficiently (e.g. they do not have the right to set the price of services);
- In some areas direct control mechanisms and discretionary decisions can still be found. This limits both the financial planning and forecast, and the possibility to introduce local innovative solutions for providing more effective services. Indirectly, this limits the absorption capacity for EU funding;
- Local financial management autonomy is limited by the regulations on allocation of own revenues, by restricting the use of transfers;
- The excessive use of fixed allocations is limiting the effective spending of money, because it prevents the coordination and integration of local services;

- The existing equalisation mechanisms do not ensure the equity of the system;
- The incomplete ownership transfer is a limit on the effective management of local assets;
- Lack of specific legal and constitutional guarantees for local autonomy;
- Insufficiently fundamented and partially implemented public policies could not provide rational solutions for the existing issues;
- The excessive use of emergency procedure ordinances and laws, instead of due process consultations;
- Public authorities have not always had specialised training on financial management and decentralised services management;
- The gap between the decision-making authority transferred to local administrations and the resources allocated to fund these decisions (the allocated local resources do not match the increased responsibilities).

A badly managed decentralisation process can produce a wide range of state failures, from “errors of omission”, when the state is unable to improve the economic or administrative performance, to “errors of action”, when the state’s actions lead to worse economic performance.⁹ Not only do these errors prevent the development of a significant decentralisation policy aimed at improving the provision of local services, but also they have a negative impact on local authorities’ credibility.

The 2004 Regular Report of the European Commission states: “Most importantly, the Romanian authorities have made considerable efforts to develop the strategy guiding the decentralisation process in a transparent and stable way. The Strategy was adopted in May 2004 and it identifies clear priorities for future reforms. It is notable that the Strategy was prepared following an extended public debate (a National Forum) with the main stakeholders. But the proposed reforms are still in a preparation phase and their implementation has to be ensured. The effective cooperation between the Ministry of Administration and Interior and the Ministry of Public Finance need to be considerably improved.”¹⁰

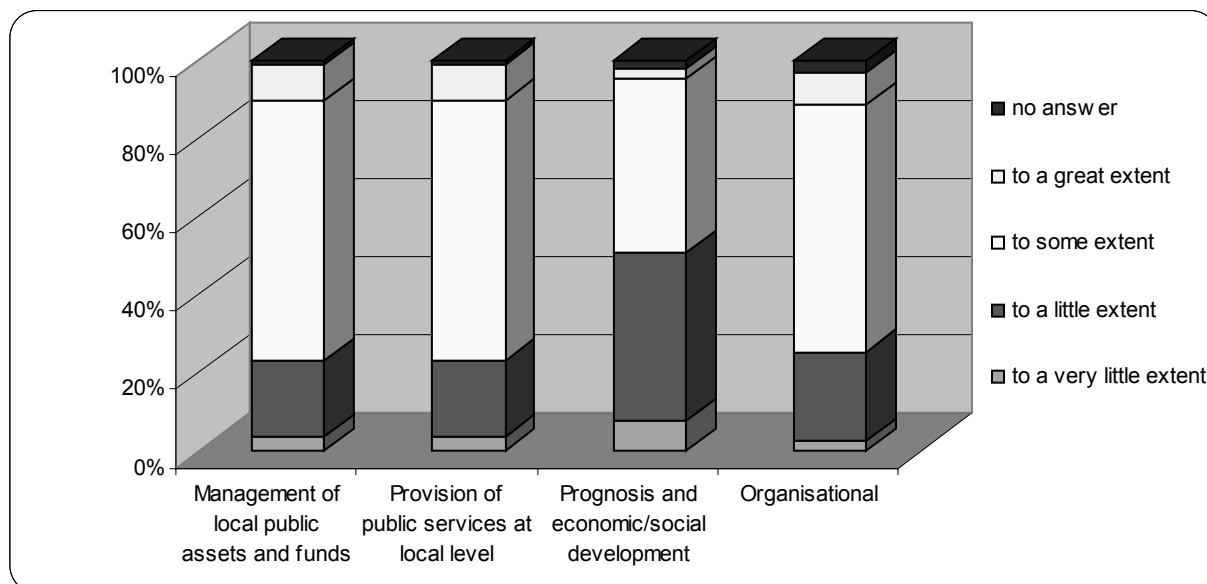


Figure 3. In your opinion, considering the current stage of decentralisation, to what extent can the local administration fulfil the following functions?

⁹ Krueger, Ann, 1990. Governance Failures in the Development Process, *Journal of Economic Perspectives* 4 (3): 9-23

¹⁰ 2004, Regular Report on Romania’s progress towards EU accession, page 17

From the answers of the interviewees, we can conclude that the decentralisation has not had consistent effects at local level. Possible explanations can be:

- So far only the legislative and institutional framework have been developed and the actual outcomes at local level will be evident in the years to come;
- The process was not coherent, properly researched, the necessary resources were not released and the communication with the stakeholders has been flawed;
- Not all administrative territorial units have been involved in the process, because of their insufficient administrative and managerial capacity. This is also stated in the 2004 EC Regular Report: “Most local authorities suffer from limited administrative capacity and have high civil servants turnover”¹¹.

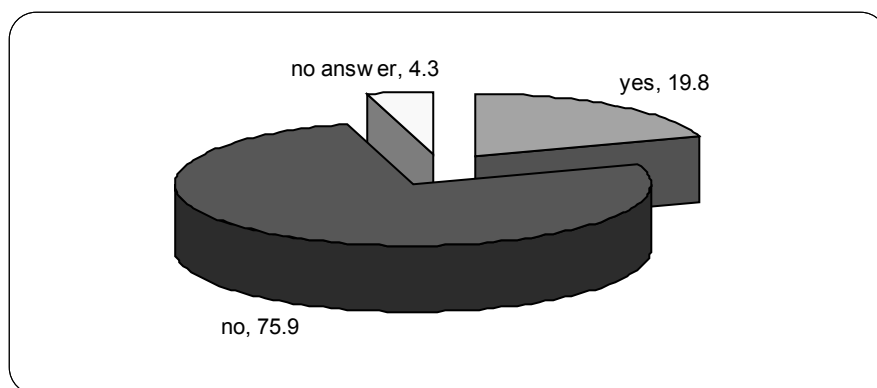


Figure 4. During your time in office did you ever make proposals in support of the decentralisation process?

The answers of the local elected mayors reveal, among other causes, a weak implementation of the local administration laws and the lack of transparency of the decentralisation process.

3. Risks of the Reform Process

The process of decentralization in Romania has been a process with a stop-and-go cycle, not a gradual policy improvement process. Decentralization often advanced more due to international pressures than driven by the convictions of local politicians or voluntary decisions of the central government. As a consequence, *decentralization was implemented reactively*, with little planning or analysis, and no previous training or financial empowerment given to local level.

An important aspect of public administration reform is the management of the reform implementation process. The major risk is the overload with current routine task, leaving no time for designing new solutions to the problems encountered.

In order for PAR to be successful, it is necessary that a large number of target groups (especially key people at the management and decision making levels) support and commit to the need for changes and their implementation. Based on the integrated organisational development model, the negative influences on the implementation process can be identified: strategic factors (decision making complexity), structural factors (bureaucracy of the system, limited human and financial resources, size and complexity), cultural factors (risk aversion, inertia, mentality), and behavioural factors (lack of individual incentives, misunderstanding of overall objectives, frustration, expectation behaviour).

¹¹ 2004, Regular Report on Romania's progress towards EU accession, p. 17

Public administration cannot be reformed in a few years. It is a long-term process, which probably can be implemented only by several consecutive governments in a difficult, highly competitive and rapidly changing external environment. For this reason, it is necessary to reach consensus on the following principles which will govern the whole reform process:

- *Widely disseminating information on the reform* and mobilising interest of citizens, professionals, political representatives and civil servants in making the reform happen and democratically exchanging opinions on its desirable and feasible course,
- *Basing the reform on solid professional analyses of the present state* and performance of public administration and on periodic evaluation of the consequences of completed reform steps,
- *Using experience with public administration reform in other countries*, particularly in EU member states and in the countries preparing for accession to the EU, while considering our own tradition and experience,
- *Adopting a comprehensive approach to the reform*: no isolated and partial changes should be implemented if not conceived as integral and organic parts of the total reform strategy and process,
- *Viewing the reform as an open process*: individual reform components will be continuously updated and adapted to the changes in the external environment of public administration and in other components of the reform, and will utilize experience acquired during implementation,
- *Determining strategic priorities*: a limited number of priority changes will have to be defined for every reform phase on which attention and funds will have to concentrate; these should be the changes that predetermine the overall progress of the reform and condition or influence all other changes,
- *Assuring continuity of the operation of public administration*, which must continue to function also in the course of reorganization, decentralization and other changes,

Reform initiatives of the Government would be incomplete without an effective management tool to monitor the required actions of the Government in moving forward the strategy and local government implementation of the decentralization reforms. A monitoring tool will help guide and manage the reform process at the central and local level and provide stakeholders with a tool to measure performance along the path to improvements in public administration focused on the principles of subsidiarity, accountability and transparency. An effective management tool for these purposes is a Performance Monitoring Plan. (PMP). A performance-monitoring plan (PMP) is a tool organizations use for planning; managing, and documenting performance associated with mutually agreed expected results, actions and timeframes that implementers are willing to be held accountable for achieving. The essential features of a PMP must assure that *comparable* data will be collected on a *regular and timely* basis. PMPs promote the collection of *comparable* data by documenting performance indicator definitions reflected of what to measure to accomplish an expected result, resources and methods, frequency and schedule of data collection. As part of the PMP process, it is advisable to plan for how the performance data will be analyzed, and how it will be reported, reviewed, and used to inform decisions. It is always helpful if the PMP includes procedures for data analysis, reporting, and review efforts as part of the PMP process. This enables responsible units to collect comparable data over time-even when key personnel change. PMPs support *timely* collection of data by documenting the frequency and schedule of data collection as well as by assigning responsibilities. In the PMP development process a participatory approach. The final step in designing a PMP is to define the Indicators that will be used to measure the performance of those responsible for achieving the agreed upon expected results. Responsibility for monitoring

should be assigned to a party outside of the Ministry, Agency or Local Government Unit responsible for moving the reform process forward.

Finally, the requirement of a PMP process should be institutionalized and included in proposed administrative and legislative reforms.

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8. Example: Law no. 326/2001 on public community services, Government Ordinance (GO) no. 86/2001 on local passengers public transport services, GO no. 84/2001 on the public service for people's registration, GO no. 88/2001 on the public services for emergency situations, GO no. 202/2002 on the integrated management of the coastal area, GO no. 21/2002 on the management of urban and rural communities, GO no. 32/2002 concerning on the public services for water distribution and sewage, GO no.71/2002 on setting up local public services for the management of public and private domains of local interest
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