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## Institutions of Central Government. Substantiation of Their Activity in Romania

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# Institutions of Central Government. Substantiation of Their Activity in Romania

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*Abstract*

*Regardless of the form of organization of the state, in order to reach a certain level of development and cohesion, this one must have a well consolidated administration. Central and local governance represent subsystems of the global social system, and the identification of the relationship between the public governance and the other components of the social system enable the outlining and understanding of the mission of the public governance. A dynamic governance is generated by the social, economic and political dynamics, therefore, in the present paper, we will focus on the fact that the administration and, in particular, public governance represents an overall complex that must comply with requirements of the society and of the citizen. The paper will be presented in the form of a dictionary term in which it underlines exclusively the conceptual framework, namely in legal, economic, political, social terms, etc., the mode of organization, the characteristics and functions, the principles and performance criteria in order to outline an overview with regard to the importance and the need for a coherent organisation. In conclusion we will also present some considerations upon the bureaucratic apparatus in Romania in order to suggest some potential ways to improve it.*

**Keywords:** Social dynamics, administration, efficiency, proficiency.

## 1. Introduction

Institutions of Central Government: etimology – lat. institutio, -onis; fr. Institution; fr. Institutions du Gouvernement Centrale; institution. The definition of the notion of institution subsumes several classes of meanings, considering its use in various fields, namely, the legal one (M. Hauriou, G.

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Renard), the economic one (the school of Public Choice; J. Buchanan, G. Tullock) as well as in sociology (in particular Durkheim and Parsons) [1 p95]. Thus, in the political and social field, institutions represent „organizations established by law or based on traditions, which effectuate a distribution and a balance of power based on applicable laws and guiding ideas they refer to" [2 p496], in sociology, the institution naming „the rules for social influence and control of individual behavior, specific stable patterns and of organisation and the conduct of the interactions between individuals and society" [3 p302]. According to Parsons, all activities driven by stable and mutual anticipations between actors entering the interaction can be defined as an institution [4 p138]. In everyday language, the word institution keeps the original legal meaning, referring to „organizations that have a status, operating rules established by regulatory acts, meant to meet certain social needs" [5 p46]. For the science of administration, the term institution defines a „political, social or administrative structure, which concerns a particular field" [6 p79-80]. From these definitions it follows that public institutions are the ones that organize the society or some of its fields, representing mechanisms of collective cooperation and action, able to impose some level of order, predictability and consensus in relation with citizens. Since they are human groups with a formalised and hierarchical structure, institutions have a body of rules designed for the purpose of managing and regulating action in order to achieve the proposed goals, purposes defined on the basis of common important needs and of some common values. Each institution possesses certain elements that makes it unique and through which it realizes its aim and its socio-economic mission aiming, in equal measure, at enhancing the degree of meeting the public interests of the society. To each type of institution corresponds a specific organizational structure established by law, which in this way becomes compulsory in the sense that „it cannot be adapted or modified by other procedure but by the one that has established it initially" [7 p103].

Regardless of the form of organization of the state, in order to reach a certain level of development and cohesion, this one must have an administration. The governance, and, in particular, the local governance, represent a whole complex that must comply with some major requirements of the society and of the citizens. Studied originally as bureaucracy, the government designates the „totality of services and agents responsible for the management of public affairs" [1 p11]. In the current language, the term „governance" is used in several senses. Hence, through governance are designated: „the main content of the activity of the executive power of the state; the system of public authorities dealing with the executive power; the management of an economic agent or of a socio-cultural institution; a

department (direction, section, sector, service desk) of direct productive units or socio-cultural institution, that does not have a directly productive activity" [5 p66]. In the science of administration, the public governance „indicates that an activity/institution is directly related to the organization of the state", while in administrative law it designates" the system of central and local governance authorities through which is carried out the executive power" [6 p11]. From a sociological aspect, the public government emerges as a system, the system of public governance, representing „the social environment in which it exists and operates under a macrosystem of social organisation of global societies" [8 p20-21], both at the national level and at the level of local communities. The central and local public governance represent, therefore, subsystems of the global social system. The identification of the relationship between public governance and the other components of the social system, allow the outlining and understanding of the mission of public governance. Since "the public governance is the one that carries out the tasks laid down by the political power" [9 p64], the organisation of public governance must correspond to the political, social and economic situation in a given moment of the evolution of a state. It follows that the social, economic and political dynamics determine the dynamics of the governance. In this context, the public governance designates a social structure, „consisting of a set of public services whose unfolding allows the achievement of the objectives defined by the political power" [10 p9]. The organization and functioning of public governance are governed by the Constitution and law, and through their observance, they pursue the enforcement and the provision of public services, so as to comply with the general interests of society. In a concise formulation [11 p78], public governance is defined as "the activities of the Romanian President, of the Government, of the central autonomous administrative authorities, of local autonomous administrative authorities and, where appropriate, of the structures subordinated to them, by which, under state authority, they comply with laws or, within the limits of the law, are provided public services". It follows, therefore, that the role of public governance, its structure and scope of activity depend directly on the constitutional organization.

## 2. Analyzing specific characteristics of public governance

From the analysis of the specialty doctrine [12] there are a number of general characteristics of public governance, which still turn out to be up-to-date. Thus, a first feature of the governance is its constitution, for the

purpose of action. The ranking, ordering, and division also represent important features of the governance. A third feature of the governance refers to the fact that it is, in all countries, paid, civil, secular, egalitarian; but also written, formal and bureaucratic. The permanence and continuous expansion also are aspects that define the general governance [5 p72-75].

Within the overall social system, there are two broad categories of public governance functions: main functions and derivatives. As the main function, determined by the position of the governance in relation to political power, is the one of intermediate execution mechanism, through which are ensured the organisation and execution, using authority or even coercion. Within the category of derivative functions, specific to public administration there are those relating to the purposes of actions undertaken by them, namely, the accomplishment of political decision, reflected by the laws and other normative acts of state authorities and local communities [5 p76-77].

Currently, in Romania, the public governance substantiates its activity based on democratic principles: the Principle of legality which states that the activity and forms of organization of the public governance shall be based on law; The principle of hierarchy, as an expression of subordination between the structures of public governance system; The principle of transparency of decision-making which aims at enhancing the accountability of public authorities towards the citizen, but also at encouraging the active participation of citizens in public governance actions; The principle of continuity, which postulates the permanence of public governance activity; The principle of promptness according to which the activity undertaken by the administrative system must be carried out promptly, (upon request or ex officio) for the removal of illegal or abnormal status; The principle of deconcentration of public governance activity, which involves the movement of central public government activity in territorial administrative units, a specificity of the ministerial activity [13 p27-28].

Analyzed from the perspective of constitutional provisions, public governance presents itself as a set of structured departments, developed at the state level, in the form of central or territorial public government, as well as at local level, where the public local governance is organized and where it operates. The authorities of governance are classified in this concept, on the basis of two criteria, namely: „the territorial criterion, which corresponds to the hierarchical structure and the functional competence or functional criterion, which corresponds to the functional structure. Thus, the whole system of public governance is arranged in a mixed structure, which is both hierarchical and functional" [5 p180-181]. As regards the territorial criterion, we can speak of a division of public governance authorities according to the

territory in which they operate, respectively at the level of the state or the community, or of local departments, or in a relatively recent concept, „the motivation of the territorial structure of public governance is the citizens for whom it acts, whose interests are managed by that organ of public governance" [5 p181]. From the perspective of the functional criterion or the material competence, public authorities can be divided into authorities with general jurisdiction and authorities with specialized competence. This criterion is applicable both at the central level, where operate the ministries and other central specialized organs subordinated to the Government, to ministries or which operate as autonomous administrative authorities, and at the local level, where operate the decentralized public services of ministries and of other central bodies, whose work is driven by the prefect, as representative of the Government in the territory. These two subsystems of public governance represent separate structures, with distinct competences and specific types of general interests (either national or local), with their own legal regimes, so that the activity of the public government has differentiations depending on the type of subsystem. Each institution „applies a certain type of management, more or less effective, each one has a specific mission to fulfill, certain objectives, attracts and consumes funds, hires employees and/or volunteers, resorts to various variants of organizational structure" [14].

As it appears from the context of constitutional provisions, the separation of powers constitutes a fundamental feature of the concrete mechanism of operation of central governance in Romania. The three powers of the Romanian state are divided as follows: the legislative power belongs to the Parliament, the judicial one to the courts, the executive authority being exercised by the President; as the representative of the state, he has the responsibility to guarantee the observance of the Constitution and the proper functioning of public authorities, as well as of the Government, which is responsible for duties ensuring the internal and external policy of the country and for the exercise of the general leadership of public governance. Therefore, "all three powers of the Romanian State – through laws, ordinances, Government decisions, other regulations, procedures and practices established in dealings with the local governance – determine the effectiveness of the governance act and ensures the observance of the general interest of citizens; the decisive role is that of the Executive, through its position and the bureaucratic apparatus at his disposal" [15 p597]. In principle, the organization and operating structure of the system of public governance authorities is made up through hierarchical subordination, up to the central body of the executive power, the Government, exercising, according to the Constitution, the general management of public

governance. The public governance consists of "the institutions organizing the elaboration, execution and enforcement, through which laws are carried out, and the administrative organ which emits valid administrative acts is called administrative authority" [16 p8]. The activity of central services is, in principle, subsidiary, in the sense that it must be restricted to national duties that cannot be delegated to territorial levels. „Central authorities shall cover only the function of conception, organization, targeting, evaluation and control" [5 p95]. The two governance structures are however complementary categories, taking into account the provisions of the Constitution, as well as those of the law on local public governance, which also provide important powers for the authorities of central public specialty governance, but also for local public governance authorities, which, without belonging to the state, they fulfill the role of managing the interests of the citizens of the territorial-administrative unit [17 p14]. Thus, „the Ministers achieve the junction between Government and governance, the head of the state being mostly a representative and governance body, the Parliament one of legislation and control; it also deals simultaneously governmental and administrative business matters" [5 p242]. At the central level, in accordance with the provisions of art. 116 and 117 of the Constitution, can be also organized other specialty organs subordinated to the Government or to ministries as autonomous administrative authorities. According to the constitutional provisions of art. 123, the decentralized public services of ministries and other central organs of territorial-administrative units, are led by the prefect, as a representative of the local governance.

For example, in the field of social assistance, Law no. 47/2006 relating to the national system of social assistance and the social assistance Law no. 292/2011, establish the responsibility of the central public governance, as well as the organisation and functioning of its institutions. According to these regulations, central public governance authorities shall ensure the establishment of the legal framework in the field of social assistance, given the responsibility of drafting public policies, programs and national strategies in the field, their regulation, the coordination and monitoring of their implementation, as well as the evaluation and monitoring of the quality of social services (According to art. 39 of the Law no. 292/2011). The state, through the central and local public governance authorities, takes responsibility of establishing, funding and granting of measures and actions under the regulatory acts relating to social benefits and social services. (According to art. 6, par. (1) of Law no. 47/2006 and art. 3, par. (2) of the Law no. 292/2011). The central public authority drawing up the social welfare policy and promoting the rights of the child, family, senior citizens, handicapped persons and any other persons in need is the Ministry

of Labour, Family and Social protection (According to art. 24 of Law 47/2006 and art. 104 of Law no. 292/2011). In order to accomplish the duties as provided by law, the Ministry cooperates with other ministries, bodies and institutions with responsibilities in the field. At the central level, in the field of child, family and disabled persons welfare, work specialized bodies and institutions subordinated to the Ministry of Labour: the National Authority for Protection of Children's Rights, the Romanian Office for Adoptions, The Ombudsman's Institution, the National Authority for Persons with Disabilities, and other central public governance authorities with powers in this field: the Ministry of Justice, the Ministry of Education and Research, the Ministry of Health, etc. As regards child protection, the state intervention is complementary to it, having the responsibility to ensure the protection of children and to ensure that all the rights through the specific activity carried out by public institutions and authorities with powers in this field. (According to art. 5, par. (4) of the Law 272/2004). At the central level, the national authority for protection of children's rights and the Romanian Office for Adoptions are institutions that have exclusive powers in the field of the protection and promotion of children's rights. These ones, along with the other organs of the central public governance, with the local public governance authorities, and with any other public or private institutions with attributions in the field, also according to Law no. 272/2004, have the following obligations: to involve the family in all decisions, actions, and measures relating to the child and to support the care, raising, development and education in the family, taking into account the best interests of the child (According to Art. 2, par.(4)); to take emergency measures in order to restore the identity of the child (According to art. 8 par. (5)); to take the necessary measures for the exercise of the right of the child to the free association in formal and informal structures, as well as the free and peaceful assembly subject to the provisions of law (According to art. 26 par. (1), (2)); to adopt all measures necessary to ensure the health and well-being of the child (According to art. 43 par. (3)); to provide support (benefits, services) to parents or other persons who, though obligated to entertain the child, for reasons independent of their will, are unable to do so (According to art. 45 par. (2)); to initiate programs and to ensure the resources needed for the development of services intended for serving the needs of children with disabilities and their families (According to art. 46 par. (4)); to ensure children's access to education, leisure and cultural activities (According to Art. 48-49); to take the appropriate measures to facilitate the physical and psychological rehabilitation and the social reintegration of any child who is a victim of any form of neglect, exploitation or abuse, torture, punishments, inhuman or degrading

treatment; to adopt, in accordance with their duties, specific rules for the protection of children against all forms of exploitation and apply appropriate measures for their prevention (According to art. 99).

Besides the institutions of central and local public governance, at the level of each state are organized and operate various institutions and organizations, from economic companies to non-governmental organisations, educational institutions, cultural and religious organizations, supporting the substantiation of social life. Their establishment on common grounds, that is meeting the needs and interests of the society, as well as the permanent interaction with the two administrative subsystems, represent the features of a unitary system of public governance.

At the end of this overview of the conceptual framework, we will enumerate briefly some elements that can disrupt the effectiveness, respectively the credibility of public governance, in order to underline the fact that at all times there is room for improvement for better coherence and viability in the functioning of public governance..

## 3. Some considerations on the Romanian bureaucratic apparatus Conclusions

- The permanent change of the legal framework entails malfunctions in the system because it is missing predictability and stability, and each new change involves the rehabilitation of concept, a new functional circuit which often hampers the decision-making process instead of simplifying it.
- One of the major problems of the public governance is its lack of transparency, of justification in relation to the taxpayer to spend public money. Politics should distinguish between the taxpayer and the voter, in order to decide in favour of the taxpayer, and not against him. The political services of social redistribution of expenditures without the one who contributes effectively having anything to say about it.
- The number of employees in the public system is considered to be small in relation to the Romanian population and social issues, but it is not their number which constitutes the real problem, but the need to clarify the evaluation grids in terms of their effectiveness and the differential mode of payment according to the amount/quality of work performed. Those who consider that the number of employees is insufficient do not take into account the fact that 4

millions of Romanians go to work abroad, so the number of public servants would be gradually reduced.

- The expansion of services within the public governance has not been necessarily done in order to support the development and the sustainability of the economic environment, which, in turn, can support the social environment, etc. (that is, for streamlining and optimizing the time circuits), but especially for the creation of new jobs for the political customers.
- Unlike the private sector, where competition and competitiveness require a continuous improvement, the environment of the public governance is often prone to self-sufficiency (even more so as sanctions or termination of employment may prove a difficult process according to the labour code in force). Over the past 27 years has not been made remarkable progress in the development of a culture of accountability as a whole in this administrative system, but rather of victimhood, namely the degradation of working conditions and pay by comparison to other states and not by reference to the other wage categories on the labour market in Ro.
- Corruption in the whole spectrum of public governance constantly erodes its fundamentals. The problem is not represented by the lack of instruments to discourage or to fight against this scourge but by the effectiveness of interventions made.

In conclusion, the civic sense must not be activated every 4 years, but each time the administrative system in force proves faulty. Between the public governance and the productive environment (the economic one) there is a relationship of interdependence, so that only by encouraging and supporting a strong and stable economic environment will the state be able to ensure a unified administration.

## References

[1] Ferréol, G. (coord.), Cauche , P., Jean Marie-Duprez, Gadrey, N., Simon, M. Dicționar de sociologie. Polirom Publishing House, 1998/ Original title Dictionnaire de Sociologie, Armand Colin Editeur, Paris, 1991, 1995. Translated by Decei L. and Gârmacea R. .

[2] DeAgostini (editor). Enciclopedie de filosofie și științe umane. Bucharest: All Educational Publishing House, 2004, 2007, Translated by Cosma L., Dumitru A., Pop M. 496 p.

[3] Zamfir, C., Vlăsceanu, L., Dicționar de sociologie. Bucharest: Babel Publishing House, 1998, 302 p.

[4] Boudon, R., Besnard P., Cherkaoui M., Lécuyer B. P. (coord.). Dicţionar de sociologie Larrrouse. Bucharest: Univers Enciclopedic Publishing House, 1993, Translation, Ţuţuianu M. 138 p.
[5] Alexandru, I. Administraţia publică: teorii, realităţi, perspective. Revised 4th Edition. Bucharest: Lumina Lex Publishing House, 2006.
[6] Parlagi, A.P. Dicționar de administrație publică. Bucharest: Economică Publishing House, 2000.
[7] Androniceanu, A. Noutăţi în managementul public. 2nd Edition. Bucharest: Universitară Publishing House, 2005.
[8] Negoiță, A. Drept administrativ şi ştiinţa administraţiei. ATLAS LEX Publishing House, 1993.
[9] Manda, C. Ştiinţa administraţiei, 2nd edition. University Course. Bucharest: Lumina Lex Publishing House, 2007.
[10] Debbasch, C. Institutions at droit administrative. Tome I, Les structures administratives, 5e éditions mise a jour, P.U.F., Paris, 1999.
[11] Iorgovan, A. Tratat de drept administrativ, vol. I, revised 3rd edition. Bucharest: Nemira Publishing House, 2000.
[12] Puget, H., Les institutions administratives étrangères, 1969.
[13] Mureşan, D. Ştiinţa managementului. In Editor Mureşan, D. Managementul public. Iasi: Institutul European Publishing House; 2012.
[14] Drucker, P. Managing the Non-Profit Organization. Harper Collins, New York, 1990; The Pension Fund Revolution, Harper & Row Publishers, 1976; The New Society, Harper & Row Publishers, 1950
[15] Burciu, A. (coord.), Dâmbu, D. Managementul public. In Burciu A, Prelipcean G, Bostan I, Hapenciuc V, Chasovschi C, Roman C, Popescu M, Vancea R, Dimbu D, Nastase C. (Eds.), Introducere în Management. Bucharest: Economică Publishing House, 2008, p. 583-609.
[16] Gâf-Deac, I. Ştiinţa administraţiei şi managementul public modern. Infomin Publishing House, 2010.
[17] Manda, C., Banciu, D., Manda, C. Administraţia publică şi cetăţeanul. Bucharest: Tehnică Publishing House, 1997.
[18] Legea nr. 47 din 8 martie 2006 privind sistemul naţional de asistenţă socială [Law no. 47/2006 on the national system of social assistance]. Publicată în Monitorul Oficial nr 239 din 16 martie 2006. Available from: http://www.mmuncii.ro/pub/imagemanager/images/file/Legislatie/LEGI/L47-2006.pdf
[19] Legea nr 292 din 20 decembrie 2011. Legea asistenţei sociale [Law on social assistance no. 292/2011]. Publicată în Monitorul Oficial nr 905 din 20 decembrie 2011. Available from: http://www.mmuncii.ro/pub/imagemanager/images/file/Legislatie/LEGI/L292-2011.pdf