

Local Self-Government in Romania

CRISTINA MARIA HINTEA, BOGDAN ANDREI MOLDOVAN & TUDOR CRISTIAN ȚICLĂU

Abstract The present chapter addresses the topic of local autonomy in Romania from the perspective of the provisions and principles enshrined into the European Charter of Local Self-Government. It examines compliance with the main provisions of the Charter and explores future challenges. Romanian Constitution and laws consecrates local autonomy and decentralization as the foundation of local self-government in Romania and for the most part the national legal framework is in accordance with the Charter. Slight discrepancies occur for example in the area of consultation of local bodies by the central government. Interesting developments have taken place in the area of cooperation among local authorities as a way to counter weak administrative capacity and fragmentation. Financial autonomy is also a topic for debate in the chapter, given the fact that recent regulations have decreased the autonomy enjoyed by local self-government and have created the premises for greater financial dependency on the central government. The main conclusion of the chapter is that Romania has come a long way, following a period of absolute centralization during the communist regime.

Keywords: • decentralization • autonomy • local government • subsidiarity

CORRESPONDENCE ADDRESS: Cristina Maria Hintea, Ph.D., Associate Professor, Babeș-Bolyai University, School of Political, Administrative and Communication Sciences, 71st Traian Moșoiu Street, 400132, Cluj-Napoca, Romania, email: cristina.hintea@fspac.ro. Bogdan Andrei Moldovan, Ph.D., Lecturer, Babeș-Bolyai University, School of Political, Administrative and Communication Sciences, 71st Traian Moșoiu Street, 400132, Cluj-Napoca, Romania, email: moldovan@fspac.ro. Tudor Cristian Țiclău, Ph.D., Lecturer, School of Political, Administrative and Communication Sciences, 71st Traian Moșoiu Street, 400132, Cluj-Napoca, Romania, email: ticlau@fspac.ro.

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1 Introduction and history

Starting with the medieval period, the territory of nowadays Romania (more or less) had been divided into three principalities: Transylvania in the center, Moldavia to the East, and Valahia or the Romanian country to the South. Three big international powers/empires had exercised their influence over time upon the three principalities: Ottoman Empire, Hungarian and Polish Kingdoms. The political and administrative organization of the three principalities during this historical period is rather diverse, depending upon the international power under which each principality was placed (Papacostea, 1999). The complicated and troubled history of the three principalities is marked however by one common aspiration – unification under one Romanian ruler.

Only starting with the 19th century we can discuss about the emergence of preoccupations regarding the territorial and administrative organization of the Romanian state. This coincides with the unification of two of the Romanian principalities under ruler Al. I. Cuza in the mid-1800s. Following the 1848 revolution, which was unsuccessful from the perspective of uniting the three kingdoms into one modern state, the Paris Convention from 1858 established the foundation for numerous constitutional and administrative reforms. Paris Convention can be described as a fully-fledged constitution imposed by the international powers of the time upon Romania. From an administrative perspective, Paris Convention included one provision regarding local autonomy, namely the establishment of local governments with legal personality/status. Thus, in article 46, Paris Convention states that municipal institutions, both from rural and urban areas, will gain all the development which can be inferred from the provisions of the Convention. This provision will represent the juridical framework for the drafting of the administrative laws from 1864 (Popa, 1999, p. 123).

After the coup d'état from 1864, and the adoption of a Statute based on the Paris Convention, two main laws regarding the administrative organization were adopted: Law for the establishment of county councils and Communal law. As already mentioned, both counties and communes were given legal personality as well as their own patrimony. Both counties and communes were governed by bodies elected based on the citizens' vote (censorship vote). The executive bodies were represented by the prefect at county level and the mayor at the commune level. These two positions were representing at the same time the state and the will of the local citizenry. We can see at this time an interesting mixture between the early seeds of decentralization coupled with a relatively harsh interference of the state. The majority of the decisions and acts by the local authorities were supposed to be controlled by the ruler or the legislative assembly (Dissescu, 1891). The Constitution from 1866 further developed the decentralization framework. Article 4 of the 1866 Constitution states that the territory is divided into counties, the counties are divided into *plăși* (no translation into English is available) and *plăși* are divided into communes. These divisions can be changed only thorough law. Following the 1866 Constitution, it was decided that special laws on administrative decentralizations should be drafted (article 13(1)) (Onișor, 1930, p. 157).

The 1923 Constitution introduced the election of local bodies by all citizens. Starting with 1929, the prefect becomes the representative of the state at county level. The period from 1858 until 1940 is marked by timid attempts to instill the principle of decentralization. However, these attempts were hindered by the constant desire of the central governments to be able to control the local level.

During the communist period, the model implemented in Romania was called *democratic centralism* (Deleanu, 1980, p.343), a contradiction in terms, following the Soviet model. Even if elections were organized at local level, only party members were able to run (Gliga, 1957, p. 5) for office. At this time the state and the party were intertwined. Local administrative bodies were subordinated both horizontally and vertically to the central political power. Local bodies were supposed to propose local development plans in accordance with the national plan. In theory, the popular councils had large autonomy; however political interference was tremendous (Popa, 1999, p. 141). For example, even if local communities had their own budget, this was part of the national budget. Local authorities therefore did not have their own patrimony; they were rather administrators of the national patrimony.

The revolution from 1989 signified transition to a democratic regime. One of the early preoccupations after the fall of the communist regime has been the adoption of a new Constitution to consecrate the new regime. With regard to the organization of the state and the administrative division of the territory, the provisions from the first democratic Constitutions after 1989 reflect some of the concerns of the era. First, Romania was established as a unitary state and this form of organization cannot be changed following a revision of the Constitution. Second, the territorial divisions are listed expressly, namely communes (rural), cities and municipalities, and counties. The latter go back to the 1960s reforms initiated by the communist regime. This provision currently creates enormous challenges – for example regions cannot be established as administrative units due to the fact that a revision of the Constitution is needed (complicated process, it cannot be accomplished without a very comfortable Parliamentary majority – 2/3 of the total members of the senate and Chamber of Representatives). As mentioned before, the express listing of the administrative divisions of the territory were due to concerns that creation of regions may lead to ethnic separation from Romania of the territories with a majority of Hungarian population.

Decentralization has represented from the very beginning a significant component of the public administration reform in Romania. Though significant progress has been made in this area, certain challenges still exist. Throughout the years, the focus of the reform has shifted, following the general evolution of the Romanian political and administrative system and the democratization process. In the early stages, immediately after revolution, decentralization was focused more on the devolution of tasks and responsibilities to local governments coupled with the establishment of mechanisms for the direct election of local representatives and for public participation in local decision-making. In the following stages, as the first steps toward creating local bodies directed elected by citizens

and accountable to them was accomplished, the focus shifted toward increasing efficiency in the provision of public services at the local level. Another significant development during this stage regarded the increase in the number of policy areas/fields placed under the responsibility of local governments such as healthcare, education, and local police. At this stage occurred the first concerns pertaining to weak administrative capacity and the need to increase it by a variety of means. Weak administrative capacity was addressed through a variety of strategies, including proposals for asymmetric decentralization, cooperation among local units/consolidation of fragmented local governments, training of public servants, as well as the creation of new positions aimed at increasing efficiency and capacity such as the city manager. More recently, decentralization reforms have targeted two different aspects: a) Territorial decentralization, with a focus on creating regions which will have elected bodies, fiscal autonomy and a broad range of competences; b) Service decentralization with a focus on efficiency – cost and quality standards for local governments, provision of public services at metropolitan level in order to achieve economies of scale, etc.

Legal framework

Decentralization is recognized as a principle for the organization of local public administration in the Constitution of Romania. Additionally, there were several laws on decentralization in place over the years (the last one is Law no. 195/2006), as well as a law on local public administration (Law no. 215/2001). Most of these laws have been replaced in 2019 by the Administrative Code (OUG¹ 57/2019). The main purpose of the Code was to bring together multiple pieces of legislation concerning the entire administrative structure in a comprehensive and coherent manner. Changes concerning decentralization are minimal to none (in relation to existing regulation in Law no. 195/2006). Although the Administrative Code faced several invalidations by the Constitutional Court, it was finally deemed constitutional in May 2020.

From a regulatory perspective, decentralization (as a principle of organizing the local public administration) is firmly and clearly defined and has legal support both in the Constitution and in organic and regular laws. However, there are high discrepancies concerning the application of such regulations, especially concerning service delivery which is highly dependent on the financial and administrative capacity of local authorities (which varies significantly).

Fiscal decentralization

Romania has reached by now a relatively stable and sound legislative framework regarding fiscal decentralization. This is coupled with more predictable rules on inter-governmental transfers and redistribution of taxes. Additional legal framework on the bankruptcy of local authorities has also been implemented, due to a high increase of the level of local debt. One significant progress has been achieved in the last years in the area

¹ OUG stands from Government Emergency Ordinance

of fiscal autonomy - the increase of local governments' own revenues (generated at the local level). In the case of large municipalities, the share of own resources into the local budget can go as high as 70%-80%. As of 2017, several fiscal reforms of the central government have created challenges in this area, especially in the case of municipalities, leading to a loss of own revenues, but starting with 2020 the situation has been remedied.

Local economic development

In addition to fiscal decentralization, the wellbeing and the prosperity of local communities depend on the efforts of local governments to promote sound local economic development. More and more often, local authorities are forced to move away from the support of traditional economic activities which generate income toward a more innovative approach, such as the support of creative industries, partnerships with the IT sector and the universities, services, etc. Such a shift requires a change of paradigm in how local governments operate – a precondition for this shift is represented by sound strategic planning processes at the local level.

Local government capacity to carry out responsibilities

Romania is an interesting example in this area because the 2006 framework law on decentralization as well as the Administrative Code acknowledge that administrative capacity is critical for a successful decentralization process. Thus, the law acknowledges that tasks and responsibilities should be carried out as close to the citizens as possible; however, the law also states that local bodies should be made responsible for carrying out these tasks only if their capacity is properly developed. The law creates the possibility for the intermediary level to temporarily carry out certain tasks until proper capacity is developed at the local level. Despite this innovative legal framework, in practice differences still exist with regard to how certain levels and units of administration carry out their responsibilities. Important differences occur between urban and rural communities, the latter (especially the small ones - below 2,000 inhabitants), are constantly at risk of not being able to financially sustain their daily operation (an important increase in public sector employees wage level also added significant pressure on local budgets in recent years). As a response to these challenges, the Romanian government, using EU structural funds, created a special operational program for the development of administrative capacity at local level. This program was implemented for both programming cycles 2007-2013 and 2014-2020.

Administrative capacity is an essential factor in the effectiveness of the decentralization process - in general, smaller, rural communities have major difficulties especially concerning the fiscal decentralization, or put in another way, they face a challenge in being financially autonomous, which in turn, eliminates most of the benefits brought by decentralization and actually creates operational and functioning problems.

Citizen awareness and engagement in local governance

Though the election of local governments has been in place for 25 years, the active involvement of citizens in local governance is still a challenge, especially in communities where civil society organizations are weak. While in the early stages of the democratization process local authorities were more concerned with complying with the mandatory requirements from the law, currently they are involved in developing innovative mechanisms for actively engaging their citizens. One of the most innovative tools currently used by various communities is participatory budgeting. Citizens are given the opportunity within the framework of a complex participatory framework to decide which the priorities are in their community in terms of financing and to work together with the local authorities toward the financing and implementation of those projects. Cluj-Napoca was the first city in Romania in 2013 to implement such a participatory budgeting process.

2 Constitution and legal foundation for local self-government

After the fall of the communist regime in 1989, Romania has undertaken significant efforts in order to establish and consolidate its democratic regime, local autonomy and decentralization. The Charter of Local Autonomy was ratified by the Romanian Parliament in 1997, through Law no. 199/1997; however, implementation and recognition of the rights regulated by the Charter into the national legislation has been marked over the years by numerous inconsistencies.

The 1991 Constitution of Romania (with subsequent amendments) states for the first time one of the principles of the Charter, namely local autonomy. The principle is not defined in any way; it is just listed among other key principles for the organization of public administration. The Administrative Code brings a more detailed description of the principle. Article 3(1) of this law defines local autonomy as “the right and the ability of local authorities, within the limits of the law, to solve and manage the public affairs under their own responsibility and in the interests of the local communities they represent”. The national provision is rather similar with the one from the Charter. Starting with 2019, this was maintained from the previous law (215/2001) in the Administrative Code however, no significant changes were brought to the legal regime of local autonomy (for definition see art. 5(j) of the Code).

Both Law no. 215/2001 and the Code regulate specifically and in a limited manner the representatives of local public administrations through which local autonomy is exercised, namely: local councils, mayors, county councils, and the presidents of the county councils, which are freely elected by secret ballot on the basis of direct, equal, and universal suffrage. Mayors and local councils can be found at the level of rural communes and cities, while the county councils and the presidents of the county councils are placed at county level. The Constitution lists all the territorial divisions which enjoy local autonomy – counties, cities, and rural communes. Also, both laws state that local

autonomy is just administrative and financial, therefore excluding the political dimension. This means in the Romanian legal doctrine that local authorities cannot gain legislative competences. Directly elected authorities at local and county level coexist with the possibility to carry out local referendums. This is the most common strategy included for the direct consultation of citizens with regard to local matters.

Local authorities do not enjoy absolute freedom with respect to managing their local communities. Both the Constitution and the Administrative Code state that supervision is carried out by the prefect, which is a representative of the central government at county level. The control of the prefect regards only the legality of the acts issued by the local councils, county councils, mayors and presidents of the county councils. The control by the prefect is described as rather weak, at least in theory. The prefect cannot veto in any way the actions of local authorities. If the prefect suspects that a breach of the law occurred, then he/she will lodge a complaint with the administrative court. It is the court and not the prefect who will decide if a breach of the law really occurred. Even though the national regulation of the administrative control by the prefect was based on the principles laid down by the Charter, aiming at ensuring a European democratic framework for the principle of local autonomy, neither the constitution, nor the law took into account the principle of proportionality, which, in article 8(3) of the Charter states that "administrative supervision of local authorities shall be exercised in such a way as to ensure that the intervention of the controlling authority is kept in proportion to the importance of the interests which it is intended to protect". Contrary to the European legal norm, the principle of proportionality is not acknowledged either in the Constitution or in the Administrative Code (it is only mentioned in reference to public contracts).

Local authorities are supposed to be consulted in respect to matters which pertain to the transfer of competences from the central to the local level. Consultation is only mentioned in the Romanian legislation specifically in connection with the process of decentralization (Art. 76-Art. 80, Administrative Code) but is not mentioned as a specific, independent principle of the process (similar to subsidiarity for example). The actual process is a classical top down approach where the central government through its ministries or central agencies does an impact analysis of what competencies are going to be transferred and how. Indeed, the Code mentions that through the entire process the central government must consult the associative bodies of local authorities (such as the association of mayors, or association of County Councils) (art. 78, letter e) but no additional provisions or information are given regarding this. This offers the central government the possibility of a very broad understanding of the "consultation" process which indirectly reduces the influence that local authorities have concerning the matter. The second mentioning of the same (ambiguous) consultation principles refers to the associative representative bodies of the local administration being part of the Technical Committee that is organized under the coordination of the Ministry of Administration.

As an expression of local autonomy, the European Charter, in article 10, gives the right to the authorities of local public administration to cooperate. This recommendation was

implemented by the Romanian legislator through article 11 from Law no. 215/2001, according to which two or more territorial-administrative units have the right to cooperate and to become associated, in accordance with the provisions of the law, by forming associations for intercommunity development, which enjoy legal personality, are subjects to private law, but of public utility. A similar provision is currently included in the 2019 Administrative Code under article 89. This type of voluntary cooperation is however very weak, and it is undermined by the lack of trust local authorities have in each other and by the lack of a tradition which promote cooperation as a means to solve local problems.

3 Scope of local self-government

The Romanian Constitution sets up a two tier local public administration (art. 121, 122, 123), represented through local and county councils as local deliberative authorities and mayors and presidents of the county council as the executives along with central government representatives at the local level (Prefect and deconcentrated services) while also specifying the essential principles for the organization and the functioning of the local public administration (art. 120): decentralization, deconcentration and local autonomy. The first distinction is made between types of authorities functioning at local level: decentralized (local and county councils, as well as the mayor and the president of the county council) vs. deconcentrated (local representatives of the central government – Prefect and deconcentrated services and agencies). This is relevant as the two categories vary with respect to purpose, role, organization and actual functioning. While the ECLSG² defines the concept of local self- government as *the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population*, which reflects the activity of both decentralized and deconcentrated authorities, it specifically states that this right and ability should be exercised by *elected authorities* which in this refers only to decentralized local authorities (local and county councils, the mayor and the president of the county council). The Administrative Code (Title 5) takes the previous regulations from Law no. 215/2001 on local public administration provides further guidance on what local authorities are responsible for, how they organize and function. The organization of the local public administration is based on 5 (art. 75, Administrative Code): decentralization, deconcentration, local autonomy, legality, eligibility and consultation of citizens on local issues of interest. *Local autonomy* is defined basically identical as in the ECLSG (art. 3) with the addition that local autonomy refers only to administrative and financial matters (not political). The principle of *decentralization* is defined by the Administrative Code (art. 5), as the *transfer of competence from central to local authorities* and should be done by respecting the principles of *subsidiarity, financial soundness* - providing the resources necessary for the exercise of the decentralized competence, *responsibility* – use of quality standards local public services, *stability and predictability* of the process, *equity* – equal access of all citizens to public services and *budgetary constraints* – impossibility to use national

² European Charter on Local Self Government.

financial resources to cover local public deficits. The responsibilities of local decentralized authorities are divided into three categories: exclusive, shared and delegated competence. The first category (exclusive competence) is rather wide, including public utility services (gas, water, sewage, garbage disposal), local transportation infrastructure, urban planning, public transportation, public property management, child protection, assistance in case of domestic abuse, public lighting, etc. The second category (shared with central authorities) includes household heating provided through the centralized heating infrastructure (no. of users has reduced significantly in the last 10 years, and it remained viable only in Bucharest, where economy of scale allows for efficient supply of the service), social housing, pre-university education, public order and safety, social assistance, disaster management, social and medical assistance to social cases, primary assistance for people with disabilities, local transport infrastructure (towns), census and population record services. The third category (delegated) refers to allowance payments for pupils and people with disabilities. It's worth noticing that transport infrastructure features in both categories (exclusive and shared competencies), but the shared competence applies in rural areas mainly because of low administrative capacity of these authorities. This offers the necessary legal support for transfer of resources from central levels for specific public interest projects without braking the principle of local self-government. Another element worth mentioning is that the central government can transfer competencies from local to county government (for a determined time period) if local authorities display low administrative capacity. Administrative capacity is evaluated by the Ministry of Internal Affairs and Public Administration and the evaluation report represents the legal grounds for such a decision. The criteria used for administrative capacity evaluation are: strategic planning capacity, financial management capacity, human resource management capacity, project management capacity and legality of action

4 Protection of local authority boundaries

According to the local public administration law (Law no. 215/2001) and the Administrative Code, the limits of each administrative unit (at both local and county level) are established by organic law (adopted by the Parliament) while any modifications to these limits need to be first approved by the residing populations through a local referendum. Thus, local authorities benefit from a high level of protection for their boundaries as any modification needs to be approved first by the population and then by the political representatives. One element that should be mentioned is the high fragmentation of authority especially in rural areas. At present there are 320 towns and cities and 2861 communes (rural area) with most of the second category having trouble generating enough revenue to cover their expenses, leading to an overly high financial dependence on the central government, in spite of legal decentralization and local autonomy.

An important point of discussion concerning the high level of protection of local authorities' boundaries deals with its overall impact on the effectiveness of local

government. While Romania sits at the top of the EU countries in this respect (EU self-rule index) along with Lichtenstein and the Czech Republic, it is noteworthy to discuss how the existing constitutional provisions which offer such high protection to legal authorities influence their activity. Because of the specific constitutional reference and listing of all types of local authorities, any change concerning this (types of local authorities) means basically a constitutional revision process, which (as expected) is quite complex and difficult to do. In 1991 when the first Constitution³ was adopted, the legislator introduced an exclusive list of local authorities (mentioned earlier) to avoid any potential risk of separatist movements in the regions of the country where the Hungarian minority was dominant (for more on this, see Salat, 2013). Today, the political and administrative landscape is very different and the challenges the country faces are also of a different nature. As the last constitutional revision from 2003 did not bring any changes concerning this, any kind of change towards introducing a new level of local government or changing the actual structure would need a constitutional reform. This translates into high levels of rigidity in creating any other forms of local entities, with the most obvious examples being the Development Regions and the different forms of associations between local authorities (metropolitan areas, regional service provision agencies) which have very limited authority mostly because of the existing constitutional provisions concerning local administration⁴. There are several critiques regarding the overall effectiveness of these forms of associations mainly lack of transparency and accountability (not being elected bodies), slow and ineffective decision making, limited financial resources, overlap of responsibilities with other local public authorities (Hințea, Neamțu, 2014). This indirectly led to a new approach (starting with 2008) toward local development by the central government focused around growth poles which had mixed results mostly because of a poor understanding of the concept but also because of the actual set up and functioning of the newly formed associative structures around big cities that had limited results (Hințea, Neamțu, 2004).

In conclusion, the current situation concerning the protection of local authorities can be seen as a double edged sword: on the one side, local authorities have high levels of protection against any arbitrary decisions by the central government but on the other hand, this also bring a high levels of rigidity concerning the institutional architecture of local government, making any reform movements hard to implement.

5 Administrative structures and resources for the tasks of local authorities

The local authorities right to adopt their own internal administrative structures as well as ensuring effective management of local public services, along with the responsibilities and limits of exercising their authority are regulated through the new Administrative Code (taken from the previous law on local public administration, Law no. 2015/2001) . Title

³ We refer to the first Constitution after the fall of the communist regime in 1989.

⁴ The issue is analyzed thoroughly in section 9 of the chapter.

V of the Administrative Code is dedicated entirely on the organization and functioning of the local public administration. More specifically, the Code defines everything from the election, creation, functioning of the Local Council and City Hall, as well as the main responsibilities and limits of their authority. Those tasks regard the organization and functioning of the special apparatus of the mayor and of public institutions (154-158), services of local interest (including companies and autonomous agencies of local interest) (art. 130), the economic and social development of the administrative unit, the administration of public and private property, the delivery of public services to citizens, and the inter institutional cooperation (both internal and external) (art. 129).

The local council approves, under the terms of the law, at the proposal of the mayor, the organization chart, the staffing schedule, (the number of personnel and the organization and functioning regulations) of the own/mayor specialty apparatus, of the institutions and public services, as well as reorganization and staffing schedule of the autonomous agencies⁵ of local interest; In this matter, the provisions of Romanian legislative framework comply with article 6 of the Charter, as long as the local councils can adopt their own regulations on their organization and operation and adapt the rules to their specific needs. As long as one of the initial tasks of the local council consists of approving the council's charter and the regulations for the organization and operation of the council, the mayor apparatus and other local public institutions, it is clear that the county councils' decisions govern the organization and operation of the local authorities.

More recently, we have started to witness interesting “innovations” at the local level in terms of establishing new types of structures. Thus, at the level of the capital city, Bucharest, numerous public companies were created, which are meant to perform tasks which in the past were contracted out (energy, sustainable development, etc.). It is not clear if this trend will be followed by other public authorities.

Romania adopted a civil service statute. The regulations on civil service are governed by Law no. 188/1999. The legal framework on organization and development of civil servants' career is completed by Government Decisions no. 611/2008 and no. 761/2017. The institutional framework on recruitment includes The National Agency of Civil Servants (ANFP), institution which was established with the purpose of ensuring the management of civil service and that of civil servants. Through its attributions, ANFP monitors and controls the law enforcement regarding civil servants and establishes criteria for public civil servants' evaluation. Another important institution in the national framework is the National Institute of Administration (INA) (re-established by Government Ordinance no. 23/2016, under the coordination of the Ministry of Regional Development and Public Administration) with attributions on public civil servants and contract staff (also employed by local authorities) training. Through law, ANFP and INA collaborate on establishing the specific themes for public administration staff training.

⁵ In the Romanian language these agencies are named *regii autonome*.

Staff training is undergone at local level also through specific short-term training programs provided by private institutions.

The number of staff that may be employed by the Romanian public authorities is settled through Law no. 13/2011 on the approval of Government Ordinance 63/2010 which modifies and complete the Law no. 273/2006 on local public finance.

Regarding the remuneration conditions, since 2017 there is a new Framework Law no. 153/2017 on publicly funded personnel salaries which ensured an important increase in the level of wages in local public administration. At the level of the Romanian society there is an important debate over the fact that through the law (article 11) the base wage level of local civil servants and contract staff are established through local council's decision. This lead to unsustainable personnel expenditure levels, especially at the level of small communities' local authorities which were covered through central government transfers, and lead the way towards increasing dependency on central government allocations.

6 Conditions under which responsibilities at local level are exercised

As mentioned, Romania has a two tier (non-hierarchical) local public administration with county and local level authorities - art. 121 of the Romanian Constitution states that “the authorities of the public administration, through which the local self-government is carried out in communes and towns are the elected local councils and the elector mayors, in the conditions set out in the law”. Art 121 continues and defines the main responsibilities of these authorities as follows “the local councils and the mayors operate, according to the law, as autonomous administrative authorities and deal with the public affairs in the communes and towns” while the next article (art. 122) defines the role of the county councils: “the county council is the public administration authority responsible for coordinating the activities of the local councils in towns and cities, with the purpose of delivering public services at county level”. The principle of separation of powers is maintained, with the councils representing the deliberative authority while the mayors the executive one. The Romanian Constitution also includes the Prefect in the section of local public authorities but it defines its specific role as central government's representative at the local level. It is directly appointed by the government (through an order of the Prime Minister) and heads the services offered by central authorities at local level. Thus, the Prefect does not fall under the definition of the ECLSG article 3. With respect to the free exercise of the function for local elected representatives, Law no. 393/2004 provides the specific situations in which the elected officials' mandate ends⁶ with very few differences between mayors and local or county councilors, while otherwise they are offered protection, with free exercise and liberty of expression during their mandate is guaranteed by law – according to art. 21 (Law no. 393/2004): “elected officials are not legally accountable for opinions expressed during their term”. Furthermore, any actions taken by

prosecutors against them (retention, arrest, start of a penal inquiry) are communicated to both the Prefect and to the corresponding local authorities in a maximum of 24 hours. Financial compensation is specified by Law no. 153/2007) with an average increase or approx. 30% (compared to 2016) in salaries for personnel working in the local public administration, including elected officials. All local public elected officials enjoy social welfare with recent attempts to introduce them also into the special pension system (military, judiciary, members of parliament). Initially deemed unconstitutional by the Constitutional Court (decision no.581/2016), the new Administrative Code of 2019 allows the mentioned benefits for elected local public officials (but the implementation was postponed by the government for 2021). Besides the salary, local elected officials in an executive position (mayor/vice mayor, president of county council/vice president of county council) have the expenses linked to exercising their function covered separately from the budget of the institution. Lastly, spending for professional development programs are also covered through the institutional budget.

With respect to the regulations on incompatibilities, the law provides a set of special working conditions for local elected public officials. First of all, once elected, the previous labor contract is suspended throughout the entire term (local councilors are exempted from this), the only exceptions being holding a teaching position, journalist with professional accreditation, researcher or working in the field of art and culture (art. 28, Law no. 393/2004). The law requires that all elected officials declare any situation where one's personal interest conflicts with the general public interest, and in the case of councilors, if that interest is not patrimonial, they are still allowed to vote on that particular matter (art. 47, Law no. 393/2004). The law also defines a situation where one has a personal interest as (art. 75): "local elected officials are considered to have a personal interest in a matter if they can anticipate that a decision of the public authority from which they are part of, could generate a benefit or a disadvantage to them personally, spouse or member of family, grade I and II relatives, any person or firm they have a contract with, another public authority they are part of, any firm to which they own are paid by, are an administrator to, and NGO or Association to which they are part of. Thus elected local officials have to submit a personal statement of interest, when taking office, which has a public character and can be accessed publicly.

Another important prerequisite of the law is that local elected officials cannot sign contracts with any public or private companies for service delivery if they also serve as: president, vice president, director, administrator, member on the boards of administration or any other executive function in the company.

7 Administrative supervision of local authorities' activities

Administrative supervision over the local public administration is done by the Prefect, the central's government representative at the local level. The legal support for this is given both by the Constitution (art. 123) which establishes both the procedure of

appointing him/her⁷, relations with the other authorities (no subordination relations with the other local authorities) and the main responsibilities of the Prefect – heading central government’ services at the local level and administrative supervision. In 2004, the adoption of Law no. 340/2004 redefined the position of the Prefect (and Deputy Prefect) as a Senior Civil Servant with the main purpose of reducing the political influence over them. However, according to several reports (Frecon, 2011; AMR, 2017) this political influence of the central government over prefects, and indirectly over local authorities, is still high.

Administrative supervision over the local authorities (or administrative tutelage or guardianship as it is called in the Romanian literature) can be exercised according to law by two institutions: The Prefect and the National Agency of Civil Servants (NACS). Law no. 554/2004 defines this right for the two types of institutions as follows (art. 3): “the Prefect can bring in front of the administrative courts any administrative acts issued by elected local authorities⁸ if she or he considers them illegal” and “the National Agency of Public Servants can bring in front of the administrative courts any administrative acts issued by central and local authorities which go against (don’t respect) existing legislation regarding civil service”. In both cases, until the courts take a decision, the administrative act that was attacked in front of the courts is automatically suspended. Until 2007, the procedure implied an initial request for re-analysis of the administrative act by the issuing authority with the purpose of rectifying the legality problem (modification or recalling) before the actual referral of the administrative court with over 80% of the issues being resolved at this level without administrative referral. In spite of this, this part of the procedure was eliminated from the legislation starting with 2007 (Canepa et. al. 2011). Thus, from this perspective, the provisions of art.8 paragraph 1 of the ECLSG are fully respected.

With respect to the scope of the Prefect’s supervisory activity, it is limited to legality of the administrative acts (not the opportunity) – in other words the only condition in which the Prefect can exercise this function is if she or he deems the act as not legal. However, the implications of this provision are the following: besides the situations in which local authorities adopt acts that are considered illegal by the Prefect and thus brought up before the administrative court, the Prefect can also exercise this supervision upon the *actions* of the local authorities (Canepa et. al.2011): situations of *administrative silence* – situations in which local public authorities do not respond to a petition formulated in accordance with the law, in the due period specified by law (30 days) or the *unjustified refusal to resolve a petition* – situations in which authorities refuse to respond to solution the problem signaled through a petition without offering the legal mandatory motivation for the refusal, in accordance to the law, for the specific situation signaled by the petition.

⁷ At the proposal of the Minister of Administration and the Interior, the government appoints a prefect in each county and in the municipality of Bucharest (Law no. 340/2004).

⁸ Mayor, Local and County councils

In light of all this, we consider the administrative supervision exercised by the Prefect over local authorities as proportionate, as the only basis for this supervision is the legality of the adopted acts, not their opportunity.

8 Financial resources of local authorities and financial transfer system

Decentralization is a complex and multi-dimensional process which implies, along accountability, a high level of financial autonomy. The concept of decentralization is tightly connected with responsibilities and authority transfer for civil service, from the central to the local level.

In the case of local public finance, decentralization means, along the high degree of independence, a proportional increase of local authorities' responsibilities in obtaining and managing resources. In the case of Romania, the level of public services provision by local authorities has increased continuously since 1989, but a lack of appropriate level of resources, that threatens the proper functioning of public services provided to citizens, continues to exist. An efficient use of public resources is vital, and identifying multiple innovative financing instruments for local authorities is necessary.

An important problem regarding central-local relationship, with important implications on decentralization is the lack of a clear set of objectives that should be attained over time, which is a source of instability in intergovernmental relation, and of an ineffective supply in the case certain public services.

Legal framework modifications

Post-communist Romania legislative framework regarding the functioning of local public administration was established almost two years after the fall of the communist regime with Law no. 69/1991, which set the functioning rules and distinct attributions for the first elected local administrative bodies next year after the law was enacted. Through this act, four principles of functioning were set: local autonomy, decentralization, eligibility of local public administration authorities and consultation of the citizens in particular/special interest issues.

The law designed the system of local public administration budgets, and set the type of revenues that were at the local authorities' discretion, which institutions could dispose freely of, in order to properly organize their activities and provide public services to citizens. Another part of them (an important one) were actually earmarked or special destination transfers from the central budget. In the same year (1992) through an ordinance, the Romanian Government established the main exclusive type of financing sources for local budgets, which consisted especially on property taxes. At that time those type of revenues were not actually own revenues, as the collection was in the hands of Finance Ministry's representatives. In 1994 through the Law no. 27 on local taxes, those types of revenues were settled as local public administration own revenues.

The real financial decentralized system of the Romanian public administration was put in place starting with the enactment of Law no. 189/1998 on local public finance, which set the rules on the collection and management of financial resources (by creating the framework for own local bodies that established controlled and collected the taxes that were set up in the following years), and enacted the competencies and responsibilities regarding local public finances. This act allowed for a higher degree of financial autonomy, and its implementation led to an important increase of the local taxes collection rate - with almost 10% in the first year of functioning of the local tax authorities' units. Ten years later, the collection rates increased by more than 20%, recently the average rate being settled around 85%.

The legislative framework evolved later on, and a new act regarding local public administration – Law no. 215/2001 was enacted, which complemented the four previously set principles (in 1991) with the legality principle. In 2006 the law was amended, introducing the principle of deconcentration of public services.

The year 2004 was another milestone in increasing the level of financial autonomy, once the Fiscal Code manage to unite all provisions into a unitary set of rulings, and the Government Ordinance no. 45/2003 on local public finance came into force increasing the level of local financial resources and financial autonomy by including the share of the personal income tax collected at local level in the own revenues category, and by establishing an equalization procedure in distributing several central type of revenues (especially VAT) at local level.

The reform of local finances was completed in 2006, when a package of laws on the reform of local public administration was promoted, which contained a new law of local public finances (Law no. 273/2006), a framework law of decentralization (no. 195/2006) and a law that amended the Law no. 215/2001 on local public administration.

The new law on local public finance refined the previously settled equalization system of distributing central revenues at the local level (VAT) and part of the income tax, with the main aim at supporting those administrative units that were in a difficult financial position.

The introduction by the new law of an algorithm through which the funds were distributed based on transparent and objective criteria, so that an important part of political discretion was eliminated in the process of distribution of the funds from the central and county level and also manage to create supplementary control levers on enforcing legal provisions for the local authorities.

In the latter period (starting from 2015 on) we are witnessing an important setback in local financial autonomy and objective distribution of financial resources.

The equalization procedure has been changed since 2005 (initially through Governmental Decision no. 14/2015), and since then, the distribution is made through yearly National

Budget Law. The new procedure (adopted without previous notice or any consultations with local representatives) imposed a minimum revenue level per administrative unit, and had an important effect on multi-annual projects of local authorities, as there were reported cases of 50% variations in allocations for several administrative units (Nalas, Levitas, 2016, p.108).

Moreover, successively, the share of the personal income tax (that constituted a direct own revenue of the local budgets) decreased over time – from 2006 to 2017. Another measure that affected local budgets (especially in the case of urban areas) was the change of the national income tax rate, from 16% to 10%, announced at the end of 2017. This type of income amounted for almost 40% of total local revenues, and in several cases of large municipalities a drop of 25% in own revenues was recorded. At the time, insufficient efforts of the government were made by the central government - a small percentage increase in the shared tax quota - but that measure was only a small patch on the bleeding wound created. Since 2020, the central government policy on personal income tax has changed allowing for this type of revenue to be entirely distributed at local level (county and local budgets)

The introduction of The National Local Development Plan, through which the central government financed local development projects, decreased the appetite of local governments for EU financed development projects, and also increased the level of dependency for central funds which, in the case of this program, were distributed based on political preference, and not on clear objectives and criteria.

Post-New Public management theories draw the attention on the issue that decentralization could have unanticipated and unintentional effects. Excessive authority and discretionary power of local elected officials in program implementation and funds use lead, in many cases, to inequitable and inefficient fund allocation, unjustified expenditure and corruption (the case of several Romanian public officials at local and county level).

The allocation system of shared income tax is (probably) not the most efficient from the perspective of addressing the needs of the local communities with a lower level of economic development. A study developed by Public Policy Institute ascertains that “after the introduction of income-tax shared quota, and after receding progressive taxation system, an interesting and unplanned by central level planners and decision-makers phenomena took place: the disparities between localities have increased even more, as the income tax is collected especially from urban areas” (IPP 2010 (1), p. 15).

On the issue of local authorities borrowing for capital investment, Law no. 189/1998 on local public finance was the first one which enacted a clear set of rules on that matter. Through the provision of that and subsequent law on public finance, the local and county councils were allowed to approve the contracting and guaranteeing of internal or external

loans on short, medium and long term to carry out public investments of local interest and refinance debt.

Several changes to the legal regime of local borrowing in Romania were made over time: the debt limit was set at 20% from own revenues, further on modified to 30%, nowadays being set at 30% of a mean of own revenues minus revenues from asset sale. Other changes, such as the prohibition of access to loan resources for local governments registering arrears or insolvency of administrative-territorial units are seen as inappropriate "In those global perspective shows that the accumulation of budgetary arrears, meaning more important real local deficits, has triggered, to a certain extent, a vicious circle, on the one hand the access to local borrowing being limited if there were premises of insolvency, but, on the other hand, the removing of those premises (the payment of arrears) depending on the possibility of local authorities to borrow" (Oprea, 2015, p. 8).

As a conclusion, the evolution of local public finance legislation in the post-communist era, and post-adoption of the Law no. 199/1997 for ratification of the European Charter of Local Self-Government lead to an improving situation regarding the financial situation and position of local authorities.

The architecture of local budgets revenues has been developed, taking into consideration the need of adequate financial resources.

The situation is far from being perfect in terms of correlating the revenues with the legal responsibilities of local public administration; several former central responsibilities were transferred toward local budgets in areas such as education, social assistance and health system, without a proper financial support.

In terms of type of revenues, the funding sources have diversified over time. Although the tax rates are set by the national authorities, the local authorities have the right to increase the local tax rates with as maximum 50% (since 2016, until then with 20%). The consultation process between government officials and representatives of municipalities, communes, and county councils' associations was fairly consistent over time, with specific moments in time, when several measures were taken without any consultation (see the change in equalization mechanism).

Even though the conclusion was drawn in 2001, it is still a reality nowadays: „the degree of decentralization increased in the last years, several services administration being transferred from central towards local level. The implementation of decentralization has many times been made without a previous assessment of local conditions, which would have allowed for a better approximation of the necessary number of decentralized tasks and time period" (IPP(1), 2001, p.35).

In conclusion we can observe several obstacles in the process of decentralization that occurred over time, such as:

- Financial resources that are insufficient in the context of decentralizing services (especially in the case of education, social assistance and health services' management transferred to local authorities);
- Unclear allocation and use of central level resources, which is often not based on objective criteria, but discretionary allocation, based on political party membership (the case of Government-funded specific development programs – National Local Development Plan);
- The lack of a professional body of public servants to deal with the increasing number and scope of tasks transferred to local authorities;
- Unclear objectives and standards in decentralizing services.

9 Local authorities' right to associate

The legal framework on local public administration structures functioning was regulated through primary legislation - Law on local public administration, no. 215/2001 (through its initial form and following subsequent modifications), but also through secondary legislation - Law no. 195/2006 on decentralization, public utilities and services, Law no. 51/2006, Law on local public finance no. 273 / 2006, Law no. 554/2004 of the review of administrative acts (and the Law no. 262/2007, which modifies Law no. 554/2004), Law no. 351 of 6 July 2001 on the approval of the spatial planning of the national territory (Section IV Human Settlements Network), and Law no. 96/2006 for adopting the government Ordinance 53/2002 on framework starts of administrative units. Other issues on cooperation between local governments are the subject of Law no. 246/2005 for approving Government Ordinance no. 26/2000 on associations and foundations, but also in Law no. 315/2004 on regional development in Romania.

In the current legislative framework (Administrative Code, art. 89), the local public administration authorities have the right, in the limit of their competencies, to cooperate and to associate with other Romanian or foreign local public administrations / local governments. The legal framework allows local governments to adhere to national and international associations, in order to protect and promote their common interest, and to establish partnerships and to participate in initiating and accomplishing regional development programs: „Local and county councils from border administrative units have the right to establish trans-border partnership agreements with similar authorities from neighbor countries, in the limits of the law”(former article 11 of the Law of local public administration no. 215/2001, now article 89 of the Administrative Code).

The law also settles the way can take part at the association: „Local autonomy is characterized also through the right of local councils to decide on participating with capital or property, in the name, an in the interest of local communities which they represent, to constituting companies or to establish local or county public services”.

The principles stated in article no. 10 of the Charter are of maximum importance for the Romanian local governments on several directions: regionalization, cooperation with national and foreign local governments in influencing public policies and implementing common development projects and provision of certain public services through common development projects.

First association forms used by Romanian local governments were used to create representative bodies which aimed at collaborating with national government and parliament in the processes of public policy making and in the procedure of consultation of legislative initiation:

1. „National Union of County Councils in Romania (UNCJR) is a non-governmental organization comprising on free consent the County Councils, as authorities of local public administration. UNCJR represents the interests of county councils, both in the relation with the executive power and in the relation with the legislative power, supports the direct participation to legislative initiatives and it is present whenever necessary in the consultation process for public policy making. .
2. Association of Municipalities in Romania (AMR), created in 1990, comprises the towns that were declared municipalities, respectively 103 members. It is a dialogue partner for Government and Parliament of Romania to support the interests of local authorities and common interests of local communities related to central public administration, non-governmental organizations and third parties.
3. Association of Towns in Romania (AOR), represents the interests of 210 small towns in Romania. It was set up in 1994 in view to improve the role of local authorities related to central administration, formulating proposals to change or complete actual legislation.
4. Association of Communes in Romania (ACoR) represents unitary the interests of communes in Romania related to any entity, governmental or non-governmental, organized at national, regional, county or local level. It has the right to legislative initiative of some drafts for normative deeds and to formulate proposals in the process of elaborating drafts for normative deeds.
5. Federation of Local Authorities in Romania represents the member association structures (AMR, AOR, ACoR) in relations with the Government, Parliament of Romania and other public authorities and institutions. It represents the interests of the local authorities in the context of the present national political system, the joint interests of local communities in the relations with central public administration, non-governmental organizations and third parties on domestic and international level” (Matei, 2009, p. 11).

Regionalization

Through the Law no. 199/1997, Romania ratified the European Charter of Local Self-Government, with the exception of article 7, paragraph no. 2 and declares that the notion of regional authorities is ”translated” into county local public administration authority, according to the legal framework in act. (Law no. 199/1997). Shortly after the adoption

of this law, the Romanian legal framework on regional development was completed with Government Decision no. 761/1997 which settled the institutional framework which will promote the national regional development policy until the adoption of a specific law. The forecasted regional development law was prone to establish the institutional framework, the principles, the objectives, and the specific instruments of Romania regional development policy.

In today's Romania, the implementation of local as well as regional development projects is a difficult task due to the high degree of administrative fragmentation. This issue commonly leads to a division of resources and economic development funds (Săgeată, 2013, p.18)

Shortly after a specific law concerning regional development and the creation of "regions" was adopted - Regional Development Law no. 151/1998 which set the basis for a voluntary cooperation of Romanian counties to create 8 development regions according with the NUTS 2 classification. Later on, the institutional framework for the regional policy has been completed through Law no. 315/2004. Implementing regional development projects is a difficult task due to the high degree of administrative fragmentation and the overall lack of legal authority of the regions. The 8 regions lack legal status which means that they are not considered to be real administrative-territorial units; they are actually a framework for the establishment, implementation and evaluation of regional development policies, and collection of statistical data. Although legislative created a new institutional network for the regions (the National Council for Regional Development (NCRD), the Regional Development Councils (RDCs) and the Regional Development Agencies (RDAs)) this did not solve the initial issue of legal authority. Benedek and Bajtalan (2015, pp. 26-26) identify two basic problems that arise from the implementation of Law no. 315/2004: "first, the criteria for area designation are heterogeneous and not consequently applied... The second main problem is related to the fact that the development regions in Romania do not have financial and legislative competencies. They fulfill two main functions: a statistical function and an implementation function for the EU cohesion policy. It means that they have no executive or legislative powers, and are subordinated to the governmental level which distributes the financial resources to them. The regionalization was top-bottom oriented and it is the result of consulting a very limited number of actors".

Intercommunity associations / Metropolitan areas

One specific aim of the modification of the legal framework on local government associativity is intercommunal cooperation set through the means of creating development units – such as Intercommunity Development Associations and Metropolitan Areas.

The Law no. 351/ 2001 (on the Approval of the Spatial Planning of the National Territory) and Law no. 215/2001 on public administration are the laws through which metropolitan

areas were established based on free association. The partnerships made voluntarily between the big urban settlements (all cities considered county seats⁹) and the urban and, as well, rural localities around the urban center, assuming cooperation relations on multiple levels.

Metropolitan areas were initially organized as entities without legal personality, but were able to function on a perimeter which is independent on the limits of territorial administrative units, established on common agreement by local public administrations (Dumitrică and Dinu, 2013, p. 126).

Today's context and legislative framework is considered one that is actually not substantially supporting the real development of metropolitan areas (MAs). There is an important number of issues that arise, and situations that hinder the implementation of territorial and urban projects. The main issues are mentioned in a document designed as a part of the Romanian Territorial Development Strategy:

- “The lack of clarity of the role, competence and responsibilities between the MA administrations, the local public administration and the county public administration;
- The relation and support of the MA with the decentralized institutions of the national public administration at local level;
- The limited number of financial opportunities for MAs;
- The limited number of management and implementation instruments (MRDPA, 2013 p. 12).

Intercommunity Development Associations (IDA) were further regulated through Law no. 286/2006 (for amending and completing the Law on local public administration no. 215/2001). Being, at first, a type of entity created by the association of local administrations governed by public law, the intercommunity development associations have been qualified as private law structures that possess public utility status. Also, through Law no. 554/2004 (on the review of administrative acts) the development associations were assimilated to public authorities. This form of association is used on a large scale in providing public utilities services like waste management, waste water treatment and water provision and in implementing other large scale development projects.

In practice, over time there have been many legal issues concerning these associative structure (MAs and IDAss), mainly due to the lack of or improper regulations on territorial design. In many cases the development associations excluded certain localities from the support and influence area of the first-rank-city, which lead to the diminishment of the capacity of the associations to constitute a powerful and attractive development pole. In fact, many partnerships are initiated for solving specific problems and not as a result of sharing a common integrated vision. (MRDPA, 2013 p.12).

⁹ Informal classification referring to the biggest city in the county considered the counties capital city

The issue was addressed in the Administrative Code, and since 2019 Metropolitan Areas, as well as Urban Agglomerations are regulated as IDA's with legal status.

Trans-border

Regarding the issues of trans-border association, Romania, through Government Ordinance no. 120/1998 ratified the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (Madrid, 1980, 21st of May). The Romanian local authorities' right to associate and the conditions applicable to their associations were laid down in Law no. 215/2001, in the sections 11 to 17 (currently, sections 9-16 of art. 89 of the Administrative Code).

On the issue of the association of local governments through the section 12(2) of Law no. 215/2001, the government allowed the associations of administrative-territorial units. This permission was given in the context of national development programs which were financed on an annual basis from the state budget by means of a separate allocation, in accordance with the law on local public finances.

The Romanian local administration needs well-grounded solutions regarding the issues of administrative units' fragmentation. Even though significant progress was made, administrative units' associations must be further stimulated with a more clearly legislative framework. One such case is the one of IDAs (Intercommunal/Intercommunity Development Associations). The main problems appear when after such an association launches common projects and one or several of the members decide to leave the structure. There is no clear path to be followed in such cases, so important community projects are suspended, because of a lack of clear responsibilities. The legislation could also be amended in the sense of allowing local administrations to use their financial resources in a wider area of projects than the ones allowed at this time.

The issue of financial autonomy of local administration could be tackled based on association approach – an important issue of local public administration in Romania is a high degree of dependency on central funding, especially for the budgets of small communities such as communes and small cities. A low level of financial resources affects, as well, the capacity of funding development projects and community services, whose integration could increase the multiplication effects on local economy or solve long lasting local problems.

10 Legal protection of local self–government

The implementation of article 11 in the Romanian legislation is not straightforward, but steps have been made once the Law no. 554/2004 on the review of administrative acts with its subsequent changes was enforced.

A report of the Congress of Local and Regional Authorities drafted in 2011 evaluates the implementation of article 11 of the Charter into Romanian legislation, situation that is unchanged since that time:

- „Romanian legislation does not grant the local authorities a right to lodge a legal remedy in order to secure the free exercise of the right to local self-government. Nonetheless, the local authorities can take legal action, before the ordinary courts, to demand compliance with the provisions of the Constitution and/or domestic legislation that affect them directly.
- The local communities, the administrative-territorial units and the local or county authorities do not have their own right to lodge a complaint before the Constitutional Court, but administrative-territorial units can address the Constitutional Court by filing a plea of unconstitutionality. There are a number of examples of decisions in which the Constitutional Court has ruled in the local authorities' favor.
- Similarly, the local communities, the administrative-territorial units and the local public authorities defend their right to self-government, which is understood to be an individual right, before a court (administrative tribunal or court of law). The only remedies available to certain local public authorities concern their composition and their internal organization. These local public authorities can be considered an aspect of administrative self-government, in the sense given by the institutional law to this concept. However, these remedies do not constitute effective legal protection for self-government within the meaning of the Charter” (Frecon, J-C, 2011).

11 Future challenges of the implementation of the European Charter of Local Self-Government in Romanian legislation

In the last 30 years, Romania's administrative system has seen major changes and has come a long way towards a modern European administrative system. Although the change process was slow, at present the existing administrative framework is in line with its western European counterparts. This does not mean that there aren't still areas open for improvement.

Several elements stand out from our analysis on the topic¹⁰:

1. *Decentralization and local autonomy* have been a central element of local public administration reform. The two concepts have developed along the lines of the Charter's prescriptions, with a few observations: (1) although the essence of the concept of self-government is well covered in the Romanian legislation, the actual autonomy local governments have is limited to financial and administrative matters, not political (avoiding any secessionist possibility). Furthermore, when looking distinctively at local autonomy, compared to other European states, Romania finds itself in the middle of the group, but with a significant jump compared to 1990 () (Ladner, Keuffer, Baldersheim, 2015).

¹⁰ Part of these conclusions are also published in *Lex localis - Journal of Local Self-Government*, special issue/2018

2. Consultation mechanisms between central and local authorities are not sufficient and clearly implemented in the national legislation. While there are legal provisions concerning this process (when establishing standards of cost or standards of quality for local public services), the actual process of decentralization – specifically transfer of competence – is centrally driven. Local authorities have the possibility to make suggestions, the suggestions can be piloted and then a decision is made, but the overall architecture offers more of a power position to central government. This issue is highlighted by the lowly place occupied by Romania in EU rankings concerning access of local authorities to central government decisions – the capacity of local authorities to influence central government decisions that directly affect them or be consulted on such matters (Ladner, Keuffer, Baldersheim, 2015).
3. *Legal protection of local authorities* (art. 5 of the charter) is fully adopted and endorsed, placing Romania on the highest position together with the Czech Republic and Lichtenstein, regarding this matter. The downside of this high level of protection is rigidity – any real reform concerning the local government would involve also a constitutional revision.
4. In the matter of local government financing, Romania has made important steps in increasing and diversifying the sources that allow local authorities to reasonably provide local public services, however there is still a shortage in providing appropriate level of resources to local governments, issue that negatively influences the quality of public services provided to citizens (especially in communities with a lower level of economic development). The level of financial autonomy of local governments was truly settled in 2003-2005 when the level of local financial resources increased significantly due to the inclusion of a share of the personal income tax collected at local level in the own revenues category, and by establishing, and further developing an equalization procedure in distributing a traditional central type of revenue - VAT at local level, procedure that was settled on transparent and objective rules. In the later period we were facing a setback – instead of continuing the initial positive trend, central government authorities were trying to reverse the process, but for the following period there are important signals that the situation will positively change. For a period, due to poor performance of central authorities in creating the institutional framework for absorption of 2014-2020, allocations European development funds have decreased in importance – those sources being replaced with funds distributed through National Local Development Plan (an instrument that did not use clear objectives and criteria in selecting projects, but political preference / influence). Future challenges in the matter of financing of local authorities are related with increasing the level of financial autonomy, restoring the system that has proven to be functional, and reducing the discretion level of central authorities in distributing resources at local level. Another challenge is connected with accepting that, in certain cases, the actual administrative framework is not efficient (several rural local authorities do not have the financial capacity to cover operating expenditure with own revenue). The consultation process between government officials and representatives of municipalities, communes, and county councils should take place, as several measures were taken without any consultation

of local representatives (see the change in equalization mechanism, and income tax rate). Compared to other EU countries, Romania ranks low, with a score of 1 (scale 0-3) on fiscal own reliance of local authorities, with overall mean of own revenues of local authorities not going beyond 25% out of the total local budget. This has important effects on the actual capacity of local authorities to influence their own development. High dependence on national funds has generated high levels of corruption, low effectiveness of public investment and increased influence of political factors in fund allocation and decision in general (for more on this matter see EFOR, 2018).

5. Administrative supervision is rather limited and regards only the legality condition – all administrative acts issued by local authorities need to be in line with national legislation. The Prefect is the institution responsible for this with the final decision on legality being the responsibility of administrative courts.
- In the case of the right to associate important steps have been made in providing the adequate legal framework. Associations of local administrative units are granted and formally supported, but the legislation does not fully support such entities. Therefore, all associative type entities should be further regulated in the sense of providing necessary authority to make a significant impact at local level concerning local development and overall governance (whether it is regions, metropolitan areas or intercommunity development associations). Over time a complex system of local governments associations was created – representative bodies of local authorities and intercommunity associations. The challenges in that respect are to further open the legal and constitutional framework to allow an efficient and effective functioning of metropolitan areas and the development regions. In the case of development regions, no efforts have been made lately to consecrate them as real administrative-territorial units. In the future, in order to respect the provisions of the Chart, the Romanian authorities should take a decision either they will make regions truly functional, or not. In order to make them functional, development regions should be given the executive and legislative powers which they lack at this time, and a funding framework should be put in place, as, at this time they are subordinated to the governmental level which distributes the financial resources to them. The same efforts must be undertaken at intercommunity associations like metropolitan areas, who now lack the real ability to pursue development programs.

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