

## **IMPACT OF LEGISLATION ON LOCAL GOVERNMENT INSTITUTIONS IN THE RELATIONSHIP WITH CITIZENS AND BUSINESSES**

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### **Abstract**

The most important aspect in the process of institution building and strengthening government capacity is to apply at all levels of the Romanian public management provisions of the acquires communitarian. Acquires communitarian is the body of rights and obligations of Member States of the European Union, the legal rules governing the activity of the member states and EU institutions operating rules, actions and policies. Harmonization of Romanian legislation with EU regulations was a prerequisite for Romania's EU accession. Romanian progress in this respect and its obligations concerning not only the adoption of regulatory acts, but also the conditions necessary for their practical application. European Union member states have long recognized that public managers and performance management standards are criteria for successful performance both general government and its reform. To improve government performance means identifying better standards of efficiency and effectiveness in law enforcement.

### **The legislative framework for local government**

Activity in local government is conducted in accordance with the provisions of the Romanian Constitution, Articles 120-123. Basic principles formulated in Article 120 states: "Public administration in territorial - administrative units based on the principles of decentralization, local autonomy, and deconcentration of public services.

Local autonomy in communes and towns is carried out by local councils and mayors elected under the law. County Council is the government authority to coordinate activities and Town Councils to achieve the public services of county interest. For each county and Bucharest, the Romanian Government appoints a prefect. It is representative of local government and lead the decentralized public services of ministries and other central government bodies of territorial administrative units. Be pointed out that the Romanian Constitution stipulates that between prefects, on the one hand, local councils and mayors and county councils and their presidents, on the other hand, there is subordination.

Text of Law no. 215 of April 23, 2001, updated in modifying the legal acts published in the Official Gazette, Part I, until July 18, 2006 (eg Law 286/2006 on amending and supplementing the local public administration no. 215/2001) , regulates the general regime of local autonomy and the organization and functioning of local government. Law establishes the powers, functions, methods of formation and dissolution of deliberative authorities - the local council, county council, County Council of Bucharest, local councils administrative subdivisions - territorial municipalities - and the executive authorities - mayors, cities, municipalities, subdivisions of territorial administration of municipalities, Mayor General of Bucharest and county council chairman.

In accordance with Law no. 340/2004 and subsequent regulations modifying (Emergency Ordinance no. 179/2005 amending and completing Law no. 340/2004 on the institution of the prefect, Emergency Ordinance no. 35/2002 for approval of organizational and operational framework for local councils .) institution of the prefect, the prefect is among the main roles are:

- Head of decentralized public services and other central government authorities in Bucharest;

- the guarantor of law enforcement and local public policy;
- Check the legality of administrative acts of the county council, local council or the mayor;
- Provides on the county or, where appropriate, of Bucharest, implementation and enforcement of the Constitution, laws, ordinances and decisions of Government, other laws and public order;
- Establish with local government authorities, the priorities of territorial development;
- Ensures action plan for European integration;

The County Council acts as the local government authority to coordinate the work of the municipal councils, town and city, the achievement of public services of county interest. Local councils are composed of local councilors whose number is determined according to the number of inhabitants of the village, town or city, reported the National Statistics Institute. The local council has the following types of tasks according to Law 215/2001:

- Responsibilities for the organization and operation of specialized equipment to the Mayor, institutions and local public services and companies and autonomous local interest;
- Duties on economic development - social and environmental village, town or city;
- Duties of administration in public and private village, town or city;
- Responsibilities for management services provided to citizens;
- Responsibilities of inter-institutional cooperation internally and externally.

Local public services is conducted through the institution of mayor, mayor representing the administrative - territorial unit in relations with other public authorities, individuals or legal entities, Romanian or foreign, and in justice. Mayor meets the following main categories of tasks:

- Powers acting as a representative of the state, under the law;
- Tasks on the relationship with the local council;
- Powers for local budget;
- Responsibilities for public services provided to citizens;
- Other duties established by law.

All persons employed in public institutions are called public servants. Activities of civil servants (under Law no. 188/1999 on the status of civil servants), which involves the performance of public power, are: a) the enforcement of laws and other normative acts, b) develop drafts regulatory and other public authority or institution specific regulations and ensuring their endorsement, c) drafting policies and strategies, programs, studies, analysis and statistics and documentation on implementation and enforcement of laws necessary to achieve the Authority public institution or d) advising, monitoring and public internal audit e) human resource management and financial resources, f) collection of budgetary g) public authority or institution representation in its relations with natural or legal persons of public law or private home and abroad, within the powers established by public authority or institution head, and representation in court of public authority or institution it operates, h) carrying out activities under the strategy of information of public administration.

### **Free access to public information.**

Although in recent years to access public information has become a major goal of all public institutions, at least at the declarative level, there are still problems in this regard due to the lack of a comprehensive and complete information system that can provide interested parties with full and sufficient.

First concrete steps to eradicate the phenomenon, generating delays in decision making and decisive factor in the emergence and proliferation of corruption among public officials, were conducted in 2004 by adopting the Government Decision no. 1723,

governing the relationship clearly states citizen-public institution and short-term measures, medium and long needed to be taken until June 1, 2006. From the legal point of view, the right to access public information is guaranteed by Law. 544/2001. It is one of the laws which guide the government to citizen, promoting and respecting his right to be informed concerning government decisions and the use of public money. Two other laws designed to ensure transparency in public administration are Law. 23/2003 on decisional transparency in public administration and Law. 161/2003 regarding some measures for ensuring transparency in exercising public dignities. Public information are:

- The legislation governing the organization and functioning of public authority or institution (Law no. 340/2004, GD 460/2006);
- Structure, powers departments (organization and ROF);
- Full name of person or institution management authority;
- Name of officer responsible for public dissemination;
- The audiences of public authority or institution;
- The operating hours;
- contact details of authority or public institution, namely: name, address, telephone, fax, email and web address;
- finances, budget and balance sheet;
- Programs and strategies;
- The list of public documents;
- List the categories of documents produced and / or managed by law;
- procedures for contesting the decision of public authority or institution where the person is endangered in the right of access to information of public interest.

Measures for ensuring access to public information service is monitored by carrying out the program of government, economic development and local budgets in the Bucharest Prefecture, both the district mayors and Bucharest City Hall and the decentralized services, under the coordination of autonomous institutions and local interest which carries a significant public relations activity.

Although the effects of short and medium term measures have materialized in reducing waiting times to stop a citizen in providing prompt and free informational materials and forms necessary to correct information to applicants on legal and procedural issues related to each specific activity institutions to optimize the reduction of bureaucracy is needed concrete proposals from civil servants, improve the legal and procedural proposals to be collected and centralized to provide a basis for any initiatives to amend legislation.

Although Romania is a modern law governing citizens' access to public information, its application is hampered by the representatives of public institutions. Basically, the government tend to refuse public disclosure. Cases are refusing to communicate information and data management representatives of the public interest not to be made public activities, the costs of these activities, efficiency and usefulness. In most cases, people in the management of the public using the power to decide not only the interest of the community and citizens, but also in their interest.

The decision-making power granted management of the public may direct budgetary funds to persons other than strictly professional relationships may facilitate or, conversely, to prevent an economic pursuit or achievement of a right or legitimate interest of a citizen, so that the third to be determined to make use of "goodwill" decision-maker (public servant), which translates into creating a prolific appearance of corruption. Therefore, management of public institutions that people with decision-making power, trying to avoid, where possible, public data communication and maintaining secrecy about the institution's activities to protect their interests.

Law no. 52/2003 on decisional transparency in public administration establishes the minimum procedural rules to ensure decisional transparency within central and local government authorities and other public institutions that use public financial resources.

The main objectives of this law are:

- Increase government accountability to citizens, as recipient of the administrative decision;
- To encourage active participation of citizens in making administrative decisions and in the process of preparing legislative acts;
- Draft legislative acts;
- To improve the transparency throughout government.

By this law is intended to inform in advance the office, people on public interest issues to be discussed by the central government and local authorities, and on draft legislation, the consultation of citizens and associations legally established in the preparation of draft laws.

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Legislation:

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2. Law no. 215 / 23 April 2001 - "local government Act", published in Official Gazette no. 204 / 23 April 2001
3. Nr.161/2003 Law, Law on measures to ensure transparency in the exercise of public dignities, public functions and in business, prevent and punish corruption
4. Law no. 52/2003 on decisional transparency in public administration.