

CONSOLIDATION OF FISCAL DECENTRALIZATION AND
FINANCING OF LOCAL AUTHORITIES

1. Decentralization and local autonomy
2. Local democratic governance
3. Financial decentralization
4. Strengthening of mobilization and predictability of local governments' resources

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Abstract

The economical and social dynamics of the EU member states demonstrated the fact that there permanently occur important movements with respect to the economical structure of regions. The structural changes, established by the real economical life, of market, rise problems regarding the regional and local development; integration strategies in the regional and trans-border development programs; economical re-conversion of regions and of the labor force, etc. In the case of Romania, being in transition and economical reform for more than 18 years, the dynamics of sector, regional area and local restructuring is much more stressed.

The recognition of predominant role of national and local governments, of the organizations of civil society and of the citizens at national and local level, regarding the administration of decentralization and local governance process, should be a disposition to which we have to tend.

This article welcomes the conclusions expressed by the Commission of Regions (see infra 7) for the coordination of actions and financial support, in favor of the decentralization and local governance process.

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1. Decentralization and local autonomy

The regime of decentralization in the public administration is specific to the state of law and supposes the resolution of local problems by the locally elected authorities, which are not hierarchically subordinated to central authorities, under lawful conditions¹.

In accordance with the constitutionally certified normatives, in Romania, the decentralization concerns, therefore, at organizational and institutional level, the authorities of local public administration elected – the local councils, town halls and county councils, including the public institutions which are subordinated to them – and at functional level, the competences and attributions which are granted by law.

From the point of view of the form in which the two constitutional norms are expressed, it is obvious, on the one hand, that the text deals with, first, the principle of decentralization and then with the local autonomy and, on the other hand, together with the principles, it is also provided another principle – that of the de-concentration of public services.

The public administration of the administrative – territory units is based upon, is organized and operates in accordance with the principle of local autonomy, decentralization of public services, illegibility of local public administration authorities, legality and of the advisory of citizens in the resolution of local problems of special interest.

By local autonomy, it is understood the right and effective capacity of the local public administration to solve and administrate, on the account and in the interest of local groups, it represents, the public matters, under lawful conditions. This right is exercised by the local councils and mayors, as well as by the county councils, local public administration authorities, elected by equal, direct, secrete and freely expressed vote. The analysis of contents and of the comprising sphere of the local autonomy concept supposes the surprising of legal establishment of it, included in the clauses of the Law of local public administration².

There are distinguished three elements of local autonomy, which define at a logical level the contents of the concept: organization element, functional element and administrating elements.

¹ Gaudemet, P.M., Molinier, J., *Finances Publiques, Budget/Tresor*, Tome 1, 6^e edition, Ed. Montcherestien, Paris, 1992, p.201

² Law no 215/2001 of local public administration, published in Official Gazette no 204 from 23rd of April 2001, modified by Law 286/ 2006

The notion of decentralization has a large and a restrained sense. In a large sense, by decentralization it is understood any transfer of attributions from the central plan into the local plan, irrespective by the procedure used¹. In a restrained sense, the decentralization is connected of the procedure of its issuance.

An already analyzed procedure refers to the transfer of attributions to the administrative - territory units (territory decentralization). The second procedure of decentralization refers to the public service, when it is performed the detachment of public services from the central or local competence and it is granted the legal personality. This principle of decentralization on services was initially provided both by Law no. 15/1990, which organized the autonomous rules and trading companies which developed public services, and by Law no. 69/1991, regarding the local public administration.

Dealing with administrative organization, in the case of decentralized organization, the state does not assume by itself the charge of administration, but it divides it, in certain quotes, with other categories of persons, like the local groups. To the decentralized organization, it is specific the notion of local business, the local collectivities having the possibility to solve the problems that interest the citizens of community. The presence of public law legal persons, having an autonomous organization and chosen organs, is another characteristic of decentralized organization. The system of decentralization replaces the hierarchical power, which is specific to centralization, with the legal administrative control.

2. Local democratic governance

By local democratic Governance, we understand the process of taking the decisions regarding the public policies and of putting into operation these policies, which encourage the participation, together with local governments (chosen in the context of decentralization), of all the interested parties in a territory (village, civil society, private sector). This process consolidates the responsibility towards citizens and receptivity to the social exigencies, for general interest².

¹ Dana Apostol Tofan, Administrative law, vol. I, Publishing house All Beck, Bucharest, 2003

² Taken-up from the Commission of the European Communities - *Accompanying document*, Communication of the commission toward the Council, European

The democratic, local governance and decentralization constitute a favorable frame to the fight against poorness and injustices, which allows the fulfillment of the Millennium Development Objectives, and observance of the human rights.

The local democratic governance, by implication of all interested actors in the issuance, putting into work and evaluation of local policies, encourages a receptive development to rights and exigencies of population, especially of the most vulnerable groups.

The local authorities chosen to play the role of catalyze agents of the local governance and of the local development, in the virtue of their democratic legitimacy, of their proximity of citizens and of their capacity to mobilize the local actors. In the context of decentralization policies and in accordance with the principle of subsidiarity, it is important to consolidate the local self-government by putting to the disposition of local authorities the competences of necessary resources.

There is no important aspect of the development that could be approached unilaterally. The interaction between territorial levels (sub-national, national and global) is essential for assuring the cohesion of the public politics.

The politics of decentralization and of local democratic governance constitute parts of the state institutional frame; they bring their contribution at its reformation and legitimate consolidation of public actions¹.

According to the conclusions enounced by the Regions Committee², it is considered that the democratic governance constitutes the basis for accomplishment of the development objectives of the millennium and it must be applied to it an ample approach, and a better governance represents the key of a successful development politic. The key element of good governance is the recognition that the best decisions are taken at the level of the closest citizen.

Also, the governance supposes, for all the power levels of one country, ways of government inspired by the principles of transparency, public participation and respect of subsidiary.

Parliament, European Economic and Social Committee and the Regions' Committee: *Local authorities: performers for development* - {COM(2008) 626 final}.

¹ Idem

² The Approval of the Regions' Committee regarding the governance from the European consensus regarding development (2007/C 197/09) - JOUE C 197/52

The Regions Committee draws the attention over the financial support that the governance deserves at local level: the maximum percentage of 15% budgetary allowance which, according to The 10th financial Regulation of the Development European Fund, may be reserved for supporting the civil society, technical cooperation and governance (if this is not granted for the main concentration departments) is obviously considered to be insufficient; this level should be incremented to at least 25% in order to cover both local and national dimensions¹. The situation on certain indicators may be analyzed also based on Graphics 1 and 2.

According to the objectives of Cooperation Agreement for development of decentralized cooperation, the European Commission must give technical and financial support and to collaborate with the Committee for the implementation of a scholarship of decentralized cooperation, in order to ease and to coordinate in a more efficient manner the development of a decentralized cooperation actions, performed by EU local and regional authorities and their homologues from the development states.

3. Financial decentralization

The financial autonomy of the sub-governmental levels may be analyzed by reporting it to several of its essential elements: the possibility to constitute and collect local taxes and rate; the possibility to assume the local public expenses; the possibility to appeal to public loan in order to obtain supplementary financial sources².

From the total of fiscal incomes retrievable in each state of the European Union, there is a different quantum of the resources allocated to the sub-governmental levels.

Though ten years ago Germany allocated 32.5 % from the total of incomes to local communities, France 45.5% and the other member states were receiving more than a half from the incomes (Ireland 83%), according to a recent study³, nowadays, about 59% from the incomes are allocated to the central government, about 29% to social security institutions and organizations, 11% to local authorities and the rest of 1% to the institutions

¹ It should be also seen the Decision of the Council regarding the financial contributions that must be paid by the member states, that contribute the European Fund of Development from Bruxelles, 8.10.2008 COM(2008) 624 final.

² It should be seen Douat, E., *Finances publiques*, Presses Universitaires de France, Paris, 1999, p.439

³ Minea, M.St, Costas, C.F., *Law of public finances, volume 1, financial law*, Edition Wolters Kluwer, Bucharest, 2008, p. 205

of European Institutions. Thus, the following percentages are allocated to non-governmental structures: 1% in Greece, 16% in Italy, 17% in Latvia, 18% in Austria, 29% in Belgium and Germany, 31% in Spain and 32% in Denmark and Sweden.

According to the same study, in 2005 in Romania, about 54% from the fiscal incomes were allocated to central Government, 36% to social security organizations and the rest of 10% to local authorities.

The effect of the laws governing the local public administration area was felt more on the part of duty transfer, and less on the part of financial resources transfer.

A real reform of local administration cannot be resumed only to delegation of the liability to local authorities. Without a more serious approach of the fiscal decentralization sector, that must assure the financial resources needed for a performing decision of the administration, we cannot talk about reforms.

A developing community is a community that depends more and more on its own managed decisions and resources and less on external help.

If the decisions and management of the resources are not taken inside the community, this will become dependant of institutions and organizations controlled directly more or less by the community¹. The institutions which are not controlled directly by the citizen are institutions less transparent, less efficient.

As result, the local community is the one that must administrate its resources, values and mechanisms. Though, it feels the need of the financial decentralization.

4. The strengthening of the mobilization and predictability of local governments resources

In order to respond to the important financial needs of local authorities, it is necessary to elaborate specific financial plans, adapted to their situations, for them to exercise their competencies assumed through the decentralization laws. There were identified as follows²:

¹ Gaudement, P.M., Molinier, J., *op.cit*, p. 201.

² Taken up from the Commission of the European Communities – *Accompanying document*, Communication of the commission toward the Council, European Parliament, European Economic and Social Committee and the Regions' Committee: *Local authorities: performers for development* - {COM(2008) 626 final}

4.1 Strengthening of the mobilization and predictability of local governments resources:

I. Encouragement of durable mobilization of own resources by the local authorities, regarding the relevant services. The encouragement of the development and realization of a viable and flexible fiscal system, using different types of resources, applied to territorial specifications and the new economic realities, coherent with the national fiscal system;

II. Consolidation of the capacity of local governments to negotiate external resources: development projects, involvement in area programs and access to financial market.

Within the elaboration of local budget, integration of the project supporting provisions offered by all the development partners.

III. Contributing for assuring the financial transfer mechanisms from the state to sub-national governments, in a regular, transparent and predictable manner and supporting the equalizing manners that have the purpose to strength the balance and solidarity between territories.

4.2 Consolidation of local financial governance in order to ensure a higher transparency regarding the managing of local resources.

I. Supporting the capacities of local governments in order to establish the expenses of priorities, based on information and dialogue between the local performers.

II. Consolidation of a transparent mechanism regarding the methods of payment for the commitments and expenses by local authorities; they must establish some accounting systems and develop the competencies of a qualified personnel.

The European partners for development have to harmonize and to coordinate the interventions, respecting the specificity of the instrument of each performer.

They involve the local authorities from the partner states in each stage of the support process for local development (elaboration, planning, supervising and evaluation). The purpose is to ensure the coherency between their ordinary methods of intervention and the national strategies and systems, and also with the budgetary and programming capacity of the

local authorities involved. The European partners commit themselves to perform the followings¹:

I. to straighten the cooperation actions in order to support the local governance and the decentralization;

II. if the judicial frame permits this, they will encourage durable partnerships between the European local authorities and the south local authorities, and also between the local authorities from the south area. This method may bring forward the changes and the development of capacities in the domain of local governance. To encourage the partnerships for cooperation between local authorities from more European member states, in order to intensify the partition of resources;

III. to encourage the sensitization and training of the public on themes regarding the development.

References

Dana Apostol Tofan, *Administrative law*, vol. I, Publishing house All Beck, Bucharest, 2003

Gaudemet, P.M., Molinier, J., *Finances Publiques, Budget/Tresor*, Tome 1, 6^e edition, Ed. Montcherestien, Paris, 1992

Douat, E., *Finances publiques*, Presses Universitaires de France, Paris, 1999

Minea, M.Șt., Costaș, C.F., *Dreptul finanțelor publice, vol.I, Drept financiar (Public finances law, volume I, Financial law)*, Ed. Wolters Kluwer, Bucharest, 2008

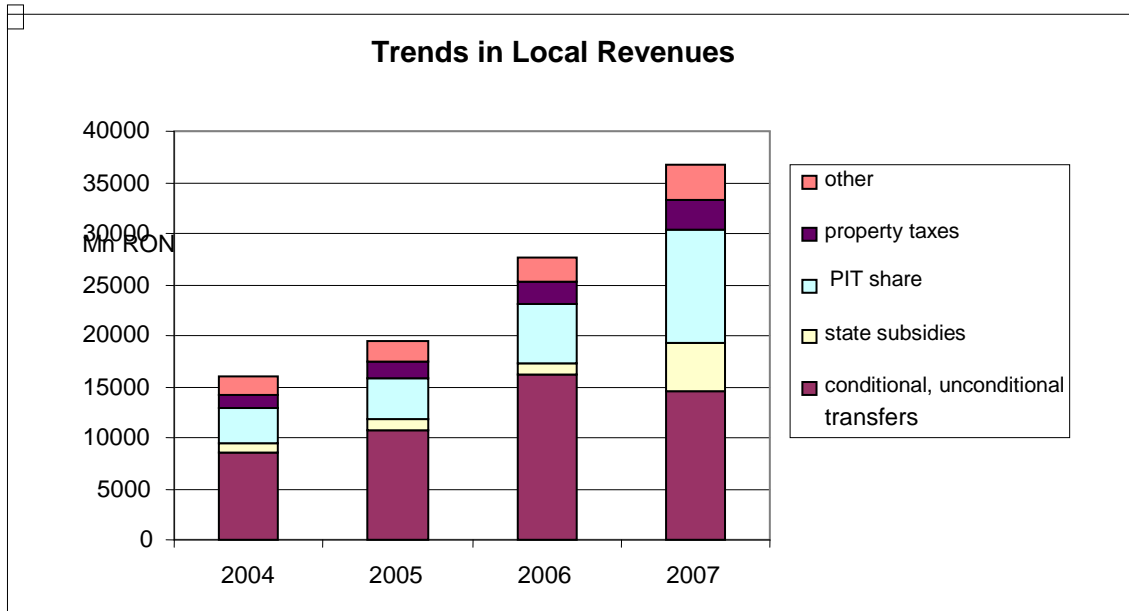
xxx the Commission of the European Communities – *Accompanying document*, Communication of the commission toward the Council, European Parliament, European Economic and Social Committee and the Regions' Committee: *Local authorities: performers for development* - {COM(2008) 626 final}.

xxx The Approval of the Regions' Committee regarding the governance from the European consensus regarding development (2007/C 197/09) – JOUE C 197/52

xxx Law no 215/2001 of local public administration, published in Official Gazette no 204 from 23rd of April 2001, modified by Law 286/ 2006.

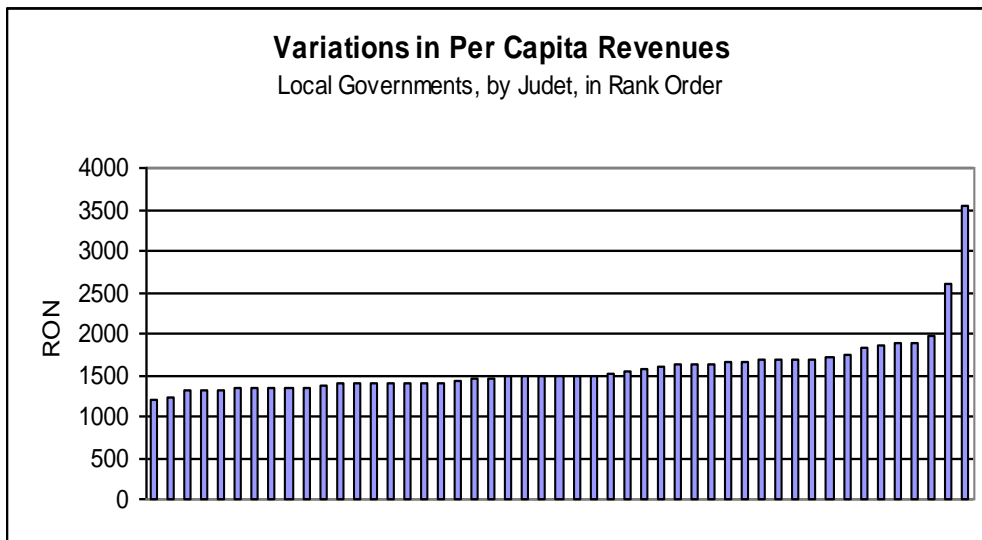
¹ Taken up from the Commission of the European Communities – *Accompanying document*, Communication of the commission toward the Council, European Parliament, European Economic and Social Committee and the Regions' Committee: *Local authorities: performers for development* - {COM(2008) 626 final}

Chart 1



Source: Intrastat, 2008

Chart 2



Source: Intrastat, 2008