



## REGULATION OF PUBLIC DEBATE AND CITIZENS' CONSULTATION IN THE ADMINISTRATIVE DECISION-MAKING PROCESS

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### Abstract

*The regulation of public debate and citizens' consultation in the administrative decision-making process is an important aspect in the development of participatory democracy and the improvement of the transparency and efficiency of public administration. These practices encourage dialogue and collaboration between public authorities and citizens, so that decisions are made in the general interest of the community. Public debates are a way to discuss issues and decisions important to a community and to encourage active participation of citizens in the decision-making process. They can be organized by public authorities or non-governmental organizations and their objective is to gather opinions and suggestions from citizens, develop innovative solutions and improve the decision-making process.*

**Keywords:** administrative law; referendum; general interest; local public administration

### 1. Introduction

In the development of participatory democracy and in improving the transparency and efficiency of public administration, the regulation of public debate and citizens' consultation in the administrative decision-making process is an essential aspect. These practices encourage dialogue and collaboration between public authorities and citizens to reach decisions that serve the general interest of the community.

Public debates are an effective way to address issues and decisions important to a community and to promote active citizen participation in the decision-making process. They can be organized by public authorities or non-governmental organizations with the aim of collecting opinions and suggestions from citizens, finding innovative solutions and improving the decision-making process.

At the same time, citizen consultation is a way for public authorities to get feedback from citizens on a particular decision or public policy. This process can be done

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through opinion polls, petitions or public consultations, where citizens can express their views and offer suggestions for improving the decision-making process. In addition, the Administrative Code and Law 3/2000 provide for the referendum as a way of consulting the population regarding bills of particular importance that can be organized at the local level, both in the administrative-territorial unit and in certain subdivisions.

However, the development of technology has made it possible to hold debates and consultations online, which can help increase citizen participation and improve decision-making. These platforms can be used to collect real-time citizen feedback and facilitate discussion and debate.

The regulation of public debate and citizens' consultation in the administrative decision-making process can contribute to increasing the transparency and efficiency of public administration, as well as improving citizens' participation in the decision-making process. By organizing debates and consultations, public authorities can obtain important feedback from the population, acting in order to respect public opinion and a general interest.

## **2. The Legislative Process of Consultation of Citizens in Matters of Special Interest**

In the decision-making process, the consultation of citizens by the local public administration is a fundamental principle of participatory democracy. Although required by law only in certain circumstances, this principle is increasingly being adopted by local public administrations that wish to engage in a citizen-centred policy. Public consultation can be expressed in various forms, some with a lower level of active participation on the part of citizens, while others assume a more intense involvement on their part in the management of public activities (Veit, 2006, pp. 164-173). In all cases, however, the use of this tool in the decision-making process by local public administrations and the creation of a dialogue framework between the public administration and citizens regarding projects of interest to the community, leads to an increase in transparency, trust in public services and legitimacy of the decisions taken. Any type of interaction with public administration can influence citizens' perception of it.

The local public administration may decide to organize public consultations on certain topics of interest to the community in order to assess how they are received by the community, to collect suggestions and proposals, to provide more details on

the topic and finally, to ensure better information for citizens and better acceptance of the decision taken after consultation (Radu, 2020, pp. 72-84). In this way, citizens change their role as mere observers in the local decision-making process and become direct participants in this process, allowing the public administration to avoid the pressure of unilateral decision-making (Voican 2008, p. 166). Citizens' consultation implies an increased degree of their involvement in the decision-making process by the public administration. In this context, citizens are not only limited to being informed about certain administrative matters, but have the opportunity to express their opinion, make proposals, formulate observations and even express dissatisfaction, if required. This suggests that citizens do not have a passive role in the administrative process, but become active participants.

At the local level, citizens are consulted through various procedures, such as public debates of draft normative acts, participation in local/county council meetings, citizens' assemblies or through the local referendum procedure. Law no. 52/2003 on decision-making transparency in public administration establishes in art. 7 the obligation of the public administration authorities to publicly announce the drafting of normative acts, by publishing announcements on their own website, displaying them in locations accessible to the public and transmitting them to the central or local mass media, as the case may be. Also, the public authorities must transmit the draft normative acts to all persons who have submitted requests to receive this information.

After the draft normative act has been made public, citizens have the right to send proposals, suggestions or opinions regarding the draft. If a legally constituted association or another public authority requests, a public meeting will be organized to discuss the draft normative act (Law no. 52/2003, art. 7, paragraph 9). The minutes of the public debate and the proposals collected following it will be made public within 10 days, on the institution's website or at its headquarters. The local public administration is obliged to organize a public debate on the occasion of the adoption of the local budget project, according to Law no. 273/2006 on local public finances. This obligation is established in accordance with the principles of transparency and publicity provided for in Article 8 of this law.

As I previously indicated, citizens can be consulted through a local referendum, organized in accordance with the provisions of Law no. 3/2000. According to article 2 of the Romanian Constitution and Law no. 3/2000, the referendum represents a way of exercising sovereignty by the Romanian people, and the local referendum also represents a way of exercising local public autonomy. Through the local referendum, the citizens of the local administrative-territorial units are consulted on

certain issues of particular interest that concern the respective administrative-territorial unit. The issues that are subject to citizen consultation by referendum are established by the local/county councils, upon the proposal of the mayor/county council president or one third of the number of local/county councilors (Law no. 3/2000, art. 13). In certain situations, the organization of the local referendum is mandatory, more precisely when there is a draft law or a legislative proposal that refers to the modification of the territorial limits of a commune, a city or a municipality. In these cases, citizens' consultation through referendum is mandatory for the respective administrative-territorial unit (Law no. 3/2000, art. 13, paragraph 3).

In accordance with the European Charter of Local Self-Government, ratified by Romania through Law no. 199/1997, citizen consultation is mandatory in case of any changes to local territorial limits. However, the local referendum is a procedure rarely used by local public authorities, as it requires significant administrative and financial efforts.

In this public consultation process, citizens are invited to answer with a simple "yes" or "no" to the question on the ballot, thus removing the possibility of nuanced interpretations or additional comments. It is therefore essential that the ballot question be formulated in simple and accessible language to allow all citizens to express their opinion in an informed and conscious manner, and that the local referendum be preceded by an adequate information campaign (Moller, 2020, p. 17). Currently, there is no legal definition of issues of special interest, this assessment remaining at the discretion of local public authorities. Numerous scholars suggest that these issues could be interpreted as the areas where local/county councils decide by absolute or qualified majority (Cenușe, 2013, pp. 47-48).

Public participation is a two-way process of communication and interaction between citizens and public administrations, which allows the incorporation of public concerns, needs and values in decision-making. This represents the most active form of public consultation, through which citizens become co-authors of the final decision taken by the public administration. Public participation involves several elements, being an important component of the administrative decision-making process. This definition is supported by different authors and researchers in the field (Creighton, 2005, p. 7).

Public participation implies a distribution of decision-making power between public administration and citizens, giving the latter an active role in the decision-making process. In this sense, citizens become co-participants and co-authors of the final

decisions, their involvement having a significant impact on the shaping of decisions and on the level of their acceptance and assumption (Jarke, 2021, pp. 21–22). Among the most active forms of citizen participation in local administrative processes are citizen initiative and participatory processes such as participatory budgeting, which is adopted by an increasing number of local public administrations. These forms of participation offer citizens not only the right to be informed or consulted on various administrative matters, but also the status of co-authors of administrative decisions, collaborating with local public authorities. The citizens' initiative is regulated by GEO no. 57/2019 regarding the Administrative Code.

According to article 248 of the Emergency Ordinance no. 57/2019, citizens of a municipality or city could be involved in the consultation process through citizens' assemblies. The assemblies are organized at the level of villages, communes or neighborhoods in cities, depending on the issue subject to public consultation, and can be initiated by the mayor or one third of the number of local councilors. To be considered legally constituted, the citizens' assembly must have the presence of the majority of citizens with the right to vote, and the decisions taken by simple majority are recorded in minutes. It is then forwarded to the mayor to be debated within the local council.

## **Conclusion**

We note that the law does not provide clarification regarding the fields or situations in which citizens' assemblies can be organized. However, these assemblies can be a useful tool for local public administration to prioritize their decisions, even if they are not binding. In today's society, the demands and expectations of citizens towards public administration, especially at the local level, are high, and the resources available for their implementation are limited. Therefore, consulting citizens through citizens' assemblies, although it requires additional effort on the part of the local administration, ultimately helps to better legitimize and accept the decisions taken by it. As for the participatory budgeting processes, they allow the citizens of a local community to decide how to spend a part of the local budget, these legislative provisions being based on the Brazilian model being later taken over by cities all over the world including Romania. Although the principles of the process are the same, there is no standard model for its implementation. Each local public administration decides the form and design of the participatory budgeting process according to the specifics, needs and expectations of its community, as well as its previous experience in this field. The design of the process may undergo changes

and improvements from one edition to another, depending on its evolution in the respective community.

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