

DUTIES AND POWERS OF LOCAL PUBLIC AUTHORITIES IN THE MANAGEMENT OF DECENTRALIZED PUBLIC SERVICES

BILOUSEAC IRINA ADRIANA
„STEFAN CEL MARE” UNIVERSITY OF SUCEAVA
irinab@seap.usv.ro

Abstract:

Due to the transition from a centralized system to a decentralization of the public administration, the responsibilities of the parties involved in the organization and functioning of decentralized public services have changed, a number of administrative and financial powers being transferred from central to local level. The idea from which we started our scientific approach is the fact that the responsibility for the operation of a particular public service does not belong to a single authority. Given the importance of these services for local communities we can consider to be necessary to establish the responsibilities and powers of local public authorities in the field of decentralized public services and to identify how responsibility is divided between several levels of administrative authorities.

Key words: local public authorities, duties, decentralization, public services

JEL Classification: M12,H83

1. INTRODUCTION

Public service is an activity based on the law and carried out by the state, county, city or village for satisfying the community members' general interest. We believe that public service is the primary mission of public administration, with the opportunity to adequately meet the needs of the population. These activities that satisfy the general interests of the local community should be provided by local authorities, otherwise they are responsible in front of the citizens who have chosen them by direct vote to represent their interests.

Taking into consideration the above mentioned, the decentralization of public services is a component of the central administration reform, which involves a distribution of powers. We believe that there is necessary an analysis of the duties that are the responsibility of the authorities providing public services in the transfer of competences from the "center" to local communities in order to adequately meet the social needs. Despite of the fact that in a decentralized administrative system the local interests can be solved in better conditions, local public services can be managed better by the elected local authorities, because they don't have to comply with the orders and instructions from the center, and their work should fit with the policy established at the central level. We believe that through decentralization it will be improved the activity of public services, because their management is adapted to the communities specific tasks.

2. PARTIES INVOLVED IN THE ORGANIZATION AND FUNCTIONING OF DECENTRALIZED PUBLIC SERVICES

While assuring the services provided to the communities, public authorities may be responsible for the direct organization and management of the service or just to establish the operating and control rules of public services, under indirect management. Thus, when we speak of the parties involved in the provision of public service we

should refer to both authorities of public, central or local administration and the entities that provide public services and the beneficiaries of these services.

The decentralization of public services is a transfer of public services from the central level to local communities, in order to better meet the needs of people in local communities. However, in the organization and operation of a decentralized or deconcentrated public service, the parties involved are not only the local authorities, the responsibility being distributed to a larger number of actors.

We show in the table below the parties involved and their responsibilities in the organization and functioning of decentralized or deconcentrated public services.

Table no. 1 Parties involved in the organization and functioning of decentralized or deconcentrated public services

Parties involved in the organization and functioning of public services	Responsibilities
Central public administration	Establishes strategies, policies, strategic plans for decentralization/deconcentration, adopts the legal framework for decentralization and deconcentration
The institution of prefecture	It exerts a control of administrative tutelage over decentralized public services of the ministries and other bodies of the central public administration subordinated to the Government, organized at the level of territorial-administrative units.
Local public administration	Establishes, coordinates, controls decentralized public services
Providers of decentralized or deconcentrated public services	Manage the human, material and financial resources efficiently in order to provide public services for a large number of citizens, according to their expectations
The beneficiaries of local public services	Support a base price for the provision of public services, being constantly kept informed about the manner of operation and organization of decentralized or deconcentrated public service

Regarding the public services providers, they can be the public institutions, the autonomous administrations, the trading companies and the specialized economic agencies.

Public institutions

Public service may be provided by another public person than the one who created it, the classical case being that of a public institution. The State or a local community may entrust the management of a public service to an autonomous institution created specifically for this purpose. The public institution is a moral person of public law specialized in service management and which enjoys a greater or lesser autonomy in functioning. The act creating the institution is the one that determines the purpose and defines its operating rules. The public institution has legal personality: it may contract, acquire assets, go to court, receive rights and obligations, has its own budget, its own staff, management autonomy, freedom of decision.

Autonomous administrations

Under the Law 15/1990 regarding the transformation of the state enterprises into companies, there were put in the authority of local councils the autonomous administrations and state companies which provide public services of local interest⁵. In recent years we see a reorganization of the autonomous administrations into trading companies, as a consequence of their lack of efficiency due to the lack of a

⁵ Parlăgi, A. P., Iftimoaie, C., (2001), Local Public Services, Economic Publishing House, Bucharest, p 57

differentiation between the management activity and that of execution, lack of financial means necessary for the proper functioning and development, lack of competition, the existence of the bureaucracy specific to any centralized system⁶.

Trading companies

Another category of public service providers are the joint-stock companies or those with limited liability. The establishment of such companies is done by acts of the public authorities, which are under the authority of local councils. The trading companies providing public services are set up to meet the population's general interests, the main goal is not the profit, but the higher quality of services. Unlike public institutions, the trading companies operate with payment, thus procuring the financial resources necessary to carry out their work from their own activities.

Specialized economic agencies

Public administration authorities can provide the services necessary to citizens through specialized economic agents. These agencies are set up by the local/county public administration, being created, organized and provided from the functional point of view in accordance to special laws, namely the Companies Law 31/1990, as amended by the Government Emergency Ordinance 32/1997.

Specialized economic agencies may be established for the execution of some works of local interest and may operate with capital contribution brought by local councils.

We can say that the activity of public administration authorities is characterized by the adoption or issuance of administrative acts, that of public institutions is characterized by the fact that it is more an intellectual activity, and the autonomous administrations' activity is characterized by the fact that in most cases it is an economic activity.

Compared with autonomous administrations, the provision of public services through trading companies has some advantages, by relieving the public budget of additional costs (the autonomous administrations shall provide financial means mostly from the incomes obtained from their own activity) and a greater efficiency and effectiveness in service delivery.

Agencies are usually set up to achieve some works of public interest, being specialized in a certain field of activity such as roads, sewers, thermal energy, gas etc.

3. THE DUTIES OF PUBLIC ADMINISTRATION AUTHORITIES RELATED TO THE DESCENTRALIZATION AND DECONCENTRATION OF PUBLIC SERVICES

In analyzing the tasks and powers related to the decentralization and deconcentration of public services we must start with the legal and regulatory matters. Thus, the duties of public administration authorities are stipulated in the decentralization Law 195/2006, the republished Law regarding the prefect and the institution of the prefect No. 340/12.07.2004, the Law of local public administration no. 215/2001, republished, which is supplemented by legal acts specific to the functioning of public services⁷.

Local public administration authorities make use, in order to ensure the functioning of decentralized public services, according to the decentralization Law, of three types of competences: exclusive competences (direct powers conferred by law to local public administration authorities), shared competences (those exerted by local public administration authorities together with other levels of public administration) and

⁶ Dincă, D., (2008), Public Services And Local Development., p 61

⁷ Oliviu Puie, (2012), Public utility services, Legal Universe Publishing, Bucharest, p.135

delegated competences (the administrative and financial powers transferred by the central public authorities to the local level).

The government, which oversees the general management of the public administration is the authority which sets policies, strategies, laws and regulations in the field. It has as duties the development of general standards for assessing the performance of public services.

The Ministry of Regional Development and Public Administration realizes the overall coordination of the administrative reform, being responsible with the decentralization process. It conceives and implements, if necessary, together with the relevant ministries, the government policy in the field of the regional development, elaborates the monitoring system of the decentralization process, of the administrative-territorial reorganization and reform. It ensures technical assistance in the development, implementation and monitoring the sector strategies for decentralization or the sector strategies for improving the performance of decentralized powers, where appropriate, of ministries and other specialized bodies of the central public administration and local public administration authorities.⁸

The Ministry of Public Finances and the Ministry of Regional Development and Public Administration provide specialized assistance in the fiscal policy development of decentralization and regionalization and issue opinions on financial implications of the sector strategies for decentralization. The Ministry of Public Finances prepares every year a plan regarding the status of the fiscal and financial decentralization process.

By the Decision no. 137 of February 28th 2013 was established by Government the **inter-ministerial Technical Committee for regionalization-decentralization**, which aims to coordinate the decentralization process. It proposes solutions on the decentralization / regionalization process, the means of application of the strategies, the implications arising from the implementation of the decentralization / regionalization.

The prefectures are responsible for the management of the public services of the ministries and other central agencies deconcentrated in administrative - territorial units. The prefect is the one who gives the advisory opinion of appointment and dismissal of the managers of the decentralized public services of the ministries and other central public administration authorities in the field.

The provisions of the framework law on local public administration 215/20011 republished, in conjunction with those of Law 51/2006 on community services of public utility, as amended by the Government Emergency Ordinance 13/2008, determine the powers and duties of local public authorities in relation to the management of decentralized public services.

The County Councils, as deliberative authorities, are responsible for the organization and functioning of county public services and companies and autonomous administrations of county interest, decide the establishment or reorganization of institutions, public services and approve the rules of organization and operation of these ones (art. 91 paragraph 1 - 5 of Law 215/2001, republished). The County Councils have a number of responsibilities for the management of subordinate public services, ensuring according to their competences and according to the law, the necessary framework to provide the public services of county interest.

The President of the County Council, as executive authority, is responsible for the public services of county interest, in the sense of the coordination for achieving public and public utility services of county interest provided by the specialized machinery of the county council or by structures providing public and public utility

⁸ GD 139 of February 6th 2008 concerning the approving of the Methodological Norms for applying the framework Law on decentralization no. 195/2006

services of county interest; In this sense, he is "only in charge of the administration." He is thus the head of the county services, but he may still have, if necessary, the decentralized State services.

The Local Councils, deliberative authorities are responsible for the organization and operation of public services, trading companies and autonomous administration of local interest. They approve, according to the law, at the mayor's proposal, the setting up, the organization of local public services. (Art. 36 paragraph 2 to 6 of Law 215/2001, republished)

The City Council develops local rules, regulations, development studies in the field of the management of decentralized services provided to the citizens.

The Mayor, executive authority, coordinates the implementation of local public services, having responsibilities in ensuring the functioning of specific local public services. As a State representative, the Mayor may request, through the prefect, the support of the decentralized public services of the ministries and other specialized structures of the central public administration from the territorial-administrative units.

Thus, although the notion of public service requires an activity organized by local public authorities, in order to meet the general needs of the communities in territorial administrative units, their organization and operation skills are divided between different levels of administration. The transfer of responsibilities regarding the provision of public services to local administration doesn't mean that the central administration, the Government and Ministries do not retain a number of tasks related to services decentralization. The public administration reform, towards decentralization or regionalization, which is still under implementation and development, will bring new skills and responsibilities within the remit of the authorities, will determine a reorganization of duties in various departments and lead to the creation of new structures to take over the implementation mode of decentralization / regionalization strategies.

4. CONCLUSIONS

In conclusion, we find that the responsibility for the operation of a particular public service does not belong to a single authority. Although the process of decentralization of public services will ensure the taking over by local public administration authorities of the administrative and financial powers of some activities, there are powers and duties that have to be performed by other public authorities. Even if the public service is established by a local public authority, the central authorities, too have responsibilities in establishing the legal framework and strategies, policies and plans that are to be followed for the proper functioning of the public service.

We talk about a shared responsibility between different levels of administrative authority, but in the exercise of the competences and duties that belong to the field of the public services, whatever is the level on which the public authority lies, their work must always be subordinated to the law.

REFERENCES

1. Dincă, D., (2008), *Public Services And Local Development*, Lumina Lex, Publishing House, Bucharest
2. GD 139 of February 6th 2008 concerning the approving of the Methodological Norms for applying the framework Law on decentralization no. 195/2006
3. Law 51/2006 on community services of public utility
4. Parlăgi, A. P., Iftimoaie, C., (2001), *Local Public Services*, Economic Publishing House, Bucharest
5. Puie O., (2012), *Public utility services*, Legal Universe Publishing, Bucharest
6. Sandu, Gh., Cibotariu, I.S., (2009), The Local Budget - Main Source of Financing the Public Units at the Local Level, *Analele Univ. Eftimie Murgu, Resita, Fascicola II - Studii Economice*, ISSN 1548-0972