

The Impact of Decentralization on the Efficiency of Municipal Services. Case study¹

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Abstract

The decentralization process represents an important component of the administrative reform, which allows an ample manifestation of the local initiative, but which, in the context of the great phenomena such as globalization, European integration, regionalization, proves to be insufficient, due to the increased competitiveness in different important economic sectors, such as education, health, transport, utility supply public services, the emerging needs, interests and necessities becoming increasingly difficult to be directly solved by the local administrations.

At present, there is no national or local model of efficient administration, the optimum decentralization or deconcentration limits being difficult to establish in the public sector; still, the experiences of different states in the matter vary from models falling into the optimum parameters (states in western Europe), to classical semi-failure examples (Argentina, Brazil). On public services decentralization policy there is, in general, a vast literature, but insufficient analyses of the impact of local public services reorganizing on their efficiency and performance.

In this sense, starting from the hypothesis that decentralization determined significant differences at the level of organizing, functioning and objectives of the local administrations and its public services in different states, the paper presents a non-exhaustive comparative analysis of the process of decentralization and deconcentration of these services, and at the level of the Romanian local administrative space, a case study regarding the impact of decentralization on the increased efficiency of a municipal public service (Bucharest Thermal Energy Distribution Autonomous Regie – in original, Regia Autonomă de Distribuție a Energiei Termice București - RADET).

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1. Introduction

The reconfiguration of public administration and its services for the purpose of making them more efficient constitutes a constant topic not only on the agenda of national governments, but also on that of international development institutions or of other stakeholders throughout the world, closely correlated with the modification occurred at the level of the sociopolitical and economic configuration of each state.

One of the forms of success of this redesigning is decentralization, formally embraced both within the *World-Wide Declaration of Local Self-Government* of the International Union of Local Authorities (IULA)⁴, and at the European level, through the *European Charter of Local Autonomy*⁵.

Decentralization represented a solution for counter-balancing the weak ability of the centralized state before the increasing needs of the citizens, who were calling for a rapid reaction from the authorities and for new solutions that the centralized administration was not prepared to offer.

Decentralization is a manner of administrative organization which allows local collectivities or public services to administer themselves under the authority of the State, which confers upon them legal personality, allows them the establishment of their own authorities and endows them with the necessary resources⁶. Within decentralization we distinguish⁷ *territorial decentralization*, which is applied to the territorial collectivities and *technical* (functional) *decentralization*, which pertains to specialized institutions such as *publicist abolishment's*⁸.

The decentralization degree varies considerably from one country to the other and even inter-regional, examples in this sense covering a wide range, from the model of the *freely elected local government with full autonomy and initiative* (Scandinavia), to that of *"not elected" local governments, initiative encouraged by the English government*⁹. Therefore, decentralization may have different forms, as

⁴ This declaration was adopted by the World Association for local collectivities called „the International Union of Local Authorities”, at its 27th World Congress in Rio de Janeiro (09.26.1986).

⁵ The *European Charter of local Autonomy*, adopted in Strassbourg, in year 1985, *Tratate ale Consiliului European –Texte esențiale*, RA „Monitorul Oficial”, Bucharest, 2002; *The Charter* was signed by Romania in 1994 and ratified through Law no.199/1997 published in the Official Gazette of Romania no. 331/1997.

⁶ Debbasch, C., *Les structures administratives*, PUF, 3rd edition, 1985, p.160.

⁷ See more in Manda, C.C., *Teoria administrației publice*, C.H. Beck, Bucharest, 2013, pp. 110-116.

⁸ The concept of *public establishment* represents a form of organization to which legal personality is granted and to which the delegation of a specialized service is transferred (ex.: distribution of thermal energy in a centralized system). This type of service is subjected to a much stronger control, practically aimed at its opportunity. In our current legislation, the term public establishment is little used, usually using the expression of public service, autonomous regie or public institution. See more in Bălan, E., *Instituții de drept public*, All Beck, Bucharest, 2003, p. 52.

⁹ Turza, I., „Democrația: vis și realitate”, Consiliul Legislativ, *Buletin de informare legislativă – Studii, Opinii Informări*, no. 1/2004, Bucharest, p. 27.

also derived from the evaluation of the support programs for the decentralization processes in the developing countries, under the guidance of UNDP and the Government of Germany¹⁰:

- *Political decentralization*: transfer of decisional power from the central level to the local levels (ex: forms of federal type, of governments elected and empowered to make decisions, having municipal councils and even state-type organisms).
- *Administrative decentralization*: transfer of decisional power, resources and the technical responsibilities of a number of public services of the central government to that of the lower levels of administration, to the institutions of local representatives of the central agents. Depending on the autonomy degree, we distinguish:
 - 1) *Deconcentration*: assignment by the state of certain decisional powers to the local agents or bodies, which remain subordinated to the central authority.
 - 2) *Delegation*: redistribution of powers in favour of the local government units or of institutions which are not necessarily emission or local offices of authority which delegates and which, in spite of a certain autonomy, must be accountable before the central unit.
- *Budgetary decentralization* (common to all forms of decentralization):re-assignment of resources before allowing the good functioning of the local collectivities. The manners of allocating resources are generally negotiated between the local and central authorities and depend on several factors: interregional equity, availability of central and local resources, local ability to administer of budgetary resources.
- *De-commitment of decentralization through the market*: entrusting by the public bodies of planning or of other administrative responsibilities or public functions to the voluntary institutions, private or non-governmental, with clear benefits and with citizens' participation (ex: partial sub-contracting of services or of administrative functions, deregulation or total privatization).

Decentralization represents an emergent model as a consequence of reconsidering the relations between the state and civil society, much more efficient economically, but *based on equity and social solidarity*¹¹.

Of the advantages and benefits presented by this manner of administrative organization stands out the *manner of administration approached, namely the one through interests, the increase of the rapidity of the decisional process, the*

¹⁰ United Nations Program (UNDP)/Ministry of Economic Cooperation and Development of the FRG (BMZ): „The UNDP role in decentralization and local governance”, UNDP Evaluation Office, New York, 2000, pp. 29-30.

¹¹ Herrera, E., *Descentralización: un nuevo intento*, Banco Internacional de Reconstrucción y Fomento / Banco Mundial, Nicaragua, 2003, p.1.

increase of the population's democratic participation, rationalization of public expenditure, consolidation of local governance etc.¹²

However, we mention also several disadvantages of decentralization, such as the possibility of a gap occurring between the *inequalities existing between the territorial collectivities, the absence of political consensus, the decrease of efficiency of the administrative action due to the possible non-professionalization of the locally elected officials, favouring of certain local particularities to the detriment of the general interest* etc.¹³

2. Decentralization and local public services. Comparative perspective

The concept of *public service* must be perceived in its individualization, in view of satisfying human needs, since to each type of general needs or interests corresponds an activity performed by the state, county, town or commune authorities, to the benefit of the respective, national or local collectivity. Always to the public service we attach an organic dependency on the state of the local collectivity. This dependency may take several forms:

- *Direct management* – the public authorities are themselves responsible for the organizing and functioning of a public service;
- *Decentralization* – presupposes the granting of legal personality, the taking of the public services from under the hierarchic control and placing them under the rules of the administrative tutelage¹⁴;
- *Deconcentration* – presupposes the assignment of a public service to distinct structures of the hierarchical administration, strictly subordinated to it.

The concept of *public service* induces *double sense*: on the one hand, it designates the body supplying the service, and, on the other hand, it refers to the general interest mission entrusted upon the body¹⁵. The public powers favour or allow the fulfillment of the general interest mission by imposing certain obligations with respect to the supplying of the public service, to the body supplying it.

Among the categories of public services distinguished by the specialty literature in our country¹⁶ there is also the public service *performed by the administration*, whose mission is to ensure the execution of the laws and court orders, national security, public order and to create the conditions for the performing of the activity in fields such as health, culture, transport etc.

¹² See more in Manda, C.C., *Elemente de știința administrației*, Universul Juridic, Bucharest, 2012, p. 155.

¹³ *Ibidem*.

¹⁴ Vida, I., „*Puterea executivă și administrația publică*”, R.A. „Monitorul Oficial”, Bucharest, 1994, p. 2.

¹⁵ For similar definitions, see also Alexandru, I., *Administrația publică*, Lumina Lex, Bucharest, 2007.

¹⁶ See in this sense, Matei, L., *Management public*, Economică, Bucharest, 2006 and Alexandru, I., *op. cit.*

Therefore, from the *organic viewpoint*, when the state wishes to satisfy a need of society, it established the body which will satisfy this need, determined its competence and, simultaneously, makes available to it the material financial and human resources the body requires in fulfilling its mission: to satisfy the social need for which it was created¹⁷. From the *material point of view*, the public service can be defined as an activity performed by an administrative authority, public agent, in view of satisfying a general interest.

In relation to the category of general interests which must be satisfied, we distinguish between *national public services* and *local public services* whose providing activities target either the entire national collectivity, by means of central and territorial administrative structures, or exclusively the local collectivities, at the level of communes, towns or counties, through local interest public services. Local public services emerges as a result of decentralization and of applying the subsidiarity principle, in the sense that the needs of a local collectivity must be satisfied through services organized by that collectivity.¹⁸

However, decentralization does not pertain to all public services; the ones of national or exclusive or preponderantly national interest are not decentralized. In decentralization thus intervenes the political option which takes into account both the costs of decentralization and its social efficiency. Interest is one, namely that these public services answer as well as possible to the needs of the inhabitants, regardless of the level at which they function. Therefore, central administration must play an important role in the financing and supplying of public services.¹⁹

Local public administration, together with the state in its entirety, as organizational forms of life and activity of the composing members, have the mission to ensure the necessary living-together conditions, of an economic, social or cultural nature, continuously and permanently. Through the very organization and distinct functioning according to a special legal regime, local public administration finds the reason for its existence also in the supplying of a diverse range of services to the local collectivities it represents in the promotion and satisfaction of their specific interests.

The principle of public services decentralization also induces a decentralizing component in the technical side of the activity of autonomous local public administration. By virtue of this principle, the deliberative authorities of local public administration have the legal competence to decide on the establishment of public institutions, trading companies and local interest public services.

Therefore, it is distinguished the decisional autonomy of the local public administration authorities with respect to the creation and organizing of their own public services, according to the competences conferred by law, in agreement with the specificity of the life of the local collectivities and according to their general interests.

¹⁷ Profiroiu, A., Popescu, I., *Introducere în știința administrației*, ASE, Bucharest, 2003.

¹⁸ Dincă, D., *Servicii publice și dezvoltare locală*, Lumina Lex, Bucharest, 2008, p. 26, p. 69.

¹⁹ Alexandru, I., *Tratat de administrație publică*, Universul Juridic, Bucharest, 2008, pp. 334-335.

A fundamental component of decentralization is the *responsibility of the financial means*. In order for the local public administrations to be able to exercise, in an efficient manner, the decentralized administrative functions, they must have incomes at a corresponding level – coming either by transfer from the central government, or from a local source, such as to be able to have decisional power over the incomes. For the territorial collectivities, decentralization of finances may imply:

- Self-financing or coverage of costs through the payment of the serviced supplied by their beneficiaries;
- Co-financing through the co-participation of beneficiaries to the supply of services and infrastructure by payment or with work force;
- Increase of local collections through taxes on property or on sales or through indirect taxes;
- Inter-administrative transfers (redistributions), by means of which a part of the general collection of taxes charged by the central government reach the local administrations for general or specific needs;
- Municipal loans etc.

Even though in many states their local administrations have the power to charge taxes, the fiscal charging is insufficient, which determines an increased dependency on financial support from the central government. In general, the local administrations have appropriated adequate financing mechanisms; however, there are numerous cases in which the local administrations are incapable of supplying minimum services, due to the lack of necessary financial funding.

In addition, referring to the financial situations of the localities (sources of income, expenditure and solvability), local administrations rarely have the economic force and the financial means to allow them access to the capital market²⁰. The international financial organizations consider that a good local financial management is viable if it adopts a commercial approach to the functions of administering the localities, in correlation with the involvement of the private sector or without privatization on term²¹.

Theoretically, under the reserve of possibilities of material, financial and personal order, the local collectivity can organize its local public services in any field of activity relevant to the exclusive attributions of local authorities, meant to make possible their exercising in good conditions.

Even though lately we witness a decentralizing process of public services, extremely ample, by transferring from the central level structures and functions of the state to the local level, there is also the situation in which the new competences cannot always be classified in the sphere of competences traditionally exercised by the autonomous local authorities.

On the policy and enforcement of public service decentralization there is, in general, a vast literature, but very few analyses on the consequences incurred by

²⁰ World Bank, „*Cities in transition, World Bank urban and local government strategy*” Washington, DC, World Bank, 2000, pp. 44-51.

²¹ World Bank, *op. cit.*, pp. 11-12.

the parties involved: local administrations and the public services they supply. Any evaluation of the impact of service decentralization must be made in the context of the economic sectors.

In the important economic sectors, such as *education, health, transport, utility-supplying public services*, the impact of decentralization reflected different capacities of financing and management at the local level.

If the *educational service* experiences through decentralization a greater suppleness by creating local partnerships between schools and the social actors, facilitating the access to this type of services, its weak ability to finance itself from the local resources has often lead to conflicting situations. This service experienced different change paces from one continent to another and even within the group of countries which had similar economic systems and governments, but no country was spared a certain form of decentralization; the transformation was also notable in the very centralized educational system such as the one on the transition states of Central and eastern Europe and Asia²².

The health service called for a transfer of its financial support from the central to the local level and, subsequently, a rethinking of its management form which, in the classical variant of the flow of amounts allocated from the local authorities to the hospitals experiences numerous obstacles, the option of delegated management representing a complementary solution, often used. On the different continents, decentralization boosted this service starting with the 1990's the local collectivities playing a special role, especially in the federal states or in the countries with large territories and dispersed population, such as Canada. In general, the health services at the local level are divided depending on the administrative capacity of the local collectivity: primary care at the level of villages, secondary services (medicinal services and medicines) at the level of towns and tertiary health services (hospitals) at the level of province.

The urban transport services did not experience a high boost, being considered an *institutional orphan*, due to the progressive reduction of the public expenditure assigned to this field. The need to maintain service quality and the number of passengers determined the public authorities to resort, in general, to privatization, either total, or partial, the establishment of trading companies, the giving up of the statute of monopole by introducing private sector competition or the assignment of the service in favour of private operators.

For example, in *France*, the legal responsibility for supplying the service is undertaken simultaneously by the State, the territorial collectivities and their public establishments, together with the private or public enterprises entrusted with or participating to the fulfillment of this mission²³. Service management can be direct

²² BIT, „La formation permanente au XXIe siècle: l'évolution des rôles du personnel enseignant, rapport soumis aux fins de discussion à la Réunion paritaire sur la formation permanente au XXIe siècle: l'évolution des rôles du personnel enseignant”, Geneva, 2000, p. 127.

²³ Peter, F., „The franchising of transport services to the private sector in France”, in *Union internationale des transports publics (UITP): Structural changes in public transport*, rapport sur la Conférence de Budapest (Hongrie), 09.25.1992, p. 73.

or delegated within a contract signed directly with the transporter. In *Germany*, the transport services can be provided both by municipalities, through their own public enterprises, and by the other administrative levels (federal and national) or by the private transport companies. A new management formulate for this service, present both in *Germany and in Austria and Luxembourg*, takes into account the collaboration between the transporter and the local energy supplier, in the form of the cross-subsidy system.

On the African continent or in Latin America, the urban transport service is preponderantly provided by private operators. The current tendency in supplying the public transport service is, however, a regionalization tendency, through the establishment of the regional transport administrations (example: Copenhagen, Hamburg, Mexico, Montreal, Paris etc.).

In the conditions of granting financial resources not correlated with the increased responsibilities, the *utility-supply public services* sector also represented a challenge for the local authorities, in what concerns the guarantee of universal access to these services, the management of supplying water, gas, electricity and waste playing an essential role in supplying the basic services for the population and in developing other economic sectors. The decentralization process had an impact in the countries in transition, generally manifesting the tendency to supply this service in a concentrated manner (through the merger of the administrative bodies in large units), generally placed under the control of the superior administrative levels, for the reduction of budgetary costs by means of scale economies, thus manifesting the model of a deconcentrated, not decentralized service.

In the organizing, functioning and development of the public utility services, the general interest of the local communities is a priority and, therefore, they are government by a special legal regime and are subjected to certain specific exigencies, the so-called *public service obligations*²⁴.

In this sense, the public utility services target the satisfying of users' needs, the protection of their interests, as well as the sustainable development of the administrative-territorial units (ATU's).

Therefore, the needs of local collectivities determined the activity field of the public utility services, which comprises: *water supply, sewerage and waste water management, the collection, sewerage and disposal of rain water, the production, transport, distribution and supply of thermal energy in a centralized system, cleaning of localities, public lighting, the administration of the public and private domain of the administrative-territorial units, local public transport and other services necessary to the local collectivity.*

The contribution of the local development services must be emphasized firstly in a direct relation with the material production they stimulate, ensuring their modernization, valorification and increased efficiency.²⁵

²⁴ Institute for Public Policies, *Managementul serviciilor publice la nivelul municipalităților. Probleme și soluții*, Bucharest, 2009, p. 37.

²⁵ Matei, L., Angheliescu, S., *Dezvoltare locală*, Economică, Bucharest, 2009, p. 47.

At present, Romania faces difficulties in decentralizing public services in fields such as education or health, the administrative capacity of the local authorities to take over and manage these competences being low, being susceptible of causing serious blocks in supplying those services to the citizens. The dispositions of the Law of local public administration no. 215/2001, republished, distinguishes as **forms of local public services**, *the local interest public institutions, the local interest autonomous regias and the local companies*, whose activity has a providing nature and whose beneficiaries are the members of the local collectivities.

The modalities of organizing and managing public services, described in the speciality literature are *direct management or operations* (management through autonomous regias or public institutions), *delegated management* (on the basis of assignment contract, lease contract, civil contract or commercial contract), as well as *semi delegated management* (mixed management of the public service, in the sense of exploiting it through direct action, but a part of the services are provided by the private sector)²⁶. The option for a certain type of management depends on the *legislative framework, on the specific situation in the territory, on the organizational structures at the level of the local councils, on the responsibility and solutions adopted by the elected persons, with the consultation of local and external specialists*²⁷.

In what concerns the *public utility community services*, the reform in this field represents a commitment undertaken by the Government of Romanian in the European integration process, *providing these services at European standards constituting one of the most important and most complex duties in the responsibility of the central and local public administration authorities*²⁸.

According to the legal regulations in our country, these services are the responsibility of the local public administration authorities, are established and managed according to the *decisions adopted by the deliberative authorities of the administrative-territorial units (Local, County Councils, the General Council of the City of Bucharest), depending on the urban development degree, on the economic-social importance of the localities, on their size and development degree, and in relation to the existing technical-urban infrastructure*²⁹. Practically, these services are executed by means of public services and economic agents, generically called – operators, which act under the control and coordination of the local public administration authorities.

²⁶ See more in Manda, C., Manda, C.C., *Dreptul colectivităților locale*, 4th edition, Universul Juridic, Bucharest, 2008, pp. 465 – 471.

²⁷ Institute for Public Policies, *op. cit.*, p.37.

²⁸ *Ibidem*.

²⁹ *Idem*, p.37. According to the disposition of art. 17 of Law of local public administration, no. 215/2001, republished, „the local councils and county councils may decide on the participation with capital or with goods, in the name and in the interest of the local collectivities they represent, to the establishment of trading companies or to the establishment of local or county public interest services, as the case may be, in the conditions of the law”.

The local public administration authorities have competences shared with the central public administration authorities and with the regulatory authorities competent in what concerns the regulation, monitoring and control of the public utility community services.

According to Law no. 325/2006, the *principles* governing the organizing and functioning of the public utility community services take into account the *efficient use of the energetic resources, the sustainable development of the administrative-territorial units, the diminishing of the environmental impact, the promotion of high efficiency co-generation, the regulation and transparency of thermal energy rates and prices, the assurance of un discriminatory access of users to the thermal networks and to the thermal energy supply public service* and not last, understanding of *condominium as a heating system*.

The local interest autonomous regias or the specialty public services with legal personality can be organized in the subordination of the ATU local council or of the intercommunal association, benefiting of an own patrimony, own economic management and financial and functional autonomy. They can be established in the following activity fields: *water supply; sewerage and waste water treatment; production, transport and distribution of thermal energy; local public transport; administration and maintenance of the housing fund, od markets, fairs and communal roads; administration and maintenance of green spaces; construction, maintenance, modernization of county interest roads and bridges*.

As a general rule, the local interest autonomous regias administer goods belonging to the public domain. These local public services, organized in the form of local interest autonomous regias, function on the basis of economic management and financial autonomy.

In the fields of local public interest, for which no local interest autonomous regias are organized, depending on the specificity of the life of the local collectivities, the nature and range of their interests, the county and local council may opt for the establishment of **local interest trading companies**. In these cases, the local council or the county council exercise, in the name of the respective ATU, all shareholder's rights in the companies it established.

Case study. Bucharest thermal energy supply public service

The thermal energy production, transport and distribution public service (hereinafter called the **Public service**) is part of the sphere of public utility community services, the legal framework regulating it comprising Law no. 51/2006 *regarding the public utility community services* (general regulations), Law no. 325/2006 *regarding the thermal energy supply public service* (specific regulations) and Government Expedite Ordinance no.30/1997 *regarding the reorganizing of the autonomous regias a.s.o.*

The public service comprises the entirety of activities regarding the production, transport, distribution and supply of thermal energy, necessary for heating and preparing the hot water for population's consumption, for public

institutions, for social-cultural objectives and for economic operators. The service is executed through the specific technical-urban infrastructure belonging to the public or private domain of the ATU, which, together, create the centralized thermal energy supply system for the locality (in original, SACET).

According to the provisions of Law no. 213/1998 regarding public property and its legal regime, the assets composing SACET are part of the public domain of the ATU, except for the power plants and the central heating stations, which can belong either to the public or to the private domain of the ATU, to the state's private domain, as well as to legal entities.

According to art.25 para. (1) of Law no. 51/2006, the assets in the public and/or private ownership of the ATU, which compose public utility systems, for the supply or provision of services, may be:

- given in administration and exploitation to the operators, on the basis of the decision to give in administration - in the case of direct management;
- leased/assigned to the operators in the conditions of the law, by means of the management delegation contract – in case of delegated management. The deliberative authorities award to one or several operators all or only a part of their own competences and responsibilities regarding the supply/provision of the Public service, as well as the assignment of the assets composing SACET, respectively the right and obligation to exploit it, maintaining their prerogatives and liabilities regarding the adoption of the Public service development strategies, respectively of SACET development programs, as well as the obligation to follow, control and supervise the manner in which the Service is performed.³⁰

According to the provisions of Government Decision no. 717/2008, management delegation is achieved through a *Management delegation contract*, awarded on the basis of a competition procedure, except for the situation when the trading companies established through the administrative reorganizing³¹, in the conditions of the law, of the local interest autonomous regias which have in administration and exploitation public utilities goods, activities or services, when the management delegation contract is awarded directly.

Regardless of the manner of organizing the Public service, its supply/provision is executed on the basis of the licenses issued by the competent

³⁰ AMRSP, *Studiul de Oportunitate privind reorganizarea RADET Bucuresti în societate și atribuirea directă către societatea nou creată a contractului de delegare a gestiunii serviciului de alimentare cu energie termică*, 2014, p.10, annex to DGCCB no. 215/ 09.04.2014.

³¹ The reorganizing procedure for autonomous regias is regulated by Government Expedite Ordinance no. 30/1997.

regulatory authorities, Regulatory Authority for Energy (in original, ANRE)³² and the Regulatory Authority for Public Utility Community Services (in original, ANRSC).

The observance of the *public service obligations* presupposes the *assurance of service continuity and quality (implicitly of the necessary resources), permanent adaptation to the consumers' requirements and the exclusion of any kind of discrimination regarding the connection and servicing of consumers, price accessibility for consumers, assurance of safety in operation and the transparent indication of costs in establishing the price of thermal energy*³³.

In general, the thermal energy supply service is provided to the population through the CET-s. At present, analyzing the legal situation of the assets composing the SACET by means of which the supply of users in the City of Bucharest with thermal energy is provided, the Public service in the responsibility of the City of Bucharest does not comprise the production of thermal energy in cogeneration.

For this reason, even though SACET București exists unitarily from the technical and functional point of view, it does not operate in an integrated form, since it is exploited mainly by two operators, ELCEN, which is the *operator of five central heating power plants ("CET-s")*, and, respectively, RADET³⁴, the *operator of the thermal energy transport and distribution networks*.

ELCEN and RADET are in the portfolio of two distinct administrative authorities, the Ministry of Economy, respectively, GCCB (General Council of the City of Bucharest), the *lack of decisional coherence between the two authorities leading to the emergence of dysfunctionalities at the level of the entire SACET and to negative consequences for the population*³⁵.

The major outstanding amounts registered by RADET in the payment of the equivalent value of the primary thermal agent purchased from ELCEN is due to the liquidity deficit generated, on the one hand, by the lack of collection from the

³² The Regulatory Authority for Energy (ANRE) is an autonomous administrative authority, with legal personality, under parliamentary control, fully financed from its own incomes, decision ally, organizational and functionally independent, having as object of activity the elaboration, approval and monitoring of the application of the mandatory regulations at the national level, necessary for the functioning of the sector and market of electrical, thermal energy and natural gases in conditions of efficiency, competition, transparency and consumer protection. ANRE grants licenses and approves the prices for the activity of thermal energy production in cogeneration.

³³ Institute for Public Policies, *op. cit.*, p.43.

³⁴ RADET was established through the Decision of the Bucharest City Hall no. 1200 of 10 December 1990, on the basis of the dispositions of Law no.15/1990 *regarding the reorganizing of the state-owned economic units as autonomous regias and trading companies* and of Law no. 5/1990 *regarding the administration of counties, municipalities, towns and communes until the organizing of local elections*, at the respective date no deliberative body having been established at the level of the City of Bucharest, which to exercise duties with respect to local administration, the administration being provided by the prefects' offices and the town halls, as local bodies of the state administration, with general competence. At present, from the administrative viewpoint, the regie is subordinated to the GCCB.

³⁵ AMRSP, *op. cit.*, p.13.

local and central budgets of the amounts representing the difference between the local price of the thermal energy and the local price of thermal energy for the population, and, on the other hand, by the incoherence's of the Framework Contract for the Supply of Thermal Energy imposed by ANRE (according to Order of ANRE no.50/2009). However, we must not omit the diminishing of the social need, the demand for thermal energy, with negative effects on the efficiency of the centralized system, due to several factors: disappearance of industrial consumers; disconnecting of consumers dissatisfied with the service quality or because of poverty; introduction of meters; shortening of the heating period.

Given the legal nature of ownership over the CET-sof ELCEN, the City of Bucharest cannot impose *public service obligations* on this operator since between the two entities there is no contractual or legal relation. In addition, taking into account the regulated character of the Public service, RADET functions in a system which forbids the market conditions. For this reason, the City of Bucharest cannot create a strategy for increased energetic efficiency and cannot ensure price accessibility for the consumers.

For the purpose of increasing the performance of the *thermal energy production, transport and distribution public service* in conditions of energetic and economic efficiency, at the same time creating the premises for settling the debts accumulated by operator RADET towards its thermal energy supplier, Electrocentrale București SA (ELCEN), in July 2012, the City of Bucharest, through the General Mayor of the City of Bucharest, sent to the Government of Romania, through the Ministry of Economy, Trade and Business Environment, a Memo through which he proposed a set of measures regarding the reorganizing and functioning of this service by means of a *Centralized thermal energy supply system* (SACET).

The request is according to one of the major directions of the National Strategy regarding the acceleration of the development of public utility community services approved through Government Decision no. 246/2006, namely the „reorganizing of the management of central heating power plants by passing them, in their entirety, into the ownership of the administrative-territorial units”, but also with the legal obligation expressly stipulated by art. 53 of the Law of the thermal energy supply service no. 325/2006, according to which, „within 12 months from the date of entering into effect of this law, the central heating regias will reorganize, through decisions of the deliberative authorities of the local public administration authorities, in trading companies, in the conditions of the law”.

Practically, the City of Bucharest requested from the government to take full control over ELCEN. Thus, the most important measure comprised in the city's request consisted in passing into its public domain of the 5 CET-s, currently owned and exploited by ELCEN, together with their afferent assets and liabilities. The transfer must be accomplished simultaneously with the approaches made by the City to reorganize RADET as a trading company and with the integration of the five power plants together with this trading company.

These CET-s, even though with an important role in producing electrical energy in the national energetic system (in original, „SEN"), ensure 90% of the thermal energy production necessary for the users of the Public service under the responsibility of the City of Bucharest, percentage which comprises more than half of the capital's population. The transferring of the 5 CET-s to the public domain of the City of Bucharest creates the possibility to execute the Public service through a SACET integrated from the point of view of the ownership right over the assets composing it - production, transport, distribution and supply of thermal energy.

The advantages of the functioning of an integrated system target the optimization of the entire technological process and, implicitly, the increase of the energetic efficiency, as well as the increase of the quality of the Public service supplied to the population, the reduction of costs and of the local price of the thermal energy, in the conditions of a reasonable effort of the local budget.

In March 2013, the Government of Romania, through the Ministry of Economy, analyzing the aspects regarding the *current modality of organizing the Public service at the level of the City of Bucharest, as well as the fact that the assets composing SACET Bucharest belong to different entities (the City of Bucharest and, respectively, ELCEN), the existence of the financial problems between RADET Bucharest and ELCEN, as well as the need to solve them, the legal obligation to reorganize the autonomous regias, the European directives which impose the obligation to increase the energetic efficiency, objective that can be reached solely by achieving the SACET-s integrated from the viewpoint of ownership and operation*³⁶, adopted a *Memorandum* having as objective the defining and establishment of a solution for executing the thermal energy supply Public service in the City of Bucharest - production, transport, distribution and supply, by means of an integrated SACET, by adopting the proposal comprised in the Bucharest City's memo to pass into its public domain the 5CET-s.

At the same time, the conditions for settling the financial problems between ELCEN and RADET were created, as well as the premises of delegation, by the City of Bucharest, of the Public service management to a partner/operator with professional experience and financial capability, which to make investments in the integrated SACET for the purpose of increasing the quality of the Public service against a rate that is still bearable for the population and a reasonable effort of the Bucharest City budget.

On the grounds of the duties conferred by law³⁷, the GCCB approved the strategy of the City of Bucharest regarding the Public service, by implementing the „Solution” found for Bucharest and comprised in point 4 of the Memorandum, as

³⁶ AMRSP, *op. cit.*, p.14.

³⁷ According to art. 8 para. (1) and para. (2) of Law no. 51/2006, „the authorities of the local public administration have exclusive competence, in the conditions of the law, in all concerning the establishment, organizing, coordination and functioning of the public utility services, as well as in what concerns the creation, development, modernization, administration and exploitation of the assets that are public or private property of the administrative-territorial units afferent to the systems of public utilities”.

well as by the establishment and composition of the Implementation Committee by adopting the DGCCB no. 108/04.27.2014.

Even though Government Expedite Ordinance no. 30/1997 stipulates as obligation of the authorities of the central or local public administration under whose authority are organized and function the autonomous regias that, within 90 days from the entering into effect of the law for the approval of this regulation, to finalize the reorganizing programs of the autonomous regias, as well as the transformation of these regias in trading companies, until the present, the City of Bucharest did not elaborate an organizing program for the autonomous regias under the authority of the GCCB.

The RADET reorganizing program approved by the GCCB comprises as main actions, on the one hand, the transformation of RADET in trading company and the conclusion with the company thus created of a Public service management delegation contract, and, on the other hand, the merger between the company thus resulted and the company ELCEN Bucharest, after the transfer of the shares of the latter into the ownership of the City of Bucharest.

At present, the RADET reorganizing process is in progress, but with delay compared to the estimate mentioned in the Memorandum, due to the obstacles of a decisional nature at the level of the GCCB (ELCEN's commitment to different banks, council draft decisions attacked in court and suspended, absence of quorum or majority etc.), which can bring forth major dysfunctionalities in the integration process of thermal energy production, transport and distribution processes into a single company, for the purpose of decreasing the price of the giga calory.

Conclusions

The comparative analysis presented raises a pertinent question: does the impact of decentralization on the local public services satisfy the expectations estimated by the initiators of the reform and modernization process started in the 1980's in many European states, and not only, and continued at present, as well?

Decentralization knew distinct routes and forms depending on the history of the state or of the region it is part of, on the culture of local collectivities, on tradition, on phenomena such as regionalization, Europeanization, globalization.

Whatever the implementation degree of this form of organization, it is noticed its living together, in a more or less obvious symbiosis, with that of deconcentration, on the one hand, due to the fact that not all public services can be decentralized, and, on the other hand, when they are decentralized, the state keeps its political role and its control over them.

When this overlapping of the two forms functions within parameters, decentralization fills the decisional „gaps” of the central authorities, but we must always be aware of the fact that decentralization is not the miraculous formula, especially when an imbalance is caused between the transfer of competences and the financial one, in other words, between the vertical financial transfer and the capacity of the local public administration authorities.

The closest example is constituted by the model of financial transfers to the local budgets in our country, which, many times, is suspected of clientele's. In general, the central authorities, but also the local ones are reprimanded for their rigidity and inability to adapt to new requirements, the lack of responsibility, the absence of loyal competition and the lack of transparency, in supplying public services. The local public authorities still have difficulties in providing the existing services, the issue of new high performance public services being an objective that seems hard to reach.

As derived from the case study analyzed, the experience, benefits, failures and expectations, but also the barriers outlines, indicate the fact that at the basis of these difficulties there are a series of factors, both external and internal to public administration, whose effects can be diminished through an increased integration of the citizens' participation and control mechanisms in the political, economic and social decision-making, which leads to the reduction of bureaucratic pressures, as well as to the increase of the degree of flexibility and adaptability of the public services.

A public service reform is necessary, based on the orientation towards the citizen, on his reconsideration, from the statute of beneficiary to the position of client, on the increase of the ability to attract financing sources, on retechnologization, all these leading to the increased efficiency and efficacy of the public services in satisfying local needs.

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