Romanian local public administration is currently facing a series of harsh challenges, one of these being the establishment of a new body of public servants with the ability to answer new problems as they arise. This process has not been very easy due to various political, technical, economical and social issues. However, new steps have been taken, which have brought new hope for future developments.


After 9 years of transitional democracy and seemingly endless political discussions and negotiations, the social and professional status of public servants in Romania was finally regulated in 1998, through a law.

Law 188 of 1998, regulating the status of public servants obeys the “good jobs require time, bad jobs require even more time” principle. The endless negotiations that preceded it were entirely political, not unlike the hesitations to implement it.

The new authority instated after December 1989 kept most managers of public institutions who had not been contested by the street. Those who, one way or another, managed to project an image of reformers and critics of the communist system were the most sought-after. Their image and convictions were in perfect concordance with the demands of the period and, naturally, they became members of the governing party. The party in power did not want to fire them because of some obscure professional criteria, mostly since then, like now, the parties which win elections have no other legal way to reward their supporters and sympathizers than by giving them ruling positions in the state administration.

This phenomenon has multiple causes. On the one hand, entrepreneurs as a social class are not yet well developed. On the other hand, the state is still the strongest social
and economic actor in Romania, with enough financial and material resources to produce “profit”.

This way, FDSN and then PDSR- the governing party- had no interest in passing a fair law of the public servant because this- implementing such a law- would have equaled an official contestation of the legitimacy of the management of state institutions.

Hoping to win the 1996 elections, this party did nothing until the latter day to legalize the politically motivated management of state institutions.

After the PNTCD-PNL-USD-UDMR coalition won the elections, these, taking advantage of the lack of legal base, gave management position based on their own interests and an inter-party negotiation they called “an algorithm” at that time. The change was enacted as a “de-PDSRization”, which would suggest there had also been a PDSRization. Once again the change was based on political, not professional criteria. Learning from the mistakes of their predecessors, the coalition legalized the new positions of their supporters and sympathizers by passing, in 2000- after the de-PDSRization campaign had born fruit- the law of the status of public servants. They thought that, in this way, “their people” would stay on regardless of the elections outcome. They were wrong.

The first thing that the 2000 victors did was to formally suspend the implementation of the law and then, through formal administrative practice, to change the management of the institutions known to belong to the members and supporters of the former administration.

2. Personnel policy in the local public administration

Article 119 of the Romanian Constitution states that local administration is based on the principles of local autonomy and the decentralization of public services. Like many other legal documents, the Constitution is yet to be implemented on both budget and public services levels.

This situation is caused by the fact that the public functions and services field was the least influenced by the European integration process and globalization and is still the
most likely to be influenced by the tradition and history of any nation\(^1\), which, in Romania, is still the centralist tradition of the communist regime.

The literature of specialty\(^2\) identifies two great categories of public service from the point of view of public servants themselves:

<table>
<thead>
<tr>
<th>The first category of public service is thought to be closed in the sense where:</th>
<th>The second category of public service is thought to be open in the sense where:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative career starts very early and from the lowest hierarchical level</td>
<td>Transfer to the public system may happen in mid-career and at any level of the hierarchy</td>
</tr>
<tr>
<td>Hired personnel must possess special qualifications to take public office</td>
<td>There are no special demands as to the basic profession of a public servant</td>
</tr>
<tr>
<td>Outside experience is not taken into account when hiring and promoting</td>
<td>Outside experience is recognized</td>
</tr>
<tr>
<td>Personnel is hired based on formal interviews conducted after strict rules</td>
<td>Individuals who enter the system have no rookie period</td>
</tr>
<tr>
<td>There is a rookie period for individuals who enter the public system</td>
<td>There is no tenure, the career may end at any time, not only at retirement age</td>
</tr>
<tr>
<td>The administrative career ends- if nothing else intervenes- at retirement age</td>
<td>Wages are individuated and based on the collective work bargains</td>
</tr>
<tr>
<td>The wages level is established by law</td>
<td>Wages do not depend on public tenure</td>
</tr>
<tr>
<td>Wages grow automatically with tenure.</td>
<td>Employees' rights are identical to those of employees in the private sector</td>
</tr>
<tr>
<td>Public service wages vary with the tenure inside the system</td>
<td>There are just a few EU states in this category: Denmark, Italy, The Netherlands and Great Britain</td>
</tr>
<tr>
<td>The wages system is different from the private wages system</td>
<td></td>
</tr>
</tbody>
</table>

---

One must remember that the authors of this list mentioned the fact that most states— with the odd one out—have a mixed public system with features from both the open and the closed spectrums.

The Romanian public service is obviously a mixed one, where the open features: administrative career which may start at any age at any level of the hierarchy, no special conditions for the basic profession, the tenure and outside experience are recognized and employee rights are identical to those of private employees; coexist with closed features: hiring is done according to a pre-determined legal algorithm, the wages level is established by law, the wages are directly proportional to public tenure, wages grow automatically with tenure and, last but not least, there are specific legal conditions as to personnel policy.

Unfortunately this modus vivendi has proved inefficient. Starting the administrative career at any age and level coupled with lack of specific hiring conditions led to the existence of inexperienced individuals in the administrative system— and worst of all in management positions— which contributed to the vulnerability of the system. The level and conditions of the public system wages, mostly the equality of treatment between public and private employees, led to a fluctuation of personnel, mostly those with higher education. The automatic growth of wages and their link with tenure led to personnel with high-school education being the most stable, with all the consequences this engenders.

Unfortunately, these are just a few of the problems associated with personnel policy in Romania.

A generalized tendency in the public systems of developed countries—caused by an increasing need to make public action efficient—is no longer hiring managers of public
institutions for indeterminate periods\textsuperscript{3}, as it was common practice during the 1980s, but hiring them for determinate periods, which may coincide with legislative periods or with half legislative periods.

The advantages of hiring for determinate periods are important. Firstly, this would mean that management is hired based on a professional interview process and a written project concerning the improvement of the efficiency of the institution that the candidate will manage. Secondly, this very project can be used as an evaluation of the candidate’s final results. Last but not least, the activity of the institution will be planned in time and the management will try to accomplish the goals set forth through the project.

In Romania, the management personnel is hired according to the legal requirements, but these do not define any professional criteria about hiring. Administrative institutions try, without any legal basis, to set up hiring criteria apart from the legal requirements, but these criteria involve no more professional knowledge than the others, apart from the knowledge of the legal basis of the field where the candidate will activate.

To keep dedicated and experienced employees in the public field, most systems have a “backup” corps of public servants. This backup corps is made up of former public servants currently working in the private field but who may be called back inside the public system by the institutions of their former employment. For the system to work, states which adopted it, give large termination of contract payments and/or monthly allowances for determinate periods, so the people stay committed to the public field. They can be hired back into the system in the same position as before termination or similar ones, with wages at least equal to those earned before termination.

Through this method, these states exclude many of the problems associated to employing inexperienced people and making the system more vulnerable.

There is no such backup system in Romania, unfortunately, although most public servants formerly worked for state-owned companies (the communist equivalent of the private sector), so they have no experience in the public field.

The most important aspect of personnel policy in the public system is undoubtedly linked to reductions and firing personnel. Most European states have a special regime of reductions of personnel and terminations of contract especially designed to encourage the public system. The protection measures for the termination of contract of public servants are quite drastic in certain countries. In some European states, public servants cannot effectively be fired from office, while in others, although allowed, termination of contract means compensatory wages and allowances that are so steep, that no government can afford to fire large numbers of public servants. There are, of course, exceptions. In Great Britain and Sweden termination of contract for public servants is easy, yet welfare is large enough to enable the former employee to go through the unemployment period and find new employment easily.

Most often, termination of contract is not used, but replaced with other methods: a pause in hiring coupled with early retirement. The method is actually a “position block”, in the sense that vacancies are not made public and no interviews are conducted for them. This can cause an important problem: the aging of the public servant corps, since no young individuals are hired into the system. To counterbalance this issue at least partially, most states use another method of reducing the numbers of public servants, early retirement. Through eliminating older individuals from the public servant corps, the average age of public servants can be controlled or at least limited by months or years.4

Until 1998, in Romania there was a general tendency toward early retirement, yet it was applied in all areas, not just the public sector. All post-1989 administrations tried to limit new hiring by blocking positions, stopping hiring and, lastly, through central normative documents allowing termination of contract.

### 2.1 The numbers of public servants

The constant promise of all post-1989 administrations has been a reduction in bureaucracy.

All the measures taken, however, tended to equate a reduction in the numbers of public servants with a decrease in red tape and bureaucracy.

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According to the statistic data published by the National Statistic Commission, the exact number of public servants is unknown, because in the chapter “Occupied workforce according to branches of activity” the data is simply a number of 125.000 public servants and military personnel (!).

To find out the exact number of public servants, the researchers of this phenomenon are forced to use estimates and prognosis. These estimates can only start from the lower levels of the administration, so as, after having established an average for the numbers of each type of institution, one may do the prognosis for the total number of public servants.

To estimate the number of public servants we must first get an average of public servants in each administrative institution.

We have found that a number around 200 is the average for each County Council, 150 for City Councils and City Halls, 100 for Town Councils and Town Halls and 15 for communes. With these numbers- which are exaggerated, since we do not really know of any actual County Council with 200 employees- one can estimate the total number of public servants in Romania at no more than 78.000.

<table>
<thead>
<tr>
<th>Administrative levels and institutions</th>
<th>No. of units</th>
<th>No. public servants per administrative level</th>
</tr>
</thead>
<tbody>
<tr>
<td>County Councils</td>
<td>42</td>
<td>8400</td>
</tr>
<tr>
<td>City Councils and Halls</td>
<td>58</td>
<td>8700</td>
</tr>
<tr>
<td>Town Councils and Halls</td>
<td>201</td>
<td>20.100</td>
</tr>
<tr>
<td>Commune Councils and Halls</td>
<td>2.673</td>
<td>40.095</td>
</tr>
<tr>
<td>All public servants in local public administration</td>
<td></td>
<td>77.295</td>
</tr>
</tbody>
</table>

The assessment based on the given figures indicates percentages of 3.600 inhabitants/ 1 public servant for County Councils, 890 inhabitants/ 1 public servant for cities, 650:1 for towns, 400:1 for communes; the real figures are much lower, the total number of public servants does not even reach 47.000.
<table>
<thead>
<tr>
<th>Administrative levels and institutions</th>
<th>No. public servants per administrative level</th>
</tr>
</thead>
<tbody>
<tr>
<td>County Councils</td>
<td>6.263</td>
</tr>
<tr>
<td>City Councils and Halls</td>
<td>11.113</td>
</tr>
<tr>
<td>Town Councils and Halls</td>
<td>3.455</td>
</tr>
<tr>
<td>Commune Councils and Halls</td>
<td>25.392</td>
</tr>
<tr>
<td>All public servants in local public administration</td>
<td>46.223</td>
</tr>
</tbody>
</table>

The estimate for central administration is more tedious to find. Given the information about the number of employees of three Prefect Offices, and given that these numbers do not vary greatly, one can come up with an average of 48 employees. By multiplying this number times number of counties, we get the quite surprising figure of 2,016 public servants at Prefect Office level.

To find out the number of public servants inside the ministries- namely the number of public servants inside the government- one may start from the total number for all Prefect Offices and assume that each ministry has an equal number, namely 2,016 employees. The result for all 22 ministries is 44.352 public servants inside the government, which we think is exaggerated.

If we add to this the number of the territorial employees of each ministry, which cannot be larger than that of the Prefect Office (namely 48 public servants for each county level ministry institution) we, once again, get a number of 44.352 public servants.
Given our own calculations, the total number of public servants in Romania varies between 125,000 (according to the official data) and 170,000 (the larger number found by estimate). This might look like a very large number, yet we should look at it in the international context.

The comparative methods of public systems take into account the number of public servants as compared with the entire population. The comparative figure covers the entire population, not just the active population, since public services deals with both.

According to this calculation, Romania’s total number of public servants if just 0.55-0.75 % of the total population. On administrative categories and levels, this would mean 0.4 % public servants from the total population hired at central administrative level and 0.20-0.34 % public servants at local and regional level. Is that too much or too little?

The average central public servants in E.U. states is 3.25 % of the entire population, 4.64 % of the entire population are public servants working on regional and local level, and the total figure for the public servants in the two branches is 7.30 % (see the table below).

Table 1. The number of public servants in several developed states as compared with the entire population (percentages)

<table>
<thead>
<tr>
<th>State</th>
<th>Central government</th>
<th>State* and local government</th>
<th>General government</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>3,85</td>
<td>4,25</td>
<td>8,06</td>
</tr>
<tr>
<td>Belgium</td>
<td>4,88</td>
<td>1,87</td>
<td>6,75</td>
</tr>
<tr>
<td>Denmark</td>
<td>2,57</td>
<td>8,78</td>
<td>11,35</td>
</tr>
<tr>
<td>Finland</td>
<td>Fd</td>
<td>Fd</td>
<td>8,11</td>
</tr>
<tr>
<td>France</td>
<td>Fd</td>
<td>Fd</td>
<td>5,73</td>
</tr>
<tr>
<td>Ireland</td>
<td>2,30</td>
<td>2,21</td>
<td>4,50</td>
</tr>
<tr>
<td>Italy</td>
<td>2,97</td>
<td>2,12</td>
<td>5,34</td>
</tr>
<tr>
<td>Luxemburg</td>
<td>Fd</td>
<td>Fd</td>
<td>4,68</td>
</tr>
<tr>
<td>Great Britain</td>
<td>4,16</td>
<td>5,41</td>
<td>9,57</td>
</tr>
<tr>
<td>The Netherlands</td>
<td>2,50</td>
<td>2,96</td>
<td>5,46</td>
</tr>
<tr>
<td>Germany</td>
<td>1,30</td>
<td>4,76</td>
<td>6,06</td>
</tr>
</tbody>
</table>
Spain | Fd | Fd | 4,00
---|---|---|---
Sweden | 2,55 | 12,12 | 14,66
Average E.U. | 3,25 | 4,63 | 6,84
Switzerland | Fd | Fd | 4,76
Iceland | 5,49 | 0,93 | 6,42
Norway | 3,19 | 5,60 | 8,80
Australia | 2,07 | 7,77 | 9,83
Canada | 1,49 | 4,73 | 6,22
Japan | 1,40 | 2,73 | 3,75
New Zealand | 6,86 | 1,52 | 8,38
USA | 1,87 | 5,91 | 7,77

Note: *= for federal states.


Romania, with its 0.55-0.75 % of public servants from the entire population is, as one can easily see, far behind in this department. In the next table, there are a few states with figures close to those of Romania.

Table 2 The number of public servants in several developing states as compared with the entire population (percentages)

<table>
<thead>
<tr>
<th>State</th>
<th>Central government</th>
<th>State* and local government</th>
<th>General government</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tanzania</td>
<td>1.43</td>
<td>None</td>
<td>1.43</td>
</tr>
<tr>
<td>Uganda</td>
<td>1.01</td>
<td>0.40</td>
<td>1.40</td>
</tr>
<tr>
<td>Madagascar</td>
<td>Fd</td>
<td>Fd</td>
<td>1.07</td>
</tr>
<tr>
<td>South Africa</td>
<td>0.7</td>
<td>0.24</td>
<td>0.94</td>
</tr>
<tr>
<td>Senegal</td>
<td>0.9</td>
<td>None</td>
<td>0.90</td>
</tr>
<tr>
<td>Benin</td>
<td>0.76</td>
<td>0.12</td>
<td>0.88</td>
</tr>
<tr>
<td>Cameroon</td>
<td>0.66</td>
<td>None</td>
<td>0.66</td>
</tr>
<tr>
<td>Burundi</td>
<td>0.42</td>
<td>0.08</td>
<td>0.51</td>
</tr>
</tbody>
</table>
The closeness to Benin, Cameroon and Burundi— all African states— is not really a good situation for an aspirant to E.U. integration.

On the other hand, the percentage of public servants on a local level as compared to that of public servants on a central level reflects the importance and role of local administration in the national administrative system. The larger the percentage of local and regional public servants, the larger their role in the national administration.

Given the calculations we have done earlier in this chapter, we can easily see that the number of local public servants is clearly inferior to that of public servants in central administration (58/42 % and 54/46 % central to local).

This is exactly the negative end of the range- E.U. countries, with percentages of 29/715 % to 42/586 % central to local, are at the other, positive end.

Table 3 Number of central public servants as compared with total number of public administration in several developed countries (percentages)

<table>
<thead>
<tr>
<th></th>
<th>Public servants in central administration</th>
<th>Public servants in central administration (1)</th>
<th>Public servants percentage in central administration (2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria (AU)</td>
<td>4494</td>
<td>26</td>
<td>47,77</td>
</tr>
<tr>
<td>Belgium (B)</td>
<td>86.934</td>
<td>23</td>
<td>72,30</td>
</tr>
<tr>
<td>Denmark (DK)</td>
<td>43.373</td>
<td>8</td>
<td>22,64</td>
</tr>
<tr>
<td>Finland (FI)</td>
<td>58.718</td>
<td>25</td>
<td>Fd</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Country</th>
<th>Public Servants</th>
<th>Employees</th>
<th>Fd</th>
</tr>
</thead>
<tbody>
<tr>
<td>France (F)</td>
<td>811,485</td>
<td>39</td>
<td>Fd</td>
</tr>
<tr>
<td>Germany (D)</td>
<td>158,086</td>
<td>7</td>
<td>21,45</td>
</tr>
<tr>
<td>Greece (G)*</td>
<td>239,251</td>
<td>30</td>
<td>Fd</td>
</tr>
<tr>
<td>Ireland (IRL)</td>
<td>35,863</td>
<td>57</td>
<td>51,11</td>
</tr>
<tr>
<td>Italy (I)</td>
<td>495,284</td>
<td>42</td>
<td>55,62</td>
</tr>
<tr>
<td>Luxemburg (L)</td>
<td>919</td>
<td>68</td>
<td>Fd</td>
</tr>
<tr>
<td>The Netherlands (NL)</td>
<td>8533</td>
<td>31</td>
<td>45,79</td>
</tr>
<tr>
<td>Portugal (P)</td>
<td>285,267</td>
<td>76</td>
<td>Fd</td>
</tr>
<tr>
<td>Spain (E)</td>
<td>278,30</td>
<td>22</td>
<td>Fd</td>
</tr>
<tr>
<td>Sweden (S)</td>
<td>112,904</td>
<td>17</td>
<td>17,39</td>
</tr>
<tr>
<td>Great Britain (UK)</td>
<td>663,950</td>
<td>39</td>
<td>43,47</td>
</tr>
<tr>
<td>E.U. total '15</td>
<td>3,411,890</td>
<td>29</td>
<td>41,99</td>
</tr>
</tbody>
</table>

Note: (1) = assessment done by The Federation of European Unions in the Public Sector, (2)= assessment done by The International Money Fund, Fd= no data.

2.2 The public servants sphere or who are the public servants?

The legal doctrine in Romania makes no distinction between public servants and public employees or, better put, between public servants and government servants. This is mostly because legal doctrine in Romania, unlike that in other European countries, does not recognize the governmental status of the local authorities.

The stubbornness with which Romanian officials continue to name local authority institutions “organs and institutions of local public administration” is a clear indication that the administrative doctrine acknowledges no other institution apart from the central government with similar or identical attributions. There is no public life and action outside the Romanian state. More precisely, there is nothing outside state power and the state is the institution that encompasses all public activities and manifestations- be they ecclesiastic, private, common law, etc.
This explains why local authorities do not rightfully own the public buildings on their territory, or those they use, and at most have the right to manage these estates in the name of the state, namely the central government.

Logically, this doctrine also affects public servants. While most European states equate public servants with government servants since they prepare, enact and control government decisions, be they central or local, and are clearly distinct from the public servants who have public office and offer public services, in Romania there are no distinctions between the two. More precisely, there are no public employees.

International statistics also differentiate between public servants and public employees. The persons who work in military institutions and their special services, police, prison guards and auxiliary personnel, education and health institutions are considered public employees (or public servants but not government servants) while the persons who are involved in the preparation, concrete implementation and control of government decisions are called public or government servants.

Law 188 establishing the status of the public servant is highly “generous”, completely ignoring the public employees sphere and considering all persons employed in public service as public servants, who have no self-status or do not qualify for the exceptions described in the same law. This led to great confusion in the health and education departments: are health and education employees public employees- although there is no status for employees of health and education institutions- or public servants?

On the other hand, government institutions’ employees- central and local- are, in some cases, treated similarly to private employees, although their activity has a direct and immediate effect on government institutions where their colleagues, the public servants, work.

2.3 Fluctuation of local administration personnel

The frequent changes of administrative management did not limit to the top management, but unfortunately affected the whole personnel of an institution. Although the law stipulates that public servants enjoy stability in office, most institutions, and especially those under political control replace their employees at every change in administration.
The Romanian political and administrative system is based on the administrative patronage principle\(^7\), whose core is the Prefect Office and its functioning and organization. The Prefect Office exercises an administrative patronage over both territorial central administration units and the local administration, despite not having legal basis for the latter.

Since the Prefect has no strict professional and administrative principles to abide by, meaning that he or she does not need to have administrative experience, the administrative patronage turns from a management tool to a political tool directly under the influence of the political center, the party(ies) in power.

The tradition is that the Prefect is one of the important local members of the party in power, regardless of whether he or she had ever held public office before. Because of this mind frame, other prominent party members may and do ask for similarly important positions. Since, in Romania, parties which win elections have no legal way to reward their supporters by giving them political office, they proceed to politicize public institutions, which should function based on the completely different principles of professionalism and competence.

As we have shown above, the sphere of the political influence over local administration differs from county to county, mainly according to the basic profession of the prominent local party members. There are, of course, exceptions. As elsewhere, politicians tend to come mostly from law, health and education backgrounds\(^8\), but in Romania, this has also led to an excessive politicization of education institutions. This would explain why all post-1989 administrations changed the top management of school inspectorates. Inspectorates and the institutions of state health are the most exposed to political interventionism.

Following the “if it works, don’t fix it” principle, political interventionism also touched the lower levels of the administrative system, in a more sophisticated form, combining clientelism and political and administrative nepotism\(^9\).


\(^{9}\) Increasingly often, “well-placed” public servants change parties as the latter win elections, to prolong their stay in office.
Personnel who belong to the same party as the management of an institution have more chances to stay in office than those who do not.

Because of this political and administrative instability, the fluctuation of local public administration personnel is high. As Prefect Offices are the most exposed to political influence because of the Prefect, the fluctuation of personnel is infinitely greater there than in City Halls or Councils.

In an analysis done in four Prefect Offices, we found that higher educated personnel (mostly engineers by trade) have been replaced up to 87% in 4 years. The only personnel unaffected by replacements were the high-school educated employees and below. The phenomenon is identical to that happening in City Halls and Councils but—based on the same evaluations—the fluctuation is far narrower.
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