

## Community Law

# The Modernization of the Central Public Administration in Context of the European Pre-adhesion of Republic of Moldova

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**Abstract:** In the market economic system it is considered that in proportion of 80% the success is ensured by a system of an administration which is conceived with competence and directed towards innovation, constituted on its adequate purpose of professionalism, internal clear stimuli and on the control of the implementation of the decisions. An efficient, responsive, transparent and responsible public administration is of a major importance for an adequate function of a state and at the same time it is a fundamental instrument with the help of which the strategies of the Government can be implemented. In such a way the public administration is one of the main mechanisms with the help of which the link between the state, civil society and the private sphere is achieved.

**Keywords:** Central Public Administration, political stability, civil society

The reformation and the modernization of the public administration represent an important problem in the life of any state. Therefore all the countries during their development tried in one way or another to modernize and satisfy the needs and the necessities of the society, setting up the way of function the relations between the public administration and the civil society. An efficient, responsive, transparent and responsible public administration is of a major importance for an adequate function of a state and at the same time it is a fundamental instrument with the help of which the strategies of the Government can be implemented. In such a way the public administration is one of the main mechanisms with the help of which the link between the state, civil society and the private sphere is realized. But the promotion of the public administration reform is a way towards the realization of some development objectives at a high level, as:

- the economic development;
- the diminution of the poverty;
- the guarantee of a political stability.

In the market economic system it is considered that in proportion of 80% the success is ensured by a system of an administration which is conceived with competence and directed towards innovation, constituted on its adequate purpose of professionalism, internal clear stimuli and on the control of the implementation of the decisions.

As I. Alexandru mentions, in all countries, central government is one conducting

political affairs and administration of general interests, for ensemble of national community.<sup>1</sup>

In this context and in connection with orientation of the Republic of Moldova towards adhering in the European Union, increase in and consolidation of administrative managerial abilities of the public sector, especially of central public administration, are imposed. At present, we are in a situation, when functions and competencies of ministries, agencies and other central public authorities are not clearly and logically defined, cases of superposition of functions being frequent, and public officials engaged in these institutions do not always possess performances and knowledge necessary to be able meeting existent requirements. In this situation, approach of phenomenon of government to emphasise transparency, responsibility and ability of the government and central public authorities of using efficiently assets of public domain, as well as providing a decent living standard to population is required.

A fact is certain that „upsetting” situation we are in is both absolutely necessary and logically substantiated. Thus, a synthesis of practical thinking in approaching problem of central public administration reform in the Republic of Moldova, pointing out basic domains to be reformed with technical support of donators is on attempt to be effected. We mention that the primordially of the adoption to the profound and radical changes supported by the economy of the Republic of Moldova during the last period and the influence of the external factors imposes new requirements to the public administrative system in general, and especially to the Government of the Republic of Moldova.

Beginning with the motivation of the increasing the competitiveness of the country in the world economy, as it is stipulated in the Economic Growth and Poverty Reduction Strategy Paper for 2004-2006 (EGPRSP), the Government assumed the role of the leader in the implementation of the new reform of the central public administration in the Republic of Moldova. Purpose of reform, launched in first half of 2005, is setting up modern and efficient system of central public administration, in accordance with principles of good government of countries-members of the European Union. Reform presumes providing transformation and modernisation of public administration in Moldova in basis of reorganisation of central public administration, optimisation of the decision-making process, improvement of management of human resources, and public finances. To achieve this goal the Strategy of the Reformation of the Central Public Administration was elaborated and approved (adopted by the Decision of the Government, № 1402, 30.12.2005). We should mention the fact that Strategy provides:

- redefinition of competencies and powers of domain-related central bodies of the public administration, and
- reconfiguration of the structure of central executive power,

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<sup>1</sup> Alexandru, Ioan, *Public Administration, Theories, Realities, Perspectives*, Bucharest: Publishing House Lumina Lex, 1999, p. 330.

considering priorities of activity of the Government.

The recently launched Reform of the Central Public Administration in the Republic of Moldova is complex and includes essential changes in the following spheres:

- organizational structure;
- staff (personnel) management;
- public finances.

This implies an approach centered on an up-to-date thinking of the public management linked with other spheres of investigation taking into consideration the public opinion in order to find new solutions and to put the public sector into its own place. The civil servant is to be esteemed as an active and motivated person (financially, career, etc.).

If we make an incursion in history of reformation of the public administration in diverse states, we can mention the new public management, when a range of Anglo-Saxon states (such as Great Britain, New Zealand, Australia, United States and Canada) at the beginning of the 80's have begun implementation of a large range of reforming programs that offered both model and experience that can be successful taken over by the Republic of Moldova at present. In this sense, new public management aims to reduce role of the state by application of principles of management of the private sector in governmental organisations (especially in rendering public services), however entire taking over of experience of other states, ignoring economical conditions and historical traditions, can have from time to time a negative impact, and some principles still would be successfully applied such as: focusing on client, decentralising development of public policies and attracting partners from private sector when fulfilling tasks of public administration.

Despite neo-liberal arguments of the last decades of the XX century, having had for an object the reduction of role of the state, recent polls show that citizens require state democratic institutions that use efficient resources and public assets. Civil society wishes central public administration to act as a social and economic promoter capable to provide social equity and functionality of democratic principles of a constitutional state.<sup>1</sup>

In this context, we mention one of basic objectives of central public administration reform of the Republic of Moldova is creation of an impartial, professional and incorruptible corps of public officials. Fortification of abilities within central public administration authorities aims at three levels:

- individual level;
- institutional level;
- social level.

At individual level, conditions, in which public officials would join a continuous process of improvement and adaptation to changes through accumulation of knowledge

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<sup>1</sup> Practical note: "Reform of public administration ", [http://www.undp.md/focus\\_areas/demgover/](http://www.undp.md/focus_areas/demgover/)

and development of aptitudes required in their activity, are to be created. At institutional level, besides activities stated above, a structural optimisation is necessary as well. In this context, not creation of new central public authorities, but their machinery modernisation is accentuated. Key element in this process is joining of organisation and functional efficiency.

Finally, development of abilities at society level is necessary to support paradigm of more interactive central public administration, which becomes experienced both from proper actions and inverse reaction received from civil society. For citizens to consider central public administration a system responsible for application of public policies, which performance is subject to monitoring, changes at society level are necessary as well. Society is to be informed by accessible means upon tasks, means of performing and administration responsibilities, to be able responding to its errors and influencing government process.

Countries that passed from centralised planning to market economy and from system of a single party to pluralist democracy are in a different situation. These, former socialist states, including Republic of Moldova, made sure of necessity of transformations related to adhering to principles of market economy, which, incontestably, is accompanied by political reforms of public administration system re-orientation, however, period of transition from an old system to a new one, in our country, has proved to be more complicated as it has been expected for. Building up a constitutional state, establishing civil society, applying market mechanisms under conditions of central public administration structure non-meeting actual requirements are basic problems Moldova having faced over a decade, i.e. from declaration of independence. Under actual conditions, re-evaluation of role of public administration authorities as against society and central public administration reform is a key element related to country democratisation and increase in aspirations for European integration. Accordingly, central public administration reform is orientated towards central public authorities joining European standards, presuming rise in living standards of citizens and public administration contribution, increasingly, to satisfaction of society's requirements.

Hitherto, many attempts have been effected to reform system of central public authorities, however, these have been based only on institutional approach, having been limited to creation of new central public authorities or their liquidation (merging) and „optimisation” (reduction) of quantity of officials (process aimed only at minimisation of budget expenditures for their remuneration); consequently, these „reforms” did not contributed to qualitative improvement of central public administration system, having been limited only to some „slogan” changes or, that is to say, some artificial and absurd reforms. Thus, comparing system of central public administration of the Republic of Moldova, outlined by 2001 (when 15 ministries and 10 departments actually existed) and the last one at 2009 (16 ministries and 12 services, offices and agencies), we see it has hitherto been only proceeded by way of creation of new structures, however, rigours of time impose effecting a profound and multidimensional

reform (economic-, social-, technologic- and institutional-related one), based on a thorough and multilateral analysis of actual situation, and success of this reform depends both on Government's effort, and multidimensional effort of the entire society being absolutely necessary. Multidimensional aspect of central public administration reform involves development of private sector, which, normally, brings about necessity of intensifying partnership between public sector and private one, new exigencies in development of processes economical, flexibility, continuity and promptitude in strategic planning and making decisions by central public administration authorities being imposed.

In this context, we can mention the effect of Regulatory Frame Reform, performed by Law no.424-XV of December 16, 2004 „Regarding revision and optimisation of normative framework of enterprising regulation”, or so-called „Guillotine” law, aimed at elimination of multitudes of barriers created during 15 years, which could have been solved only by substantial diminution of dependency degree of economic agents on administrative enterprising regulation. In this domain, paradoxical things were reached, when the same public authority developed, adopted, put in application and controlled execution of an administrative act regulating legal relations, which, actually, have been object of a law regulation. Thus, in process of improving economic agents' activity regulation system, functions, structure and proceedings within central and local public administration authorities, involved in the state policy implementation in economic-related domain have been subject to control.

Although being as a novelty for Moldova, „Guillotine” is a well-known tool, successfully applied nowadays by states-members of the European Union, and its purpose refers to acceleration of the regulatory reform process. This tool, which has been legally incorporated, presumes existence of a range of filters effected by creation of common commission from representatives of public and private sector, invested with right to pronounce final “sentence” upon rationality of existent regulations. In this context, we mention from the moment the Law mentioned above came into effect, a moratorium upon all acts issued by ministries and departments until they had been published in „Monitorul Oficial” have been instituted. Moreover, all normative acts of the Government and other public administration authorities of the mentioned domain are subject to revision (control of legality and opportunity), analysis of their content to estimate quality and concordance with market economy principles being effected.<sup>1</sup>

Besides the economic aspect that gives an impulse to the necessity of a central public reform, a main role is played by the effects of the recent social evolution that is characterized as a more active participation of the civil society in the decision-making process. It undoubtedly imposes new requirements on the administrative system, as:

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<sup>1</sup> More ample related information can be found in portal of the Ministry of Economy and Trade of the Republic of Moldova, authority responsible for implementation of Regulatory Reform: <http://www.mec.md/>

- social orientation;
- transparency of the decisions;
- the diversification of the modalities of the participation in the decision-making process, determining in such a way the further extension of the democratic freedoms and the unconditional guarantee of the fundamental freedoms of the people.

Once information technologies have been advanced and principle of “e-government” (widely applied in Western states) has been applied, new objectives in information exchange optimisation, information technologies use domain-related for purpose of providing universal access to information resources and services, as well as improving decision-making process are being outlined towards central public authorities of the Republic of Moldova.

Under conditions of fast development of globalisation processes and dynamic economic, social and political evolution, new conditions of institutional and functional harmonisation are imposed; and, as already mentioned, aspirations of European integration of the Republic of Moldova increase significance of improvement of central public administration system for purpose of providing internationally a constructive dialogue, that proves us central public administration reform is prescribed by both historic country evolution and current European and international tendencies of society’s development.

To provide a positive evolution and guarantee gaining an anticipated effect, reformation of central public administration system (as any social process) is based on a range of rules expressly provided by normative acts regulating this process, on government principles and constructive practices of states-members of the European Union and European Council, such as: trust, access to information, transparency, responsibility, performance, budget coercion observation, and continuity.

The last ones have been taken over and assigned in a range of normative acts. Thus, from Economic Growth and Poverty Reduction Strategy Paper, as well as Program of government activity for 2005-2009, principles of the central (and local) public administration reformation can be taken as follows:

- unique treatment of elements of functional, structural and organisation reform of public administration;
- harmonisation of public administration and the European Union’s standards;
- clear determination of role and basic functions of the public administration authorities, reduction of their quantity and powers related to enterprising regulation;
- exclusion of parallelism and doubling of functions in public administration authorities activity, for purpose of using more efficient financial resources and rendering quality public services;
- rational use of financial resources and improvement of their management by orientation towards priority domains;
- reasonable delegation towards local public administration authorities and

private sector of powers and obligations related to insurance activity of public services;

- rationalisation of report and management systems to avoid dispersion of managerial responsibilities;
- contest-based employment of personnel into executive bodies;
- setting up a wage system capable to provide consolidation of personnel's potential and advancement by setting an incorruptible threshold of officials' wages;
- parting functions of policy development and promotion from functions of control and rendering services, paying more attention to basic activity and non-admittance of conflict of interests;
- delimitation of political functions from administrative ones in central public administration authorities.

Performing these principles and objective would provide modernisation of public administration and reaching European standards. As central public administration activity directly affects all activity domains within a state, central public administration reform results in implementation of sectorial policies developed in accordance with objectives of the state (for instance, durable and equitable economic growth, poverty eradication, increase in investments, stopping corruption, European integration etc.). Thus, central public administration reform interacts with a range of other reforms carried on in Moldova, as state regulation reform (mentioned above), oriented towards elimination of artificial administrative barriers in enterprisers' and investors' way, as simplification of procedures of registering business (introduction of „single box-office”)<sup>1</sup> and obtaining diverse authorisations, optimising amount and forms of the state control.

Another activity related to central public administration reform is economic-budgetary prognosis on the basis of Middle-Term Cost Framework. Being a fundamental mechanism, centred around providing a budgetarily responsible management, for purpose of increasing transparency and efficiency of public expenditures, as well as development of sectorial programs and budget control function consolidation.

The objectives of central public administration reform Strategy correspond to aspirations of European integration of the Republic of Moldova. Thus, the process of European adhering is a priority in institutional and functional optimising central of the administrative structure and developing abilities of central public administration within next 7-10 year. As mentioned above, within this reform, Moldova has to create structures capable to harmonise national legislation with *community acquis* that will directly affect functions and structure of central public administration authorities.

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<sup>1</sup> From March 2006, State Registration Chamber (State Enterprise subordinated to Ministry of Informational Development) applied principle of „single box-office” for registration of (any organisation-legal type) enterprises.

Worthily to mention, first step of functional analysis and analysis of the decision-making process in domain-related central bodies of the public administration, and segmental evaluation of the corps of public officials have been effected during previous year in Moldova. Subjects referred to central public administration reform at the first step being: ministries, other central administrative authorities, including autonomous administrative bodies and institutions, as well as their public services disconcentrated.

At the end of February 2006, second step of functional analysis aimed at studying functions horizontally in 158 of structures of the central public administration authorities and institutions, as well as vertically in 82 of disconcentrated public services and institutions subordinated to ministries has been launched. In this process, multitude of functions of related institutions is to be studied to identify the responsibilities superposing, non-corresponding to national programs and strategies, out of competence of the given authority, to transfer them to other entities for improving PCA activity.

To effect functional analysis, central public administration authorities have been classified in five domains: justice and internal affairs; agriculture and environment; economic development; government and public finances, as well as social domain, education and culture. Expert teams have been placed in ministries as follows: Ministry of Justice, Ministry of Agriculture and Food Industry, Ministry of Industry and Infrastructure, Ministry of Finance, and Ministry of Health and Social Protection.

We should mention the fact that unity of co-ordination of public administration reform (group of experts within Government Machinery) has performed a study at the end of 2005 aimed at consulting opinions of public officials opposite practices of management of human resources and results expected from central public administration reform. Study has included 488 public officials of 15 central public administration authorities. Opinions expressed by public officials within study have been basis of development of one of compartments of central public administration reform Strategy. According to study results, over two thirds of public officials have expressed willing to participate in implementation of central public administration reform. Among results, public officials expect from central public administration reform are as follows: more qualitative public services rendered to citizens (66% consider), professional corps of public officials (expected by 81% of persons questioned), increase in chances of adhering of the Republic of Moldova to European Union (consider 55%). As a conclusion, we can sustain opinions expressed by public officials coincide mostly with objectives of central public administration reform Strategy.<sup>1</sup>

Concerning management of human resources, according to study results, difference expressed by officials between ideal (expected) activity and real one is

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<sup>1</sup> Management of human resources in public service: [http://gov.md/index.php?a=apc\\_new&lng=ro](http://gov.md/index.php?a=apc_new&lng=ro)



considerable. The highest degree of non-satisfaction has been recorded in case of material factors: *a reasonable wage, benefits in activity, and a good pension.*

The following group of existent factors which recorded a high degree of non-satisfaction includes: *training opportunities, advancement and career development, certainty of keeping place of work, honest appreciation of activity results, endowment of place of work with equipment and resources, activity / labour with requirements which bring sense of fulfilment and liberty of planning and carrying on work.* These data focus on the fact that unevaluated reserves, which do not involve additional costs, but can significantly contribute to increase in degree of satisfaction in a relatively short term, exist. Thus, problems identified by public officials within study have been analysed, and actions of improving situation have been included in PCA reform Strategy implementation plan.

In conclusion we can mention that The Reform Strategy of the Central Public Administration stipulates that the competence, functions, and the organizational structure of the specialized central public administration authorities should be directed to the accomplishment of the priorities of the Government, exposed in the main documents of policies and strategies (The activity Program of the Government for 2005-2009, the Economic Growth and Poverty Reduction Strategy Paper for 2004-2006 (EGPRSP), Action Program EU-Moldova, etc.). The activity and resources of Government and the Ministries will be based on the elaboration of the policies, monitoring and control, delegation the functions of the implementation of the policies to the local public authorities (the local government and the institutions subordinated by the ministries).

Nevertheless the main important thing is to adopt and implement an adequate system of laws that will clearly define the typology of the central public administration authorities, their basic competence and the reciprocal relations concerning the assessing, control and clear reciprocal commitment of reference. In such a case a very important action was the elaboration and the promotion in 2009 of the law draft concerning the public officials and the transparency in taking administrative decisions law, that comes to settle some other problems as the hiring and the promotion in the public system on the base of a contest (competition) and the separation of the political functions from those of the administrative functions, and last but not at list– the application of the transparency in taking administrative decisions rules in the Republic of Moldova.