

REFORMING ACTIONS OF THE CENTRAL AND LOCAL PUBLIC ADMINISTRATION IN THE REPUBLIC OF MOLDOVA**Nadejda BERGHE¹, senior lecturer, AESM**

The present theme is conditioned by the directions of public finance reform in Moldova. The aim of the research is focused on assessing the fiscal decentralization in the Republic of Moldova, aimed at: analyzing financial decentralization conceptual approaches and examining amendments to the administrative and legislative level to strengthen the level of fiscal decentralization in the country. Research methodology is based on processes and of legislative analysis, as well as on literature. As a result, it appears that in Moldova was first adopted a policy document that clearly dimensioned an action plan to achieve a qualitative decentralization in all areas and village structures. Therefore, the author conducted a comprehensive analysis of the process of reforming the central and local public administration in Moldova, presenting argumentative scientific conclusions and formulating own recommendations which would contribute to the continuity of the reform and strengthening budgetary fiscal capacity.

Key words: *fiscal decentralization, public sector management, local public authorities, responsibilities and public services, local financial autonomy.*

Actualitatea temei este condiționată de direcțiile de reformare a sistemului de finanțe publice din Republica Moldova. Scopul cercetării este concentrat pe aprecierea nivelului descentralizării financiare în Republica Moldova, având ca obiective: analiza abordărilor conceptuale privind descentralizarea financiară, precum și examinarea modificărilor operate la nivel administrativ și legislativ în vederea consolidării nivelului descentralizării financiare în Republica Moldova. Metodologia cercetării este bazată pe procedee de studiu și analiză legislativă, precum și literatură de specialitate. Ca rezultat, se constată că în Republica Moldova a fost adoptat pentru prima dată un document de politici care dimensionează clar un plan de acțiuni pentru realizarea unei descentralizări calitative în toate domeniile și structurile satului. Prin urmare, autorul a realizat o analiză complexă a procesului de reformare a administrației publice centrale și locale în Republica Moldova, prezentând concluzii argumentate științifice și formulând recomandări proprii, care ar contribui la continuitatea reformei, precum și la consolidarea capacității fiscale bugetare.

Cuvinte cheie: *descentralizare financiară, managementul în sectorul public, autorități publice locale, responsabilități și servicii publice, autonomie financiară locală.*

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Introduction. Financial decentralization is emerging as a process of transfer and insurance with adequate financial resources and capabilities subjects which are transmitted certain responsibilities (competencies) and public services, thus making financial decisions and financial capacity of a community the responsibility of its local administration. The aim of the work in this respect, is to study the size of decentralization practices implemented in Moldova and finding the accountability of public authorities, both the deliberative and of the executive one, regarding training, administration, use and control of administrative and financial resources-territorial, public institutions and services of local interest.

Practices of Moldova to implement mechanisms to eliminate interlocking relationships and the establishment of local financial autonomy through decentralization in certain forms and implications have emerged with the adoption on 29 July 1994 by the Parliament of the supreme law – the Constitution Republic of Moldova. It first established relations of concrete administrative-territorial organization of the Republic of Moldova in accordance with Article 110 of the Constitution of the Republic of Moldova *"Moldovan territory is organized administratively into villages, cities, districts and the Autonomous Territorial Unit of Gagauzia. Under the law, some towns may be declared municipalities"* [1, art.110]. According to the findings above, it is clear that in each administrative-territorial unit is established an administration, for which the fundamental principles of organization and activity are also stipulated in the articles of the Constitution, namely Article 109 which states that: *"Public Administration in the administrative-territorial units is based on the principles of local autonomy, decentralization of public services, eligibility of local public administration authorities and of consulting the citizens on local problems of special interest"* [1, art.109].

Ratification by the Parliament, by Decision nr.1253-XIII of 16 July 1997, of the European Charter of Local Autonomy was an important moment for the process of decentralization in which Moldova has been engaged. The Charter entered into force on 1 February 1998 obliging signatory, in our case the Republic of Moldova, to apply the basic rules guaranteeing the independence of public, administrative and financial management of local authorities. When ratifying The Charter, Moldova has not submitted any derogation, which means taking responsibility to fulfil its provisions in full volume, making it part of the legal framework of the country.

Basics decentralization process was not limited to the two laws mentioned above, moreover it knowing continuity. It should be notes that decentralization is seen as a right of administrative-territorial units to meet their own interests without implication of the central authorities, seen as a system involving autonomy. In the Republic of Moldova a first implication in the decentralization process wore an obvious administrative-territorial aspect. We cannot talk about a transfer of powers from higher levels without the final recipient to have a defined basic administrative and territorial aspect. So far Moldova experienced two reforms of local public administration system. The first was conducted in 1998 when with the new law on local public administration (being repealed previous version of the law approved on 7 December 1994) was first adopted Law on territorial administrative organization (on 12 November 1998). They have established new criteria for the organization and functioning of local government in terms of territorial-administrative system with two levels: one county and another local (cities, villages, communes). According to the law on administrative-territorial organization in 1999, Moldova was systematized in 10 counties, Chisinau and Gagauzia, and UAT left bank. They were assigned specific tasks, usually in collaboration with central government and some exclusive ones. The new law on local government was fully connected to European traditions and constitutional principles stipulated in Article 109 of the Constitution. However prefectural institutions were created, which were treated as government representative in the territory. The prefect made real administrative decentralization because it was he who was endowed with specific powers to manage the county public services without interfering in the purview of local representative authorities. Thus the establishment of the prefect exempted the government to intervene in the work of local representative and county public authorities, given that the Government was provided decentralization mechanism [8, pag.11].

A second reform was done in 2003 being subject to parliamentary elections in March 2001, following which the political balance of forces in Parliament has changed. So it was established a new law on territorial organization of the Republic of Moldova, adopted on 27 December 2001. According to it the district system was returned to the territorial organization until 1999. In its composition became 32 districts, Balti and Chisinau, ATU Gagauzia, being a link in the system, and the other including administrative units – cities and villages. Also this year has been approved a new version of the Law on Local Public Administration (No. 123-XV of 18 March 2003) according to which were established

relations between central government and local authorities and between those of level II and I; there were outlined tasks and operating principles of executive and deliberative public authorities; demarcated the competences delegated for authorities of level II and I, also conducted liquidation of the prefect, sending its functions and duties to the Chairman of District Executive Committee [7, pag.34]. Later Constitutional Court declared unconstitutional a number of other provisions which were released to the Chairman of the district prefect duties; so under law no. 123-XV were established eight regional offices of the State Chancellery residing in the former county centres. They were empowered to check the legality of acts issued by local authorities, so only administrative guardianship functions, not leading with decentralized public services. They have not worked much, in early November 2004 they were reorganized into territorial offices of the Government, holding the same powers and territorial branches.

Today, according to recent statistics, Moldova, knows an administrative organization of the territory which is carried out in accordance with Law no. 764 of 27 December 2001 on territorial organization. It is divided into 32 levels of administration with the status of districts and 5 units with the status of municipalities: Chisinau, Balti, Gagauzia autonomous territorial unit and administrative and territorial unit of the left bank, which in total are represented by 1682 places (cities, communes, and villages) [11].

Although Law no. 764 on territorial organization of the Republic of Moldova, adopted on 27 December 2001, was not substituted by other legislation, but only some changes have been made, we cannot say the same about The Law on Local Government no. 123-XV of 18 March 2003, which in 2007 is repealed. Finally, in late 2006, it instituted a new law that establishes and regulates the organization and functioning of public administration in territorial administrative units – Law no. 436 of 28.12.2006 on local public administration, which entered into force once it has been published on 09.03.2007 in the Official Gazette no. 32-35 art. no: 116. This is the fourth correcting organic law on public administration established in Moldova. It is functional and at the moment, meeting the regulatory year course with some changes and additions to the original version, due to the ongoing process of modernizing and reforming the system of government.

This law stipulates the basic principles of local public administration, and relations between public authorities "*Between central and local authorities, between public authorities of the first level and second level there is a relationship of subordination, except provided by law*" [3, art.6, al. (3)]. According to this law local authorities have autonomy on decisional, organizational, financial management, they are entitled to all initiatives in the administration of local public affairs, exercising, under the law, authority within the territory administered.

The government defined the types and forms thereof. Thus local government administrative-territorial units of level I are elected local councils, as deliberative authorities, and mayors as executive authorities [6, pag.9]. In turn, local public authorities of administrative and territorial units of level II district councils, as deliberative authorities and district chairman as executive authority is thus confirmed the decision-making power at local level. In this context, all the powers stipulated in the law mentioned local public authorities of level I and II, are bounded on the types of local public authorities: deliberative and executive. Not remain without attention the financial basis of public authorities. Thus *local government authorities develop, approve and manage the budgets of administrative-territorial autonomous, having the right to enforce local taxes and determine their value under the law* [3, art.9].

A major achievement in the field of decentralization was reached in 2006, December 28, when it was approved Law Nr. 435 of the administrative decentralization which came into force on 01.01.2007. This bill is a breakthrough in the decentralization process in which the Republic of Moldova committed. It establishes the general regulatory framework based on the principles of administrative decentralization specific division of powers between public authorities [4, art.2]. It is operational until present, the most recent changes being made in 2013.

According to art.5 of the Law on Administrative Decentralization Nr. 435-XVI from 28.12.2006, the local authorities first and second levels and the central may *cooperate*, under the law, to ensure the implementation of projects or public services requiring joint efforts of these authorities. The text of the law does not stipulate that local authorities may have specific areas of shared competence enabling a wide range of activities [4, art.5]. However, based on cooperation activities will be carried out based on agreements between the parties' mutual rights and obligations in strict accordance with the budgetary resources and responsibilities assigned to them.

Powers related to central public authorities may be *delegated* to local authorities first and second levels, respecting the criteria of efficiency and economic rationality. However, as with cooperation skills,

the legislature has not set the local areas may have delegated powers. Terms and conditions for delegation of public services are limited to the following reasoning: the delegation of power shall be made by the Parliament, the Government's proposal and necessarily accompanied by sufficient financial resources needed to ensure their achievement [4].

With the decentralization of administrative-territorial system, public authorities have taken steps to supply powers transferred to the appropriate resources. As a first action it served approval by the Parliament of the legal framework regulating public finances. The first efforts were made in 1990 when it was established Law no. 381-XII of 29 November 1990 on budgetary system and Law no. 250-XIII of 2 November 1994 on the examination and approval of the state budget. In 1996, they were replaced by Law no. 847 of 24.05.1996 on budgetary system and budgetary process which marks matters much clearer within budgetary processes and tasks in fulfilling their authorities. According to it, public authorities are provided with financial resources for achieving political, economic, social and cultural population and territorial development of the state.

For the local level of administration, on 9 July 1999, for the first time it is Law no. 491-XIV on local public finances, which formed the legal basis regulating the administrative-territorial resources, thus fulfilling the most of the principles of the European Charter on Local Self-Government. By this law:

- were distributed between revenues and expenditure budgets delimited territorial administrative units on both levels;

- were established limits of breakdowns percentage of state revenues to local budgets;

- inter-relationships were substantiated, transfer mechanism and method of execution of budgets through the Treasury, and other provisions in the field [7, pag. 34-35].

Later this law was revised, and on 16 October 2003 under Law no. 123-XV on municipalities approved in 2001, was approved a new law on local public finances. Changes made especially aimed dimensions of financial autonomy and improving the system of control. Subsequent adjustments of Law no. 397-XV of 16 October 2003 on public finances were subject to approval of the new version of the law on local public administration (28 December 2006), which in addition to its administrative demarcation was made financial outline of local autonomy as well.

Another milestone is recorded in 2005-2006, when there is a major concern for financial decentralization actions of Moldovan authorities which externalizes by systematizing the objectives of this nature in the strategic documents state. Thus the Strategy for growth and poverty reduction policy framework for the period concerned State Government has strengthened some actions to improve public sector management and promoting decentralization.

In order to achieve *an efficient and sustainable financial management, based on tools and models of analysis and macroeconomic forecasting community standards*, the Government committed to strengthen the policy / fiscal procedures and ensure a more thorough and credible development budget resource allocation. [2] In this regard, the Central Public Administration Reform was initiated (CPAR), and the project "Public Finance Management" (PFMP).

The actions of the central public administration reform were implemented by the World Bank and the Public Finance Management project received co-funding from the Government of the Netherlands and the Swedish International Development Agency in the form of grants. A contribution both financial and methodological had the Government of Moldova together with resort ministries.

The period of reforms started in 2006 with an end in 2009 but failed because of several indicators of progress, extended until 2011, then until 31.12.2012. Reform does not know an end only through two operations completed: moreover, the actions taken during the period concerned have initiated a process of continuous development of public finance management which is conducted today.

In the central public administration, public financial management was proposed to be enhanced by actions aimed at creating an efficient and sustainable interaction policymaking process with the budgetary process, including creating Directions analysis, monitoring and evaluation of policies to sector policy coordination, and the Ministry of Finance – by modernizing budget classification and introducing unique plan for public sector accounts, perfecting the methodology for the design and execution of the budget and the implementation of an Integrated Financial Management Information System [2].

A manifest achievement of public finance management reform is considered to be the development and approval of the **Law on public finances and budgetary-fiscal**. By implementing the above mentioned law was proposed the following objectives [5, pag. 3]:

1. Strengthening global budgetary and fiscal discipline by establishing principles and rules of budgetary and fiscal single components to the national public budget;
2. Comprehensive regulation of the budget process and improving procedures on the development, approval and administration of budgets of all levels;
3. Efficient management of budgetary resources by establishing new rules on training and management of revenues collected by authorities/budgetary institutions, including foreign-financed projects, and reviewing the role and composition of budgetary reserves;
4. The delimitation of competences and broadening mandates participants in the budget process, while raising their responsibility.

The law was approved on 25 July 2014 onwards to replace the Law no. 847-XIII of 24 May 1996 on budgetary system and budgetary process, while being adjusted and other laws and laws governing specific areas and separate elements of the budget system. This law came into force on 1 January 2015 but not the complete structure, except some elements defined in art. 82 of this law, as from 1 January 2016 will receive full legislative authority, the law on budget system and budget process being repealed.

It is important to note that the *Law on public finances and budgetary-fiscal* no. 181 of July 25, 2014 represents basic organic law of public finances which establishes general principles and rules common to all national public budget components. However, taking into account the principles of local autonomy and financial decentralization initiatives, specific regulations on local budgets and inter-budgetary relations between local budgets for first and second level will continue to be provided under the law on local public finance with the appropriate adjustments [10].

Restructuring brought about by the new system of training of local government budgets were the result of important compromises of the problem makers because proving the impossibility to improve the financial situation of all levels of ATU. The new implemented system aims actually, improvements in public services offered to citizens, which can be achieved by empowering and efficient local government, local officials receiving authority and resources with which to make decisions concerning the provision of public services.

It may be noted that Moldova is strongly committed to achieving amendments to strengthen local financial autonomy. The performances achieved are still minor because only changes required have their beginning in 2014, and to substantiate results a period of time is requested. Then, following a strengthening of local government and having a new mechanism, practical and efficient local tax collection will be able to develop and implement a new phase of reform concentrated more on issues of fairness.

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