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## **Specific Issues of the Structure and Relations between Executive and Legislature at Local Level in Romania**

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## **Specific Issues of the Structure and Relations between Executive and Legislature at Local Level in Romania**

### ***Introduction***

The overview of relations between Executive and Legislature at local level in Romania that we are trying to formulate, emphasises the principles of public administration reform:

- Principle of separating political functions from the administrative ones
- Principle of building civil service career, a professional and neutral one
- Principle of defining clearly the roles, responsibilities and relations between the institutions
- Principle of subsidiarity
- Principle of decisional local autonomy
- Principle of transparency of governance
- Principle of simplification the procedures and normative documents
- Principle of respect for the citizen.

Priorities of public administration reform include:

1. Improving the system of management and organisation, the information system at the level of the working body of the Government.
2. Strengthening the capacity of decision-making at governmental level.
3. Reconsidering the place and role of the coordinating bodies in this field by modernising the procedures and working means and communication.
4. Instituting a professional and neutral public service, with efficient connections between the political and administrative level, rationalising and modernising the current structures, building a central unit for human resource.
5. Operationalising the new created structures.
6. Revising the tasks of the ministries and governmental agencies as bodies nominated to elaborate sectoral policies.
7. Continuing the process of decentralisation and strengthening local autonomy,
8. Ensuring a genuine local autonomy by improving the legislation framework, harmonisation with European Community legislation, with the provisions of European Charter of Local Autonomy, Framework Convention for Protection of National Minorities, European Charter of Regional and Minority Languages, Framework Convention for Cross-border Cooperation of Communities or Territorial Authorities,
9. Defining the public and private net worth of the state and territorial-administrative units.
10. Modernising public finance management at central and local level.

11. Increasing the degree of transparency for the public and creating a partnership relation with the civil society.

### *Separation of competencies*

The concept of administration has many meanings in theory and practice. Thus, administration means: "the main content of the activity of Executive of the state, system of public authorities that achieve the executive power; managing economic agents or social-cultural institutions; a department in productive units or social-cultural institutions that do not achieve a productive activity. Consequently, we may define three main meanings: activity, structure or organisation, institution.

In the broad sense, "administration" represents one of the most useful human activities aimed to meet social requirements. Administration represents an old social fact that derives from the emergence of a specialised apparatus. This social fact will be designed to achieve an ensemble of representations that offer it's meaning. Administration exists because it is able to follow, to assign administrative phenomena and to submit them to a specific regime.

The complex process of administration is in each aspect of social life, where administration as activity represents a rational action, which efficiently use human, material and financial resources, aimed to obtain maximum results with minimum efforts.

Administration as structure is approached from organisational perspective. Organisation, as human organised community, which is situated at the overlap or reunion of social, economic or political systems. We may even speak about a phenomenon of organisation, supported by theories: theory of systems and cybernetics, theory of contingency and environment and theory of cognitive capacity.

The principles of public administration, according to Law on local public administration no. 215/2001, art 2(1) are the following:

Local autonomy

Decentralising civil services of local interest

Electing local government authorities

Legality

Consulting the citizens on local problems of special interest.

**Local autonomy** shall be understood as administrative and financial autonomy, it refers to organisation, operation, competencies and obligations, as well as to resources management, resources that, according to law, belong to commune, city or county<sup>1</sup>. It represents the effective right and capability of local government authorities to solve and manage, according to law, in their own name and under their own accountability, an important part of public affairs, in the interest of local communities, that they represent.

Local government is exercised without influencing Romania's national unitary state character.

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<sup>1</sup> According to Art. 4 (2) of Law on local public administration no. 215/2001

**Local community** means the total number of citizens in a territorial-administrative unit.

As stipulated in the Law on local public administration no. 215/2001, communes, cities and counties represent legal persons of public law, with full capability. They hold assets and have the right to take initiatives in all areas, except those explicitly defined as the competency of other public authorities, under the terms of law.

Central public administration authorities do not intervene in the areas that are not under their exclusive competency, except when the objectives cannot be attained by local government authorities, due to dimensions or effects that might be produced.

In communes, cities and municipalities, according to Article 21 (1) of the Law on local public administration no. 215/2001, public administration authorities, by which we achieve local autonomy, are as follows:

Local councils, as deliberative authorities;

Mayors, as executive authorities.

Both local councils and mayors are elected under the conditions stipulated by law.

Local councils and mayors are operating as autonomous administrative authorities and they manage public affairs in the respective territorial-administrative unit.

County councils and local councils are elected by list suffrage, while the mayors are elected by uninominal suffrage.

Proposals for candidates for councillors and mayors are submitted in electoral districts. For electing mayors, the electoral district is the same as the one for local councils. Political parties and alliances submit candidatures. Independent candidatures may also be submitted.

Consequently, **local council** is a collegial authority of local government, elected in order to manage the problems of local interest of the commune, city or municipality.

## ***Local legislature***

### **Procedure for constituting the local council**

According to legislation, within 20 days since the election date, the session for setting up the local council will take place. The prefect issues an order to call all the elected councillors to the meeting for setting up the local council.

The session is legally constituted if at least two thirds of the number of elected councillors attend it. In case this majority cannot be ensured, after 3 days a new session will be organised. In this respect, the prefect will issue a new order for calling them. If in the second convening the session cannot be legally constituted, a new convening shall be issued after another three days.

If even in the third convening at least two thirds of councillors are not present, the prefect will dispose to check the reasons of non-motivated absences. If their absences are not solid, determined by: illness, that needed hospitalisation; visits abroad for business; events of *force majeure*: for instance floods or other catastrophes; death in the family or other similar situations, the prefect will issue a new order, declaring vacant the seats of the elected councillors who were absent inexcusably the previous 3 sessions.

### **Procedure for completing the vacancies**

Before issuing his order, the prefect will check if there are some other deputies on the lists of candidates, submitted by political parties, political alliances or electoral alliances. In affirmative case, the deputies will be called.

If there are no deputies on the lists of candidates of the respective parties, or they refuse to attend the session, the prefect will order the organisation of elections in order to complete the vacancies. The elections will be organised under the conditions of Law no. 70/1991 concerning local elections, republished, with further changes and completions, in no more than 30 days since the date of issuing the order.

The prefect or his/her representative opens the session, and he/she invites the oldest councillor, and two of his assistants to lead the meeting. The youngest councillors will be nominated as assistants of chairman.

The secretary of the territorial-administrative unit submits the files of the elected councillors and their deputies, as received from the electoral district to chairman and his assistants.

If the elected mayor has also been candidate for councillor and has obtained the mandate, his/her file will be accompanied by the written option for one function. The councillors declared admitted will elect by free vote a validating commission, comprising 3-5 local councillors. The number of commission members is established by free vote, on chairman's proposal. The commission is elected for the whole period of the mandate.

If the mayor, whose mandate was validated, was also elected councillor and he/she opts for being mayor or if the councillors holding incompatible functions opt to renounce the councillor function in written form, then the file of deputy, respectively deputies on the same list, will be examined.

After validation of mandates by at least two thirds of the number of councillors set up according to law, the oath will be taken.

The councillors that refuse to take the oath are considered resigned, which is recorded in the minutes of the session. In this case, the mandate of the first deputy on the list of political party, political alliance or respective electoral alliance will be submitted for validation, if the political parties and alliances confirm in written form that the respective councillor is in their party.

### **Tasks of the chairman of the council session**

As soon as the local council is legally constituted, the chairman of the session will be elected. The election is based on free vote of majority of councillors. The duration for mandate of session chairman is less than 3 months. The same councillor may be elected as chairman of session no more than 2 times during the duration of a mandate. The mandates cannot be consecutive.

The chairman of session has the following main assignments:

- a) to lead the sessions of the local council;
- b) to submit to councillors' vote the draft decisions, to ensure the counting of votes, to announce the result, to specify the pro votes, the counter votes and the abstentions;

- c) to sign the decisions adopted by local council, even he/she has voted against them, as well as the minutes;
- d) to maintain the order and to observe the regulation of sessions development;
- e) to submit to the vote of councillors any issue under the council competency;
- f) to apply, if necessary, the sanctions stipulated by the statute of the local council or to propose to the council the application of such sanctions.

The chairman of the session fulfils any other tasks stipulated by law, by the current framework regulation or other tasks given by local council.

The local council deliberates upon the interests specific for local community and it decides, under the terms of law, about the modality to achieve them, without the intervention of public administration authorities of the county or other authorities.

The local councils, as resulted from the elections, are accountable exclusively for managing these interests.

The political accountability is only electoral, as the local councils are entrusted with the competency specific for local government, in order to decide upon administrative problems solving in local communities. The autonomy of these collegial authorities refers to their self-organisation, under all aspects. They receive requests and information from local environment and adopt decisions concerning local public affairs administration.

Concerning the election of local councils and mayors, it is necessary to underline that Romanian legislation adopted the solution which requires election **by direct vote of both authorities** of local government.

Under the conditions that the legitimacy of local council and mayor is the same, and the formula for indirect election of mayor is not accepted, it is natural that the legislature establishes the relations between the two authorities.

In this context, Law on local public administration no. 215/2001 stipulates that **the local council is deliberative body, and the mayor is executive body**. The quality of mayor to be the executive body derives both from the fact that he is responsible of ensuring the execution of the local council decisions and he is responsible of achieving and applying the directives concerning law application and other normative acts in local communities.

### **Tasks of local councils**

Concerning the competencies of the two authorities, the Law on local public administration no. 215/2001 is consistent with the principle that local counties may **decide in any affair of local interest**, except those given to the competency of public authorities by law.

Beyond this general rule stipulated by the Law on local public administration, the legislature specified some tasks exclusively for the local autonomy that cannot be transmitted to other public administration authorities.

Consequently, law stipulates for local councils the right to elect deputy mayors, to approve the statute of commune or town and the Regulation of operation of the council, on the basis of directive norms issued by the Government. According to local autonomy principle, law stipulates that the deliberative authority of commune or town

ensures self-management by means of budget, human resource management, management of public and private domain of commune or town<sup>2</sup>.

Local council carries out budget management for local public affairs, namely approves **local budget**, correlating the revenues with expenditures, depending on current possibilities. Consequently, each local council establishes the dimensions of services and their structure, number of employees and their statute, depending on complexity of administrative tasks and available financial possibilities.

Both public affairs solving and ensuring a higher level of budgetary revenues depend on how local council acts in the area of assets administration for commune or town. In this respect, local councils are holders of right to administer public domain and private domain of commune or town. They manage local public services by means of institutions and companies (autonomous companies and trading companies) of local interest, set up by their own decisions and they exercise also control on activities, under the terms of law.

In order to obtain new financial sources for local budgets, councils of communes and towns have the right to associate themselves with other local councils, as well as with companies in Romania or abroad, aimed to achieve some works of common interest.

The tasks of local council will be correlated with the legal directives concerning the tasks of mayor, who exercises the rights and ensures to fulfil the obligations of commune or town, as legal person.

Beyond the economic and financial functions in administrating local public affairs, councils of communes and towns are accountable for monitoring the rules of market economy in territorial-administrative units, ensuring freedom of trade and loyal competition, being involved, equally, in ensuring public order and fundamental rights and freedoms of citizens.

Local councils, expressing the quality of local communities to be legal persons of public law, **exercise** at the same time, public authority within boundaries of their territorial-administrative units.

## ***Local executive***

### **Mayor's tasks**

The mayor's tasks derive from his status as the state representative in a territorial-administrative unit, where he/she is elected. The mayor ensures the compliance with fundamental rights, freedoms of citizens, provisions of Constitution, laws and other normative acts issued by state authorities. At the same time, the mayor has the function of an officer for civil status and manages the services for civil status and tutelary authority<sup>3</sup>.

As a **state representative** in the commune or town where he/she was elected, the mayor fulfils tasks concerning census, organisation and carrying out of the elections, informing the citizens about laws.

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<sup>2</sup> The tasks of local councils are stipulated in Article 38 of the Law on local public administration no. 215/2001.

<sup>3</sup> See Art. 69 (1) of the Law on local public administration no. 215/2001.

The mayor may require, also through prefect, under the terms of law, the support of the heads of decentralised public services of ministries and other central bodies in the territorial-administrative units, unless he cannot manage these tasks with his own specialists.

When he acts as executive authority of local government, the mayor has to ensure the execution of local council's decisions. At the same time, the mayor is obliged by law to submit proposals to local council concerning the organisation of local referendum, local regulations on urbanism and territorial planning, the draft of the statute for staff, number of employees and their wages. As executive authority, the mayor is appointed by law to exercise specific assignments concerning local budget, public order, sanitation, public roads and traffic, management of local public services and administration of commune or town's assets, prevention and limitation of effects of some exceptional situations<sup>4</sup>.

Taking into account how they are formed, the two authorities are constituted through citizens' direct suffrage, offering them legitimacy (both authorities belong to public administration). Consequently, there are relations of cooperation and control by delegation; both local council has competencies of control on mayor, and the mayor also on local councils due to his competencies, as he plays a double role of local administrative authority, and at the same time agent of the state (control of legality and right to appeal to the prefect).

Thus, according to Art. 61(2), the mayor participates in the sessions of local council and he has the right to express his point of view on all debated issues. The result for validating the mayor's election is presented in the session that sets up the local council and the mayor takes his oath in front of the local council.

Local council, on mayor's proposal, approves the organisational chart, number of employees in the city hall, as well as the Regulation of organisation and operation, establishing the staff competencies and tasks, under the terms of law.

At the same time, the local council appoints the deputy mayors from among the councillors, who take over some of the mayor's tasks by means of delegation.

According to Art. 40 in Law 215/2001, local council will be convoked on mayor's calling. The mayor may propose draft decisions and may refuse to execute the decisions adopted by council if he/she does not consider them legal. Concerning the specialised commissions of local council, the mayor may propose their structure.

According to Art. 52(2), the mayor is obliged to transmit to councillors, on their request the information necessary to fulfil his mandate, within 20 days.

The mayor submits information concerning the execution of local council decisions, annually or whenever necessary in front of the local council.

The local council approves the organisational chart, the functions, number of employees, and regulation of organisation and operation of its specialised body.

The councillors may submit questions to mayor, deputy mayor and secretary of territorial-administrative unit, as well as to heads of departments of their own body or subordinated services and units, requesting information on unknown facts. Answers will be provided immediately or at the next session of the council.

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<sup>4</sup> See Art. 69 (1) of Law on local public administration no. 215/2001, concerning mayor's tasks.



Interpellation refers to a request for providing explanations on known facts. The person who has been addressed should answer in written form, until the next session or verbal at the next session according to requirements.

Councillors may require information necessary to exert their mandate, and the respective department, office or unit is obliged to provide them before deadline. Information may be required and communicated in written form or verbal. Any citizen has the right to submit complaints to local council. The complaints are recorded in a special register, analysed and solved according to legal regulations.

### **Is the executive body directly controlled by legislature?**

As mentioned above, both authorities are constituted by direct election, but law provides mechanisms for mutual control, aimed to ensure balance of the two powers. However, it is appreciated that local council is pre-eminent related to mayor.

By direct election of mayor, it was aimed to ensure balance between the two authorities, but this sometimes creates institutional blockage and lack of communication, especially for the situations when majority of council members and mayor represent different political parties.

The local councils elect the deputy mayor(s) from their members. The election is based on secret vote.

The groups of councillors, the councillors or the mayor propose candidates for deputy mayor(s). After registering the candidatures, the vote ballots are completed during a break.

The duration of deputy mayor's mandate equals the duration of mandate of local council. If the mandate of local council ceases before the normal duration of 4 years, the deputy mayor's mandate ceases without any other formality.

### ***Tasks of specialised commissions of local council***

After being set up, local council establishes and organises specialised commissions for its main areas of activity.

Local council, depending on the specific activity of each territorial-administrative unit, establishes the areas of activity for specialised commissions, their name, and number of members that will be always odd.

Only councillors may be members of specialised commissions. The commissions work with majority quorum and take decisions with majority vote.

Commission may invite specialists to participate at its sessions, from its own body or outside, especially from its subordinated units. Those councillors that submitted proposals for the works of that session have the right to participate.

Usually, the sessions of the specialised commission are public. The commission may decide to invite other interested persons or representatives of media at its debates.

Commission may decide that some sessions or debates for some issues on agenda should take place without the presence of the public.

Local council establishes the number of seats for each group of councillors or independent councillors in each specialised commission, depending on their percentage in the council.

Each group of councillors nominates members for each commission and the council nominates the independent councillors, taking into account their background, education and area of activity.

Depending on the number of members in council, one councillor may participate in 1-3 commissions, out of which one is the basic commission.

Each specialised commission elects a chairman and a secretary, by free suffrage of majority.

The specialised **commissions** have the following main assignments:

- a) to analyse the draft decisions of local council
- b) to assess some issues for notification
- c) to draw up notifications on draft decisions and analysed problems and to submit them to local council.

The specialised commissions achieve other tasks stipulated in regulation of organisation and operation of council or tasks given by decisions of local council.

The **chairman of the specialised commission** has the following key tasks:

- a) to ensure an adequate representation of commission in front of local council and the other commissions
- b) to call members for sessions
- c) to manage the sessions
- d) to propose to other interested persons to attend the session, if necessary
- e) to participate in the sessions of other commissions that examine problems important for his commission
- f) to support the notifications of his commission in the sessions of the council
- g) to announce the result of votes, based on data communicated by secretary.

The chairman of commission achieves any tasks related to activity of commission, stipulated by law, regulation of organisation and operation of council or established by local council.

The **secretary of commission** carries out the following main assignments:

- a) to call the members of commission, to keep the evidence of presence at the sessions
- b) to count the votes and to inform the chairman about the necessary quorum in order to adopt each decision, as well as to inform about the result of vote
- c) to draw up the minutes, notifications etc.

The secretary of commission carries out any other tasks provided by regulations of organisation and operation of the council or tasks established by commission or chairman.

The chairman convokes the sessions at least 3 days before it is scheduled.

The commission approves the agenda on chairman's proposal. Any member of commission may include other issues on agenda.

Participation of commission members is compulsory.

The sessions of the specialised commissions are held usually before the sessions of the council, and the agenda comprises issues or draft decisions that need notifications.

In order to debate the draft decisions or other issues, the chairman will appoint a councillor that will make a brief presentation of the subject on the agenda, unless the initiator presents it.

The vote is usually public. Under certain situation, the commission may decide a secret vote, establishing also the modality of expression.

The secretary draws up the minutes of the works of the session, minutes that is signed by chairman and secretary of commission.

The chairman may agree with the consultation of minutes by other interested persons, excepting the minutes of sessions held behind closed doors.

If after the debates in the session of the local council, there are key changes in the contents of the draft decision, the chairman may decide to send the draft to the respective specialised commission or department that has drawn up the notification, respectively the draft.

The activity of specialised commissions may be checked in the inspection decided by local council, on request of at least two thirds of the number of councillors.

The local council may decide the organisation of specific commissions in order to analyse and debate further councillors' proposal or mayor's proposal. The structure of these commissions, the objectives and themes of their activity, the duration and their mandate will be established by a decision of local council. These commissions will submit their reports to local council, within the deadline established by the latter. The report will comprise, if necessary, concrete proposals in order to improve the activity within the area under analysis. The operations within the framework of the procedure for setting up these special commissions, their number and name, number of members, structure are established by decision of local council.

The mayor will take the oath if the procedure for validating his mandate has been concluded. In this context, the judge appointed by president of Court that validated the mandate shall present the decision of validation in front of the council. The mayor participates in the sessions of the council and he has the right to express his point of view on all problems on agenda. The mayor's point of view is written compulsory in the minutes of the session.

The secretary of commune, town, municipality or territorial-administrative subdivision of municipality participates, compulsory, in the sessions of the council.

The secretary shall have the following tasks related to the sessions of local council:

- a) to ensure the convening of the local council, on mayor's request or at least one third of councillors' request
- b) to ensure that the secretarial work is carried out
- c) to keep the evidence of councillors' participation at sessions
- d) to count the votes and to write the result of votes, submitting it to the chairman
- e) to inform the chairman on necessary quorum in order to adopt each decision of local council
- f) to ensure to draw up the minutes for each session
- g) to draw up the documentation of each session

- h) to ensure that the councillors defined by provisions of Art. 47 align. (1) In Law on local public administration no. 215/2001 do not participate in deliberation and adoption of decisions of local council. He/she informs the chairman on such situations and presents the sanctions provided under the terms of law
- i) to present his point of view in front of local council concerning the legality of some draft decisions or other measures; if necessary, he/she refuses to counter sign the decisions that he/she considers to be illegal
- j) to countersign the decisions of local council considered to be legal, under the terms of law and the current regulation
- k) to propose to the mayor the inclusion of certain issues into the draft agenda of the ordinary sessions of local council
- l) to provide consultancy to the members of the council and specialised support in activity development, including drawing up the draft decisions etc. The own body of the local council has similar obligations.

The agenda of the sessions of local council comprises draft decisions, reports of the specialised commissions, reports or information of the heads of subordinated units or under the council's authority, the period of time dedicated to political statements, questions, interpellations, complaints or other problems under debate. The agenda is specified in the invitation transmitted to all councillors and inhabitants by means of media or any other form of advertisement.

The draft agenda is drawn up on mayor's proposal, councillors' proposal, secretary's proposal, and specialised commission's proposal or on citizens' request.

The draft agenda is submitted for council's approval.

The draft decisions and the other problems to be deliberated will be introduced on agenda only accompanied by notice of the specialised commissions and the report of the respective department from the own body of the local council. The report of the respective department will be drawn up and it will be submitted to secretary of the territorial-administrative unit, before taking the notice from the specialised commission.

The councillors are obliged to be present at the works of the council and to register their presence in the secretary's evidence.

The right to take initiatives for draft decisions belongs to mayor or councillors. The draft decisions will be accompanied by explanation of reasons and they will be drawn up according to legislative-technical norms. In this respect, the secretary of territorial-administrative unit and specialists of the own body of council shall grant support and technical assistance.

The draft decisions will be introduced on agenda, specifying the title and initiator.

The draft decisions will be presented to councillors, inviting them to make amendments, mentioning the commission that will give the notices.

The draft decisions and other materials will be transmitted for debate and notification to specialised commissions of local council, as well as to respective departments of its own body, in order to elaborate the report.

The mayor and the secretary assign the respective commissions and departments. Once the specialised commission has examined the draft or the proposal, it draws up the notification that specifies either its adoption or rejection. The initiator of a project

or proposal may withdraw or cancel it in any moment. The councillors' vote is individual and it may be free or secret. The local council decides on the basis of session chairman's proposal the modality for voting, except when law or regulation establishes such a modality. The decisions and other proposals are adopted by majority vote of current councillors, except when law or regulations stipulate otherwise.

### **The permanent working bodies of local council**

Aiming at efficient organisation of local council works, as well as effective management of other aspects in its activity, the local council will organise its own permanent working body, comprising 1-3 persons, out of which one should have legal education.

The permanent working body shall be organised according to its own organisational chart, with own functions, approved by local council further the proposal of chairman of session.

The staff shall be employed after an exam or contest, organised under the terms of law.

The commission of exam is constituted by decision of local council.

The wages for the staff in the permanent body shall be according to Emergency Ordinance of Government no. 24/2000 concerning basic salaries system.

If it is not possible to hire a specialist with legal training, the local council may decide to protect its interests by means of an elected specialist, and the expenses shall be supported by the local budget.

The jobs in the permanent working body of the local council are not included in the maximum number of jobs stipulated by Government Ordinance no. 80/2001 on establishing grids for expenses for public authorities and institutions.

The staff of permanent working body of local council are exempted of provisions of Law no. 188/1999 on Statute of civil servants.

The staff of permanent body collaborates with the secretary of territorial-administrative unit in order to prepare the sessions of the council, to ensure the documentation and information provided to councillors, to draw up and disseminate the documents of the session and any other materials.

Each of the two authorities has its own specialised body, their structure being approved by local council, on mayor's proposal.

The local council creates public institutions, trading companies and public services of local interest; monitors, controls and analyses their activity; provides norms of organisation and operation for the institutions and public services of local interest under the terms of law; appoints and dismisses, under the terms of law, the heads of public services of local interest, as well as the heads of public institutions subordinated; exercises disciplinary sanctions against the appointed persons, under the terms of law. Communication between the two authorities is ensured by mayor' participations at the sessions a of the local council and periodical information to the council.

### **Secretary of territorial-administrative unit**

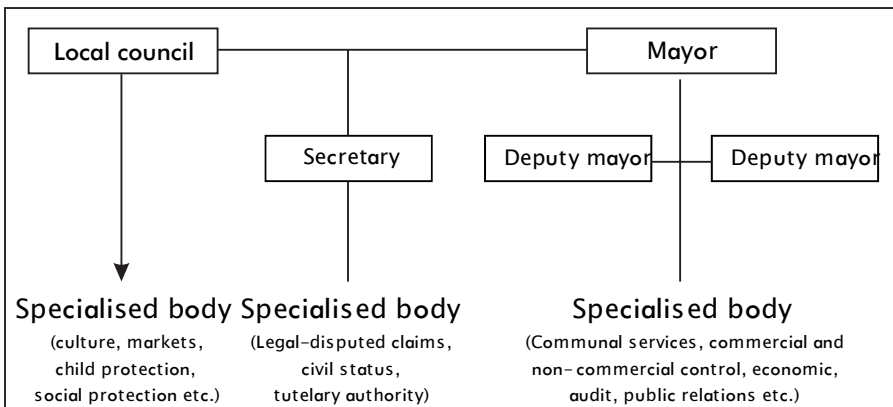
The two authorities ensure communication as the mayor participates in the sessions of the local council and presents regular information to the council.

The secretary of a territorial-administrative unit plays an important role in communication, as he/she is subordinated both to mayor and local council.

Thus, each commune, town, territorial-administrative subdivision of municipality has a secretary with salary supported by local budget. The secretary of commune, town and territorial-administrative subdivision of municipality is managerial civil servant, with higher education in law or administrative science.

The **secretary** has the following key tasks, under the terms of law:

- a) to participate in the sessions of the local council
- b) to co-ordinate the legal departments and activities, to ensure the operation of departments of civil status, tutelary authority, and social assistance in the specialised own body of local council
- c) to notify the draft decisions of local council, being accountable for their legality, to countersign the decisions that he considers to be legal
- d) to notify the mayor's provisions from the legality point of view
- e) to follow up the correspondence, in order to be solved in due time
- f) to ensure the achievement of convoking procedures for local council and the secretarial activity
- g) to prepare the papers that will be debated by local council
- h) to ensure communication with authorities, institutions and interested persons for the documents issued by local council or mayor, within no more than 10 days, under the terms of law
- i) to ensure the dissemination of decisions and normative provisions to public
- j) to issue copies for any document from the archive of local council, except the classified ones, under the terms of law
- k) to certify signatures and to confirm the authenticity of copies with the original documents, under the terms of law.



### ***The role of political parties***

Although as above-mentioned, each authority has a key role, well determined and specific tasks, the situations of balance are really rare in practice: there is sub-

ordination of mayor related to local council, or most of the times there is subordination towards the mayor, especially at commune level.

The relations between the two authorities are powerfully linked to the informal aspect of collaboration, how the mayor succeeds to convince local council to support his projects. In Romania there are a lot of situations proving that the mayors succeed to get support from local councils, sometimes due to inadequate training of local councillors.

When the mayor and majority of councillors belong to different political parties, on theoretical level there are no discrepancies, as they should act first of all as representatives of inhabitants in the territorial-administrative unit; however, practice demonstrates that similar situations may lead to blockages, such as the mayor's refusal to apply the decisions of local council, to contest them in front of the Administrative Disputed Claims Court. At the same time, the council may contest the mayor's decisions in the Administrative Disputed Claims Court. If they are contested, these documents (decisions of council and mayor's provisions) are suspended, reaching a situation when any administrative document adopted cannot be applied.

### ***Is the legislature too big or too small to function properly?***

The number of members of each local council is established according to prefect's order, depending on the population of commune or town, reported by National Commission for Statistics<sup>5</sup>, respectively National Institute of Statistics and Economic Studies<sup>6</sup> on 1 January of current year and if necessary on 1 July of the year preceding the elections, as follows:

Number of citizens in commune or town before 2001	Number of councillors	Number of citizens in commune or town after 2001	Number of councillors
Up to 3.000	11	Up to 1.500	9
3.001 – 5.000	13	1.501 – 3.000	11
5.001 – 7.000	15	3.001 – 5.000	13
7.001 – 10.000	17	5.001 – 10.000	15
10.001 – 20.000	19	10.001 – 20.000	17
20.001 – 50.000	21	20.001 – 50.000	19
50.001 – 100.000	23	50.001 – 100.000	21
100.001 – 200.000	25	100.001 – 200.000	23
200.001 – 400.000	31	200.001 – 400.000	27
Over 400.000	35	Over 400.000	31

<sup>5</sup> According to Law no. 69/1991 on local public administration, law changed by Law no. 215/2001 of local public administration.

<sup>6</sup> Law no. 215/1991 (valid).

General Council of Bucharest Municipality comprises 55 councillors.

Compared to former regulation, Law 69/1991, the number of local councillors has been reduced, but we find problems in practice due to the fact that there are still too many members, especially since the sessions of local council are legally constituted only if majority of councillors are present.

Consequently, we appreciate that the new law on local public administration (adopted in 2001) is better, more explicit, more focused in defining the tasks of institutions and relations.

Public management and civil servant's performance, productivity and quality of public service, flexibility and responsiveness to challenges of changes in administration, autonomy and decentralising, the reduced costs of reform represent only a part of the characteristics and requirements of Western European administration.

Better solutions could be found in models of public administration of developed countries, with a long democratic tradition. Thus:

- the mayor could be elected directly by citizens, on the list with the deputy mayor and compulsory, by law, the list of councillors of the mayor's party should have half plus one of the seats in the council

- the mayor, elected directly by citizens, could appoint deputy mayors from among the councillors, in order to delegate them tasks, and at the same time to revoke them anytime

- the mayor could be elected directly by citizens, the deputy mayors should be nominated by council, but by a majority guaranteed under law, favourable for mayor, and the executive technical functions could be managed by the city manager

- the mayor could be elected by local council, but should have only functions to represent the local community, and should not have executive functions.

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