

### Implementation of the provisions of Moldova-EU Association Agreement under the existing territorial-administrative delimitation: a (im)possible mission?

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**Guvernul Republicii Moldova  
Academia de Administrare Publică**

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# **TEORIA ȘI PRACTICA ADMINISTRĂRII PUBLICE**

*Materiale ale conferinței științifico-practice  
cu participare internațională  
22 mai 2015*

**CHIȘINĂU, 2015**

Delegarea de responsabilitate – un procedeu mai rar întâlnit în organizațiile publice – vorbește nu numai despre eficiență sau despre un bun management al timpului, ci și despre oameni, despre încrederea dintre ei și șansa pe care și-o acordă reciproc.

Problema majoră este că dacă într-o instituție publică nu este practică delegarea de managerii de nivel mediu este pentru că conducătorul organizației nu delegeă nici el. Rezultanta este că funcționarii de rang inferior din instituții sunt și cei mai relaxați. Din simplul motiv că toată munca e făcută de cei de deasupra lor. Căci la asta conduce lipsa delegării. Managerii, în loc să-și facă treaba lor, o fac pe cea a funcționarilor de execuție.

Există o categorie de manageri care confundă delegarea cu abdicarea. Adică dau ceva de făcut altcuiva, dar fără să-l verifice dacă știe să facă ceea ce i s-a dat, dacă poate, dacă vrea etc. Și, ulterior, este ultragiată că persoana în cauză nu a făcut ce i s-a spus sau că a făcut prost. A delega cuiva ceva de făcut este singura modalitate serioasă de a-i învăța pe oameni lucruri noi și de a-i ajuta să se dezvolte, să crească.

Dacă managerul din cadrul instituției publice trece peste teama de a delega și face lucrurile responsabil, rezultatele vor fi deosebite. În acest caz funcționarii vor învăța să se descurce singuri, cu minimum de supraveghere și vor fi, totodată, mai motivați și mai implicați în muncă. Productivitatea organizației va crește beneficiind de faptul că orice responsabilitate va fi dusă la îndeplinire de persoana cea mai potrivită să facă acest lucru și cu costurile cele mai mici posibile. La fel, productivitatea personală va crește.

Complexitatea sarcinilor și provocările cu care se confruntă în prezent managerii din cadrul instituțiilor publice îi impun să lase în urmă obiceiul de a micro-manageriza. Asta nu înseamnă că trebuie să renunțe complet la control: delegarea eficientă înseamnă tocmai găsirea acestui echilibru între a acorda oamenilor spațiul necesar pentru a-și folosi abilitățile și a monitoriza activitățile, asigurându-se că sunt făcute corect și eficient.

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# IMPLEMENTATION OF THE PROVISIONS OF MOLDOVA-EU ASSOCIATION AGREEMENT UNDER THE EXISTING TERRITORIAL-ADMINISTRATIVE DELIMITATION: A (IM)POSSIBLE MISSION?

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## SUMAR

*Scopul prezentului studiu constă în elucidarea problemelor legate de organizarea teritorială a puterii publice prin prisma realizării Acordului de Asociere. Realizarea prevederilor Acordului presupune și reforma delimitării administrativ-teritoriale a Republicii Moldova sau este posibil de a face reforme în cadrul decupajului administrativ-teritorial de sorginte sovietică resuscitat prin antireforma din 2003? Am ajuns la concluzia că implementarea deplină și eficientă a prevederilor Acordului de Asociere RM-UE necesită, în mod obiectiv, descentralizarea puterii publice și susținerea dezvoltării regionale.*

By signing and ratifying the Association Agreement, Republic of Moldova reconfirmed its willingness to adjust itself to European values and standards of living. The implementation of the Agreement provisions requires extensive work to reform all spheres of life and areas of activity. These changes depend heavily on the ability of central and local public authorities to realize and carry out the imminent reforms. Thus, for a successful implementation of reforms, it

is necessary to reform the administrative system itself that will put into practice the achievements of the provisions of the Association Agreement.

An important role in the well functioning of public authorities has the territorial organization of public power. A clear division of powers within the framework of the public power decentralization is one of the factors that contributes to the harmonious development of society. An effective decentralization will foster regional development and contribute to strengthening local territorial communities, and this fact will allow the provision of quality services locally.

The aim of this study is to elucidate the problems regarding the territorial organization of public power in terms of implementing the Association Agreement. Does the application of the Agreement provisions require the territorial and administrative delimitation reform of Moldova, or is it likely to make reforms in the administrative-territorial division of Soviet origin revived by the 2003 anti-reform?

The author have studied the provisions of Moldova-EU Association Agreement and documents related to it, the experience of some European countries regarding the territorial delimitation of public powers and political parties' visions on the territorial administrative division of Moldova to answer this question.

**The provisions of the Moldova-EU Association Agreement on public administration reform.** On June 27, 2014 in Brussels, Belgium signed the Association Agreement between the Republic of Moldova, on the one hand, and the European Union, the European Atomic Energy Community and other member states related to it, on the other hand. The agreement was ratified by the Parliament of the Republic of Moldova on July 2, 2014. The law on the ratification of the Moldova-EU Association Agreement was promulgated by Presidential Decree no. 1237 of July, 8 2014, and this fact ended the internal procedure of ratification. The European Parliament ratified the Agreement on November 13, 2014.

One of the objectives of the Association Agreement is „to contribute to strengthening the democracy and political, economic and institutional stability in Moldova” (art. 1, paragraph 2, letter c). In this regard, the parties commit themselves to cooperate in carrying out the public administration reform and creating a body of civil servants that are responsible, efficient, transparent and professional (Art. 4, paragraph d).

The instrument of implementing the Association Agreement is represented by the Association Agenda between the Republic of Moldova and the European Union which was approved at the XVIth Meeting of the Cooperation Council EU - Moldova on June, 26, 2014. The Association Agenda, starting with the structure of the Association Agreement, includes a list of priorities to be achieved during 2014-2016, and namely: political dialogue and reform, foreign and security policy, cooperation in the domains of justice, freedom, security, economy, trade and issues related to trade (DCFTA). Regarding the public administration reform and public finance management, they have been established the following priorities: a) strengthening the institutional capacity and human resources of central and local public administration in order to develop and implement policies, and ensure the effective provision of high quality public services; b) improving transparency, oversight and policy accountability and public finance management; c) improving public financial management (PFM), and implementation of the Strategy MFP of the Republic of Moldova for the period 2013-2020. [3]

According to the provisions of art. 2 of the Law on ratification of the Moldova-EU Association Agreement, the responsible for the implementation of the Agreement has been appointed the government that „will take the necessary steps to implement the provisions of the above mentioned Agreement.” [1] At its meeting, on October, 7, 2014, the Government approved the National Action Plan for the implementation of the Moldova-EU Association Agreement for the years 2014-2016. [2] Regarding the public administration reform (Title IV, chap. I), they plan to enhance the decentralization processes, to adjust the national framework to European rules on public services and local autonomy decentralization, to redistribute powers, to ensure transparency in decision making process, to develop institutional capacity of attracting financial resources (pct. 23).

To fulfill the regional development requirements of the Action Plan (pct.107), some actions have been planned, and namely: to adjust the strategic and normative framework of regional development policy to the Community one; to develop sectoral regional plans for such areas as: energy efficiency, water supply and sanitation, local and regional roads, solid waste management; to reduce local, inter- and intraregional disparities etc. [2]

**The experience of European countries.** In order to accomplish the tasks undertaken successfully, it would be appropriate to study and apply the experience of European countries in terms of territorial organization of public power, and to adjust to the rigors accepted by the European space. The territorial division into small administrative territorial units, economic potential and existing population in the Republic of Moldova do not meet the criteria of efficiency, and are contrary to the European development in the domain.

In Europe, in the second half of the last century, there was a large process of strengthening the local territorial collectivities. During the period 1950-1992, the European countries have reduced the number of municipalities. Bulgaria, Denmark, Sweden reduced the number of municipalities with 80%, Belgium, Germany, the UK, with over 60%, Austria, Czech Republic, Netherlands and Norway - around 40%. Other states have had insignificant reduction:

France - 5%, Greece - less than 1%, Luxembourg - 7%, Spain - 12%, Switzerland - 2.5%. [4, p.15-16] For example, after the administrative-territorial reform of 1998, there are 16 voivodships in Poland, 314 districts and 2,478 communes. A county has an average surface area 974 km<sup>2</sup> and 81,000 inhabitants. A commune has an average area of 126 km<sup>2</sup> and over 15,000 inhabitants. [5, p.15]

The Republic Moldova doesn't have enough experience of intercommunal cooperation and on any appropriate regulatory framework, and assigning specific tasks to senior levels is unpopular. The best variant would strengthen the local territorial communities by fusion in order to create some communities that would be able to provide potential to provide quality public services.

The experience of former socialist countries is a convincing argument that the reform of power decentralization allowed the exit from the crisis. The elites of those countries have considered the power decentralization reform as a priority and assumed the risk of delivering it.

The model choice for achieving the decentralization process is very important, but the domestic experience is no less important. No matter how perfect the model would be, this one will operate under the conditions and realities of the Republic of Moldova. In fact, Moldova should not engage in identifying or „inventing” a new model of decentralization, because this country has already joined the continental model. More important would be to study the experience of the countries in which the model works and to maximally value the opportunities offered by this model. This fact should not be an obstacle in borrowing positive elements from other models. For example, from the British model, one could borrow the high degree of „independence” of the local power in solving problems of local territorial communities.

**The territorial administrative reforms in the political dialogue.** At present, the Republic of Moldova has, on the one hand, the Association Agreement and two important documents that will put into practice the provisions on decentralization of public power, and on the other hand, there is a system of public power distribution inherited from the Soviet regime, which is accomplished by an inefficient territorial administrative division that is not in alignment with the new social realities. In this sense, a normal question arises: is it possible to have territorial administrative decentralization, which involves the redistribution of powers between the two levels of public powers and regional development support without carrying out the territorial-administrative reform of the Republic of Moldova?

Carrying out any social reform depends primarily on the political will of those who are involved in government affairs. In this respect, it is very important to know the mood and visions of moldavian politicians regarding the decentralization of public power.

Moldovan politicians' approaches regarding the decentralization of public powers gives us no reason for optimism. Although the experience of European countries has shown that decentralization of public power is an essential condition for the implementation of structural and sectoral reforms, Moldovan political class handles this issue through the prism of the personal, group, or parties' interests. And from this perspective, politicians believe that decentralization will not bring anything good, and it will enhance accountability and the danger of losing the political scene because of the incompetence and inability to meet the challenges of local, regional and central level will persist.

As an example, the parties engaged in the recent election campaign (the 2014 parliamentary elections) were more concerned with the vector „geostrategic development” of the country than with offering solutions to the existing problems. As in other parliamentary elections, the election platforms of the candidates were „overstuffed” with populist promises. Although some parties defined themselves as pro european, and it would have been logical to include in their electoral platforms alignment with European standards in terms of strengthening local democracy, this subject has not been elucidated even tangentially. The territorial organization of public power in Moldova was not a subject of debates. The author has concluded from these facts that the problem of administrative-territorial delimitation of Soviet origin and the local autonomy empower will not be a priority for the new government.

Three of the five parliamentary political parties (PDM, PCRM and PSRM), right after election, with enough votes to impose their will, have clearly expressed their positions against the administrative-territorial reform. Thus, one of the essential „ingredients” of a reform is that the political will is lacking totally in the political decision space of the Republic of Moldova. When there is no political will there will not be administrative-territorial reform.

**Conclusions.** Full and effective implementation of the provisions of the Moldova-EU Association Agreement requires an objective approach to the decentralization of public power and supporting regional development.

It is necessary to recognize the quality of the subject of local autonomy and the local territorial communities. Maintaining in the Moldovan legislation the phrase “territorial administrative unit” would mean that people are not treated as human communities but as territorial space for the activity of power bodies. If the legality of public power is removed from local territorial collectivity as subject public power relations there is a risk of perpetuating the Soviet model.

Strengthening local autonomy and decentralization, stipulated in the Moldova-EU Association Agreement cannot be applied without strengthening local territorial authorities, which would mean, in other words, administrative-

territorial reform achievement. The application of the Administrative-territorial reform means creating viable local territorial communities by sending to their management the skills on everyday problems of residents, i.e. division of powers. Along with this, it must be done the decentralization of resources.

Obviously, entrusting big competences means a certain dimension of local territorial collectivity. It must be able to achieve. For this, it is necessary to carry out the process of strengthening communities.

Consolidation should be voluntary, and to provide certain incentives and have a time limit.

Decentralization of power must be accompanied by financial decentralization. The approach "merely accounting" will not affect the country without a clear delimitation of responsibilities between levels of public power.

Efficient implementation of decentralization in Moldova will be possible if the rule of law and accountability of all institutions before the law.

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# INSTITUȚIA MEDIERII – ELEMENT IMPORTANT ÎN PROCESUL DE MODERNIZARE A ADMINISTRAȚIEI PUBLICHE ȘI A INTEGRĂRII EUROPENE

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## SUMMARY

*Public administration from Republic of Moldova deals with a set of bureaucratic problems that are related to the stability and continuity, rigidity, in which the formalism substitute public interest, and in this way various conflicts become more possible.*

*The mediation of conflicts is an important mechanism for the modernization of the public administration through the fact that people (citizens or officials) and public institutions are in the foreground. The European experience in mediation the conflicts and disputes between government and private parties is quite relevant. Since 2005, common efforts have been directed to the implementation and development of juridical instruments and to the European legal cooperation mechanisms, to the modernization of the administrative activity, including mediation.*

*Government and administrative authorities have a central role in promoting the use of mediation, whether this relates to individual administrative acts, contracts, civil liability or other contentious issues. The applicability of mediation depends on the awareness of its effects at the moment and in future and on the modernization and reformation of the public administration.*

Administrația publică a reprezentat dintotdeauna o activitate și un sistem de autorități determinate de voința politică și realizate pentru organizarea și aplicarea concretă a legii. În orice societate, administrația publică este un instrument al statului indispensabil în atingerea obiectivelor majore prin acțiunea puterii publice. Condițiile actuale ale unei democrații liberale, ale parlamentarismului democratic au modificat mecanismele și reacțiile administrației contemporane, oferindu-i un rol de sine stătător, rol în care, din interes propriu, se selectează nevoi sociale cărora li se