

Romania

Afrodita Popa

Gabriela Matei

Vasile Ciomos

Aureliu Dumitrescu

Victor Giosan

Karla Mendes

Table of Contents

1.	General Features of the Public Sector	393
1.1	Ownership Regime	395
2.	Public Utility Services at Local Level	398
3.	Public Service Provision	404
3.1	Regies Autonomes	405
3.2	Business Companies	407
4.	Management Practices of Local Public Administration	410
4.1	Local Public Finances	411
4.1.1	Local Government Revenues	412
4.1.2	Local Government Expenditures	414
4.2	Tariffs and User Charges	415
5.	Economic Profile of the Public Utility Sector	419
6.	Policies for Improving Local Public Utilities	424
6.1	National Development Strategy	424
6.2	Reorganization of Public Service Companies	426
6.3	Improving Service Quality	428
6.4	Financing Utility Service	431
6.5	Increase in Capital Investments	433
6.6	Legislative Changes	434
	Appendix	436
	Notes	437

1. GENERAL FEATURES OF THE PUBLIC SECTOR

The basic structure of local government in Romania is defined by the Constitution under which local public administration is to be carried out “{...}in territorial-administrative units{...}based on the principle of local autonomy and decentralization of public services.” These provisions, supplemented by the Law on Local Public administration, provide for the organization of local government on geographically defined administrative subdivisions. These include counties (*‘judet’*), municipalities (*‘municipiu’*), towns (*‘oras’*), and communes (*‘comuna’*), consisting of one or more villages or hamlets. At present, there are 41 *‘judete’*, 260 *‘municipii’* and *‘orase’* and 2,688 *‘comune’* in Romania. Each administrative unit is constituted as a legal body, having all the rights, duties and obligations assigned to that status by Romanian law.

As the basic units of local government in Romania, municipalities, towns and communes perform both a legislative and executive function. At the municipal, town and communal levels, the legislative function is performed by local councils. The executive operation of local government is carried out by a mayor and a vice mayor. The mayors serves as the principal executive officer of the local government and is accountable to the local councils for the efficient operation of local government.

Local government organization includes 41 *‘judets’* or county-level territorial-administrative units. The function of county government is to “coordinate the activity of Communal and Town Councils, with a view to carry out the public services of county interest”.

The Ministry of Public Works and Territorial Planning (MPWTP)¹ and the Ministry of Public Administration (MPA) are the specialized central administration institutions responsible for developing the overall public service policy and the specific legislation. MPA works on the implementation of the Government strategies and policies in the area of public administration. MPA has links to the local governments through the prefects in each county.

Other ministries, such as MPWTP and the Ministry of Waters, Forests and Environment Protection (MWFEP)² have a specific role as agencies setting the national policies and standards and issuing the environment and construction permits all over the country through their county offices.

MPWTP operates the centrally managed investment program on communal roads and water supply. It applies development strategy and Government policy in territory planning, urbanization, public works and constructions, without interfering with local autonomy.

At a central level, MPWTP has three general divisions, four divisions and a special problems service. At local level there are 42 county inspectorates (specialized in housing, public works, urbanism, and territory planning), and territorial points for buildings statistics.

The Ministry of Finance (MF) has close links with local governments due to the budgetary process and its regulation framework. MF together with the Government issues norms and regulations regarding the revenue sources and expenditure responsibilities of local governments. The budgetary classification for local budgets is established by the Ministry of Finance. MF is also responsible for all the transfers to local governments (equalization grants, subsidies, special funds) through its territorial units (General Directorate of Public Finance and State Financial Control—GDPFSFC). It also monitors the implementation of programs from a financial point of view.

The table below presents the main public service types and the allocation of responsibilities regarding their operation among the public administration tiers.

Table 7.1
Main Public Service Types and Allocation of Responsibilities

Function	Responsible Authority		
	Central Level	County Level	Local level
Telecommunications	x		
Electricity	x		
Gas	x		x local distribution network
Petroleum products pipelines	x		
Postal services	x		
Railway transportation	x		
District heating			x
Water supply		x	x
Sewerage and wastewater treatment		x	x
Public transportation		x	x
Sanitation			x
Public roads	x European and national roads	x County roads	x Local roads
Public domain administration			x
Housing		x	x
Public lighting			x

Table 7.1 (continued)
Main Public Service Types and Allocation of Responsibilities

Function	Responsible Authority		
	Central Level	County Level	Local level
Maintenance of parks, cemeteries and green areas			x
Deposition			x
Street signs			x
Street cleaning			x
Civil status, building permits, etc.			x

1.1 Ownership Regime

Under Art. 135, paragraph (3), of Romania's Constitution, the public property is exclusive, belonging either to the state (public domain of national interest) or the territorial and administrative units. At the same time, the public property is limited since it can only include the assets referred to in paragraph (4) of the same article (underground resources of any kind, communication routes, the air space, waters with a valuable energy potential and those that can be used in the public interest, et cetera).

Consequently, the public property assets are:

- inalienable (cannot be sold freely);
- cannot be subject to any encumbrances;
- not prescribable (cannot be acquired through prescription);
- unseizable (cannot be claimed by creditors).

The inalienability and the unprescribability, being a direct consequence of assigning the assets to a general interest purpose, are applied only as long as the assets remain assigned. Under Law 69/1991 on the Local Public Administration, the Local or County Council is responsible for the administration of the public and private patrimony under its jurisdiction.

The public administration, through an afferent decision, may retire such assets from the purpose for which they were assigned (Article 6 of the Government Ordinance 15/1993). Integrating the public assets in the economic circuit is made through specific methods: administration of public institutions or 'regies autonomes' through concession. Law 69/1996, Article 80 expressly defines the public domain assets of county or local interest, also including the street networks.

The provisions of Civil Code referring to the public domain (Art. 475 paragraph 2; Art. 476; Art. 477; Art. 499; Art. 1310; Art. 1844; and so on) were included in the Code to mark in the general regulation of assets, the assets that are not subject to the common law. However, the private domain of the territorial and administrative units is subject to the provisions of the common law, unless otherwise stipulated in the law. This is a private law regime, when its object involves economic activities, manufacturing facilities which are not public services or land in the private ownership of the state, county, et cetera, which presumes the conclusion of civil or commercial contracts.

The Land Registration Law 18/1991 republished, stipulates the situations when certain land plots will be transferred by law in the ownership of communes, cities or municipalities, as the case may be. Under the provisions of Law 213 of 17/11/1998, on public property and its legal regime, and the provisions of the Romanian Government Decision 548 of 8/7/1999, on approving the Technical Norms for preparing the inventory of the assets included in the public domain of communes, cities, municipalities and counties, the Local or County Councils were bound to nominate the assets belonging to the public domain.

The norm regulating the concession regime for the activities and public services of national or local interest and for the assets in the public or private ownership of the state, county, city or commune, is Law 219/1998, supplemented by the Romanian Government Decision 216 of 25/3/1999 for approving the Framework Methodological Norms for Applying Law 219/1998. The law entered into force on January 23, 1999.

The Romanian Government Decision 216/1999 includes the Methodological Norms establishing the framework content of the concession terms of reference, the guidelines for organizing and conducting the concession procedure, as well as the general framework on the legal regime of the concession contract in applying Law 219/1998.

The concession contract³ is a legal institution with its own distinct characteristics, having a bivalent legal nature—of public, administrative law, and private, civil law. The structure of this contract includes a formal part, dictated by the administrative authority that is subject to a legal regime, and a contractual part comprising clauses that may be negotiated between the parties, and which is governed by the provisions of the Civil Code.

The concession is made, based on a contract whereby a person, called the ‘concessionaire’, transfers for a limited period of time no longer than 49 years to another person, the ‘concessionee’ (this quality may be held by any naturalized or legal person, Romanian or foreign, subject to the private law), acting at its own peril and on its behalf, the right and obligation to exploit a public asset, an activity or a service, in exchange for a royalty.

The assets, activities or services that may become the object of a concession are listed in Art. 2 of Law 219/1998. The activities and services in the private ownership of the state may be concessioned with the approval of the Government, County or Local Council.

The assets in the public or private ownership of the state, county, city, and so on, as well as the activities and public services of national or local interest are transferred directly, by a concession contract, to the companies, national companies or societies established following the reorganization of the 'regies autonomes' (autonomous state-owned enterprises) that administrated such assets, activities or services (Article 40 paragraph 1 of the Law). The contract is concluded by the competent concessionaire authority for a period established through a decision of the Government, County or Local Council on setting up the respective company. In the case of privatizing the companies established following the reorganization of the 'regies autonomes' with a concession contract, the concessionee may require its re negotiation.

The concession is made either by open bid or direct negotiation. In all cases, the concession contract must stipulate the fact that the concessionaire is not allowed to sub-concession, in full or in part, the concession object to another person (Article 28 of the Law). The imperative nature of this provision leads to the fact that the parties are not able to stipulate a contrary clause, under the sanction of absolute nullity.

As it can be noticed, the concession is the most complicated method of entrustment to Romanian or foreign natural or legal persons, since it requires a procedures passing through the County Council, acting as an initiator, the National Privatization Agency, the Ministry of Industry and Trade, and resulting in a Government Decision published in the Official Gazette.

The Romanian Government Ordinance 118/1999, which entered into force on 1 January 2000, establishes the general framework and the procedures for concluding the public procurement contract. The underlying principles of the Ordinance are to promote free competition; the transparency and efficiency of using the public funds; ensuring the conditions enabling every service provider to become a contractor; and giving equal treatment, that is, applying in an indiscriminate manner the criteria for the selection and granting of the public procurement contract.

The Ordinance defines the legal persons subject to the private law, or those that may not act as contracting authorities. They include the legal persons subject to the private law under the influence of the public authority, as having a relevant activity in the provision or exploitation of fixed networks. These networks are aimed at ensuring the public with activities in the field of generation; transport or distribution of drinking water; power; gaseous fuels; heating or hot water; and enjoying special or exclusive rights (in conformity with the provisions of Article 5 and 6, paragraph (1), of the Ordinance).

The public procurement contract may be granted by open bid, limited bid, negotiation or tender. Under Article 93, paragraph (2), once the procurement contract concluded it cannot be modified or annulled, the court being able to grant the plaintiff only the right to compensation payment. This provision may obviously affect the interest of the plaintiff.

The Romanian Government's Decision 755 of 31/8/2000 suspends until November 1. 2000, the application of the norms supplementing the Government Emergency Ordinance 118/1999, therefore until that date, the old legislation on public procurement is applied.

2. PUBLIC UTILITY SERVICES AT LOCAL LEVEL

There are at least three categories of local public services in Romania:

1. General administrative or regulatory services (e.g.: civil status, tutelary authority, building permits, et cetera);
2. Non-exclusive services. The whole community benefits nobody can be excluded from benefiting from such services (e.g.: public lighting, street and sidewalk sweeping, street signs, maintenance of green areas, et cetera);
3. Exclusive services, which are provided to the individual consumers under a contractual arrangement, usually in the form of a subscription contract (e.g.: water supply, district heating, household waste collection and transport).

According to the importance of the service (i.e. meeting the basic needs of the citizens in the jurisdiction), we could list the following main activities within the urban household:

- water supply;
- sewerage and wastewater treatment;
- sanitation;
- heating supply;
- public transport;
- public domain administration;
- other public services;
- housing administration.

The Draft Law on Local Public Services (already passed in the Senate and the Chamber of Deputies) states that the municipal services sector also includes the heating and gas distribution within the municipalities.

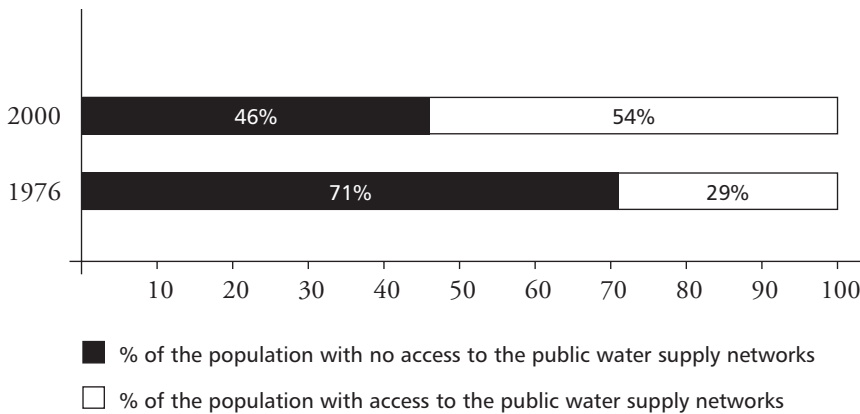
Currently, 2,320 Romanian communities have a centralized drinking water distribution systems, out of which 260 are the municipalities and cities; and 2,060 are rural communities, representing around 16 percent of their total number.

The drinking water distribution networks have a total length of 29,333 km, covering 68% of the total length of streets in the urban areas. The uneven spread of the water resources in the territory, the insufficient degree of flow regularization on the water flows, the significant pollution of some inner rivers, result in the fact that sizeable areas in the country lack sufficient water supply sources, especially in draughty periods or cold winters, when the water supply is cut off for days or the flow is drastically reduced.

Out of a total of about 22.4 million inhabitants, 12.2 million Romanians benefit from the public drinking water network (54%), out of which 10.6 million inhabitants from the urban areas (88%), and 1.6 from the rural areas (16%).

Comparing these data with the figures as of 1976 results in the following evolution:

Figure 7.1
Population with Access to Public Drinking Water Network



The endowment level with centralized drinking water supply systems is clearly unfavorable to the rural areas.

Currently 545 communities have public sewerage networks, which includes:

- 258 municipalities;
- 287 rural communities.

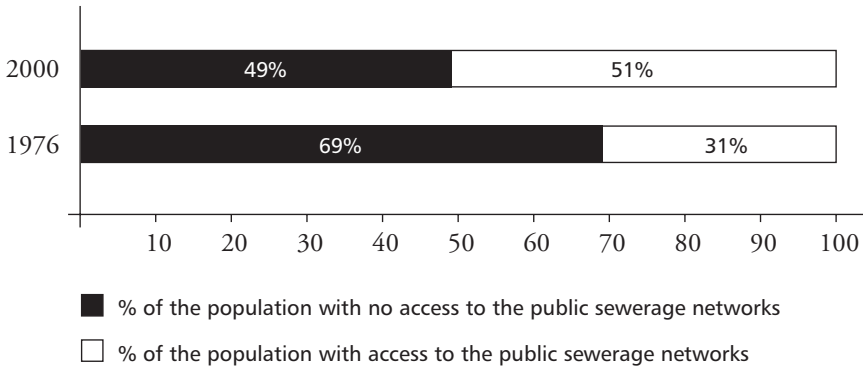
The total length of the public sewerage network is 15 000 km, out of which 14 320 km is located in the urban areas. The length of streets equipped with sewerage pipes is around 10 400 km, covering only 49% of the total length of streets in the urban areas. Only 73% of the streets equipped with water supply pipes also have sewerage networks.

In the 206 wastewater treatment stations existing in Romania, only 64% of the total outflow of the public sewerage networks is treated; 43 urban communities (including Bucharest, Craiova, Drobeta Turnu-Severin, Braila, Galati, and Tulcea), get rid of their wastewater with no prior treatment.

The same as in the case of the drinking water supply, the population benefiting from the public sewerage system is by far more numerous in the urban areas—10.3 million (86 percent)—than in the rural areas—1.15 million (11.2 percent).

As to the situation in 1976, the evolution of this indicator is presented in Figure 7.2.

Figure 7.2
Percentage of Population with Access to a Sewerage Network



Municipal sanitation involves the following responsibilities of the providers of this service: household waste collection and transport, industrial waste collection, sorting and recycling, disposal. Out of the 13 000 existing communities in Romania, only a number of around 2 500 have organized systems for collecting, transporting and disposing the urban waste. The total quantity of urban waste resulted from the communities having sanitation services is about 7.7 million tons per year, out of which 6.2 million tons is household waste and 1.4 million tons street waste.

In Romania there are 1 976 urban waste dumps inventoried, out of which only 15% have sanitary and environmental authorizations. The total area of such dumps exceeds 1 800 hectares. Most of them have an inappropriate location: near inhabited areas; on river banks; on land with low depth ground water; on sandy soils with low stability and with no natural insulation; or in valleys where storm water is accumulated.

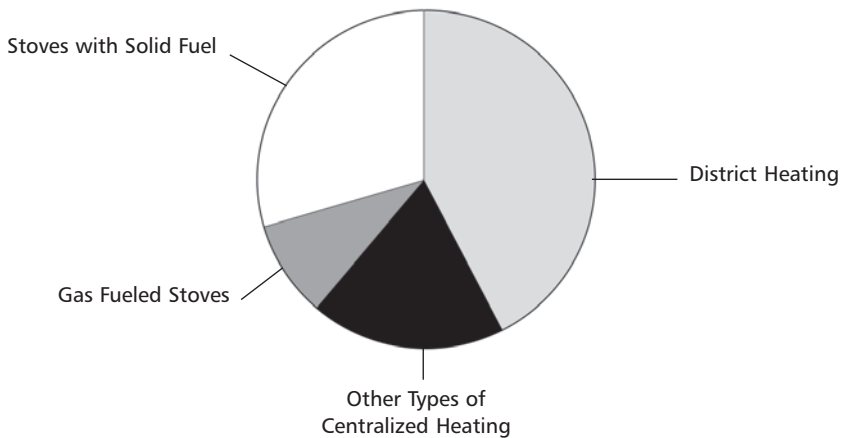
The lack of environmental requirements in organizing the dumpsites as well as the lack of specific equipment for transporting, recovering and recycling result in an inappropriate sanitation apparent in most of the communities in Romania.

In Romania there are public heating and hot water systems in 342 communities, out of which 247 are municipalities and cities, and 95 are rural communities. Through these systems around

36 million Gcal are distributed every year, out of which the household consumption represents 72%. The installations and equipment making up these systems are generally used and obsolete, diminishing significantly the advantages of the generation and distribution of centralized heating. The heating systems used by the population of Romania are mostly centralized in the urban areas (71%), 6.9 million inhabitants being connected to the district heating systems, while 1.7 million are connected to the block or buildings. The individual systems, especially the stoves with solid fuels, are ubiquitous in the rural areas ensuring the heating for 10.1 million inhabitants (98%).

In the year 2000, the split of the population by the type of heating used is as follows (Figure 7.3.).

Figure 7.3
Population Use of Different Types of Heating 2000

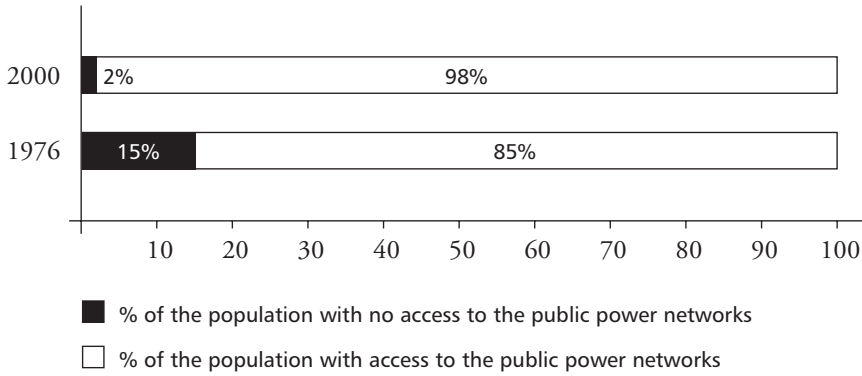


The access to electricity is undoubtedly the most generalized utility for the Romanian communities. Thus, 98% of the communities are connected to the power transport and distribution systems, with the household consumption representing 21 percent of the total.

Currently, the electricity generation and distribution is made by the National Company. The local public authorities have responsibilities only in expanding the low voltage grid for household use and public lighting where such utilities are not available (this is usually a task of the County Council for the communes within that county).

Comparing the situation in the years 1976 and 2000 results in the following chart (Figure 7.4.).

Figure 7.4
Population with Access to Power Networks 1976/2000



The number of communities connected to the national gas transport and distribution system is 528, out of which 152 are municipalities and cities and 376 rural communities. The individual consumption for heating and cooking represents 11% of the total gas volume distributed through the centralized networks.

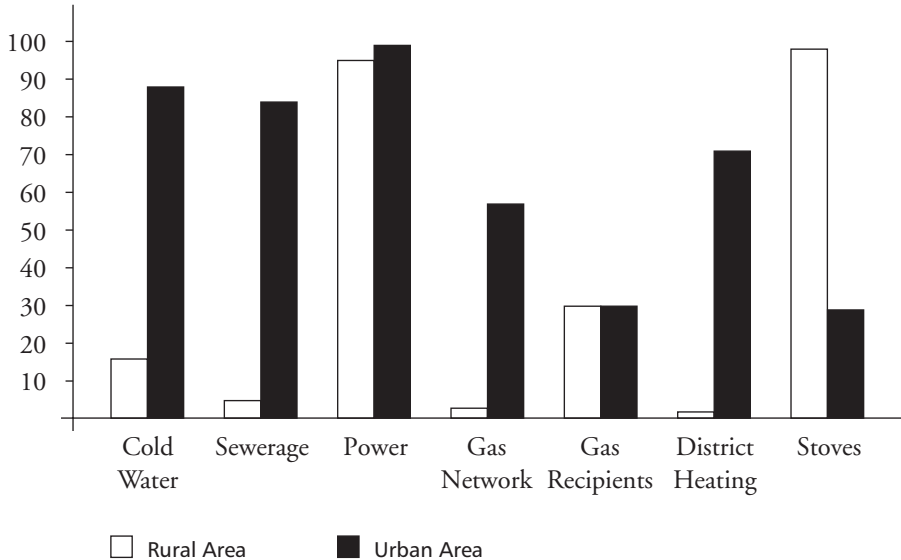
A number of 7.3 million inhabitants benefit from gas supply from the public network, out of which 6.9 million persons are from the urban areas. It should be noticed that another 6.8 million inhabitants use rechargeable gas recipients for cooking, out of which 3.1 million live in rural areas.

Currently, the gas generation and distribution is conducted by the National. The local public authorities have responsibilities only in expanding the low voltage grid where such utilities are not available (this is usually a task of the Local Council).

The existing infrastructure enables the access of the population to the main services presented below in Figure 7.5.

The local authorities also provide a series of important services for their communities including: maintenance and current repairs of streets; street sweeping and snow-ploughing; maintenance of parks and green areas; administration of cemeteries; administration of marketplaces and fairs, dog pounds and so on. These services are generally performed by the own departments of the local public administration, which are frequently named ‘public domain administrations’, and are organized either as budgetary units directly subordinated to the city hall, enjoying or not a financial autonomy, or local business companies or autonomous regies. The share of these services, from the point of view of financing needs, is secondary to the main utilities: drinking water, district heating, household waste collection and disposal, local public transport.

Figure 7.5
Population Access to Main Services



Housing administration includes: administrating the state housing stock; selling the existing housing stock; and building and selling new housing. The city halls own a small number of housing, since in Romania the state owned apartments were sold after 1990 for symbolic prices: fixed prices (from 1990), in 5 year installments and with no interest, since the annual inflation rates between 1990–1993 exceeded 200% and even reached over 300%. Through this mechanism almost everybody acquired their apartments for a low price, under the market value.

This process has had some negative effects, which are now seriously affecting the activity of local administrations. Very low income families purchased their apartments, without being able to maintain them at a normal level, and the installations inside the buildings have deteriorated continuously. In the conditions of Romania, where the heating costs cannot be individualized by apartments (households), this lead to a overall lack of interest for the technical condition of the commonly owned installations (which were indivisible), and the occurrence of very high water or heat losses inside the buildings.

Currently, due to the economic crisis and ongoing transition, most of the families cannot or do not want to repair the installations inside the buildings, and the municipalities are not able to use public funds to maintain private housing units. All these phenomena lead to unjustified consumption and excessive costs with the main utilities per household.

The state or the local administrations have obtained very limited funds from selling the housing stock, which made it almost impossible to build new apartments, since the construction costs have increased at a faster rate than the inflation rate. One of the major social problems in Romania is the scarcity of housing.

3. PUBLIC SERVICE PROVISION

In conformity with the provisions of the Romanian Government Decision no. 106 of 1998, within the Government apparatus was established the Local Public Administration Department⁴. In implementing the Government's policy in the field of local public administration, the Department fulfils amongst others, the task to establish together with the Ministries and the other specialized central public administration bodies, the appropriate measures aiming at solving the local interest matters by the decentralized public services.

In accordance with Article 120, paragraph 2 and Article 121, paragraph 1 of Romania's Constitution, the Local Councils function under the law as autonomous administrative authorities and the County Council is the public administration authority for coordinating the activity of the communal and city councils for performing the public services of county interest.

These provisions are supplemented by the Law 69/1991 on the local public administration, republished in 1996, defining the tasks of the Local and County Councils in respect of the relationship with the companies of local or county interest. Thus, the main tasks of these bodies include:

- administrating the public and private domain of the commune, city, or county and exercising the right provided by law regarding the 'regies autonomes' that were set up by the respective body;
- establishing local companies;
- concessioning/leasing public services or assets;
- participating with equity or assets to companies for performing works or providing services of public interest, in the conditions stipulated by the law;
- appointing and dismissing, under the law, the managers of the local companies and public institutions under their authority;
- establishing specific norms for the local companies and public institutions under their authority whilst observing the general criteria provided by the law;
- organizing effectively and operatively the municipal services, transport, public network services and others, and ensuring their good functioning;

- deciding, under the law, on associating with other local or county public administrations for performing public works or providing public services, as well as collaborating with Romanian or foreign companies for performing activities or works of common interest.

The Local or County Council is authorized to concession and lease the public utility assets and services. It also may establish, organize and ensure the provision of local services either by directly managing them, or by transferring their administration to natural or legal persons based on appropriate contracts⁵.

Public service provision in Romania is carried out at the national, county and municipal levels by ‘regii autonome’ (RA), or autonomous state-owned enterprises. This business form, patterned after the French model, was legally stated in Romania starting in 1990, and serves as the primary mechanism through which local governments “{...}organize public services{...}under conditions of efficiency and operativity, and ensures their proper functioning”⁶.

Under Romanian law, a ‘regia autonoma’ is a legal entity created by the territorial–administrative unit under whose jurisdiction it falls. Local RA can be organized in several sectors of local public utility, network and other services, such as:

- 1) water supply, sewerage and waste water treatment;
- 2) production, transport and distribution of district heat;
- 3) urban public transportation;
- 4) administration and maintenance of housing, markets, fairs, municipal roads, parks;
- 5) construction, maintenance and rehabilitation of county roads and bridges;
- 6) street cleaning and solid waste disposal.

National RAs “{...}are organized and operate within the economy’s strategic branches—armament industry, power industry, mining and natural gas exploitation, mail system, railway transports, as well as in other fields of activity establish by the Government.”

At the local level, a ‘regia’ is a wholly owned operating company, owned by the municipality or the county. The local council appoints boards members. The municipality (county) is financially responsible for the ‘regia’s’ operating results and exercises corporate governance over the region. For providing local services, local governments may establish either public or corporate entities or commercial companies under the commercial code.

3.1 Regies Autonomes

The regies autonomes were defined by Law 15/1990 on the reorganization of the state owned economic entities as legal persons operating based on economic management and financial

autonomy, organized in the strategic sectors of the national economy, as well as other sectors established by the Government, which are set up by a Government Decision (in the case of regies of national interest) or by a decision of the state administration bodies (for the regies of local interest).

The provisions regarding the establishment of regies autonomes stipulated in Law 15/1990 were modified by Law 69/1991 on the local public administration, establishing the competence of the County or Local Councils to set up regies autonomes.

The Ordinance 15/1993 on restructuring the operations of the regies autonomes limits the scope of activity of the regies autonomes requiring the compliance with one of the following criteria:

- being a natural monopoly, in the sense of a manufacturing or service provision activity that due to the need for specific technologies or high capital investment cannot be performed in conditions of normal effectiveness by competitors or entities to become competitors on a short or medium term;
- being of public interest;
- manufacturing goods or providing services that are vital for the national defense and security.

The management of the regie is ensured by an Administration Council appointed by Order of the respective Ministry or by Decision of the Local/County Council. It is compulsory for certain ministries to have representatives in the Administration Councils.

Thus, the regies autonomes administrating public assets and providing public services for capitalizing such assets become legal persons subject to the public law, acting on behalf of the state or the territorial and administrative unit, under its leadership and control. The assets in public property are recorded separately in the patrimony of the regies and in the case of corporatization, such assets cannot become participation to the share capital. Such assets will be concessioned to the resulting business company (under Law 207/1997 for approving the Government Emergency Ordinance 30/1997 on the corporatization of regies autonomes).

Under Law 213/1998 on public assets and its legal regime, the core activities of the local public services such as water and sewerage networks, treatment stations, district heating networks, heating stations and substations, household waste dumps and so on are a part of the public domain of the municipality. This cannot be sold nor can it be used as a collateral, it can only be concessioned to a service operator, either public or private. Thus, the service operator, be it a regie or a business company, either public or private, can only administrate and operate the public domain assets of the municipality based on a concession contract. At the end of the contract period the assets created by new investments by the operator and that are of a public domain nature, enter this domain.

Under the concession law 219/1998, the public authorities may privatize only the operation or administration of a public service and not its assets of a public domain nature.

3.2 Business Companies

Under the provisions of Article 90 of Law 69/1991 on the local public administration, the Local/County Council may set up (with its own share capital or with the participation of other natural or legal persons) business companies, associations, agencies, and may organize other activities for performing local interest works.

Under the Civil Code (Article 1491) the business company is based on a contract by which two or more persons (associates) agree to put together certain assets in order to perform together a certain activity aiming at realizing and sharing the resulting benefits.

Article 3 paragraph (2) of the Government Emergency Ordinance 30/1997 on the reorganization of the regies autonomes approved by Law 207/1997 provides that the resulting companies from the reorganization of the regies autonomes take over the contractual rights and obligations of the legacy RAs, in the limits and conditions established by the individual reorganization administrative norms⁷.

The shares issued by the resulting companies following the reorganization of RAs or the social parts in these companies are owned by the state or the local public administration, as the case may be, and the rights and obligations of the shareholders/associates are exercised by the respective ministries, the local public administration authorities or the State Ownership Fund⁸ depending on the type of the company (Article 5).

In conformity with Article 5 paragraph (2) of the Government Emergency Ordinance 30/1997, 60% of the amounts actually cashed for the shares or social parts sold or concessioned is transferred free of charge to the privatized company and is used preferably for paying the debt and afferent interest and penalties (as the case may be) taken over by the company through the administrative document for reorganizing the respective regie autonome.

The total debt, reviewed and endorsed by the Ministry of Finance for each privatized company, will be written off in total, unless it exceeds 60% of the amounts actually cashed for the shares sold or the social parts concessioned under the provisions of Article 6 paragraph (4) of the Government Emergency Ordinance 30/1997.

The Romanian Government Decision 360 of 2/7/1998 regulates the situation of the local RAs benefiting from external loans taken by the Romanian State from the International Financial Institutions—EBRD, IBRD, EIB, the Social Development Fund of the Council of Europe—that are subject to reorganization, under of the Government Emergency Ordinance 30/97, approved and modified by Law 207/97. Thus, such regies may maintain their current status for their overall operations or, as the case may be, only for the activity or activities financed through external loans.

The RAs maintaining this status following the reorganization will be corporatized within 3 months from the enactment of the regulations on the public property, the concession regime and the local public finance, with the endorsement of the funding bodies regarding the change of their legal status.

The Romanian Government Decision 563 of 20/7/1999, on the national privatization strategy for 1999, stipulates that the sale of company shares owned by the State or local public administration bodies to natural and/or legal, Romanian or foreign, persons may be performed by all the methods regulated under the legal provisions. The provisions regarding the local regies autonomes that have not been corporatized due to the ongoing credit contracts with the International Financial Institutions with sovereign guarantee are maintained.

The Decision lists the main objectives to be envisaged in restructuring this sector (finalizing the transformation process, clarifying the patrimony of local regies, concluding concession contracts between the local public administration and the service providers, establishing a specialized bank financing investments in the field, regional development of the municipal services).

In Romania there are approximately 400 public service operators, organized in regies autonomes, business companies and public services within the structure of Local Councils. They have also organized themselves in non-governmental, employers' and professional structures (the Public Service Employers' Association—PSP, the Romanian Water Association—ARA, the National Committee of Heating Distributors—CNPDETR, the National Committee for Sanitation, Hygiene and Environmental Protection—CNSIPMU, and the National Housing Committee—CLR).

From the perspective of the current regulations, there are three factors playing a major role in the organization, functioning, coordinating and control of the activities included in the urban administration sector: the service providers (regies autonomes, companies, autonomous public services), and the local and central authorities.

Most of the roles and obligations of the service providers are stipulated in the norms adopted prior to 1989, the most specific legal framework being ensured by the Law 4/1981 on Municipal services.

The first post-revolutionary reorganization of the local public service entities was based on the provisions of Law 15/1990 and the Government Decision 1330/1990. This should have been the basis of the reform of this sector, aimed at establishing the adequate framework for the market economy and the rule of law in Romania.

The decentralization of the local public services, continued and applied by the provisions of the Government Decision 595/1992 and Law 135/1995, was characterized by the dereliction of the excessive centralism, the rigid administrative and bureaucratic guardianship of the former state

power bodies in managing this sector. In the light of the local autonomy and public service decentralization principles, the former municipal services enterprises and holdings splintered off, resulting in regies autonomes (RA), companies (SC) and public services within the structure of local or county authorities.

From the enactment of Law 15/1990 until today, the number of local public service providers has increased almost seven times (the current number of service providers is around 400). The structure by types of legal status and the impact in the public service sector is presented in the Appendix.

The central public administration has, in relation with the urban administration activities, merely a guiding and coordination role, for establishing the overall policies for achieving the strategy in the government program.

The passage from the theoretical role of the three factors to the assumed role in the operation of this sector of the social and economic life is a different matter altogether. Thus, the material operations are mainly performed by the economic entities, regies autonomes and companies. The new economic framework in which they are forced to operate makes them difficult to find the balance between their role as service providers, operators of the municipal infrastructure in the public domain on one hand, and business companies, a pawn in the fight for existence of the market economy. This is why, in the case of the regies autonomes and the companies operating in the urban administration sector, we need to take into consideration at least the following three dimensions:

- the degree of dependence to the local public administration authorities in establishing the methods for achieving their operational goals;
- the decision making power on the patrimonial elements they administrate;
- the degree of monopolization of the market determined by the first two dimensions.

The local public administration assumes a different role, on a case by case basis, in monitoring the specific operations of the urban administration and their development. This degree depends mainly on the degree of knowledge, the scope, the political interests and the financial capabilities of each municipality. The increased local autonomy is directly proportional to the evolution of the public service decentralization. The latter is related to the need to make the public action more effective by bringing the administration closer to the citizens. We believe, however, that rather than understanding the administrative decentralization as being absolute, denying the role of the central administration and its specialized bodies, it should be perceived through references to and in correlation with them.

From here the role of the central bodies of the public administration, which should decide the pace of transferring the competencies to the decentralized territorial entities, should develop and monitor the general guidelines regarding the operations of the local service providers.

4. MANAGEMENT PRACTICES OF LOCAL PUBLIC ADMINISTRATION

In the rural areas, the Local Councils usually administrate the communal roads, public lighting and street cleaning. The other public services are quite seldom in the rural areas, they being administrated by county regies or companies. A rural city hall has very few employees, most of the time 7–8 staff, usually with high school education. The main concern of a rural city hall is to persuade the County Council to promote major investment works on its territory, be it the maintenance and upgrading of county roads and their afferent bridges, developing gas or water networks (except for sewerage), which are the main services and utilities concerning the rural Local Councils. On the other hand, the budgets of these communities are extremely low failing to cover in very many cases the city hall's operational expenses. For this reason, they depend to a great extent on the balancing amounts allocated by the County Councils based on certain criteria, most of the times not very transparent.

Most of the utility infrastructure in Romania is concentrated in the urban areas, which results in a much greater involvement of the respective Local Councils. We should analyze separately the situation of the little towns and the cities with over 50 000 inhabitants. We should notice that prior to 1989 at the county level, there was only one municipal services enterprise, which was responsible for all the public services and utilities and had various facilities in different cities within the county. After 1990 these structures have been decentralized within the reform of the local public administration.

In the case of the towns with less than 50 000 inhabitants, the public utilities and municipal services are usually provided by entities subordinated to the city hall, which is called public service under the administration of the city hall. They handle both the district heating system and the drinking water distribution, sewerage, street cleaning and maintaining, household waste transport and disposal. In other cases yet there is one company (or regie) dealing with all these services.

The municipalities with over 50 000 inhabitants and especially the county capital cities have a much better situation. The main explanation is the fact that their economy has coped much better with the transition, which is emphasized by the application of the Local Public Finance Law: there are counties where the capital city represents 70–80% (even more) out of the fiscal capability, while its population represents only 25–40% of the total population.

The public utilities are provided by autonomous entities, organized in the form of regies or business companies, and subordinated to the Local Council. From the organizational point of view there are two types of such structures:

- a single company/regie providing all the public services: water and sewerage, district heating, local public transport, household waste collection, transport and disposal, street maintenance, et cetera;

- specialized companies/regies in providing a certain public service. This form was imposed by the need to separately record the service costs, to avoid the transfer of resources from more profitable activities (water and sewerage), which are not subsidized, to less efficient ones: district heating, local public transport, which are being heavily subsidized.

The Local Councils control the operations of these entities, they appoint the representatives in the General Meeting of the Shareholders (AGA), in the Administration Councils and appoint the commissions to select the manager/administrator. This influences the analysis of the operations of these public utility regies or companies—most of the times the strictly economic criteria are replaced by social criteria: the tariffs should be the lowest possible, even if the profit disappears and the investments are cut to zero, the workplaces are safe (in fact the employees of such entities are a sort of civil servants). This does not improve the social status of the consumers: the tariffs are increasing dramatically, the service quality does not improve, losses are high and are born in one form or another by the consumers.

The Romanian legislation makes no clear distinction between the types of utilities provided by the Local Councils and the County Councils. This is why there is a lot of overlapping, confusion and conflict between the two tiers of the local public administration. Usually, the County Councils deal with the maintenance and upgrading of the county roads and the regional water supply systems. On the other hand, the County Councils also coordinate any infrastructure investments made by the rural Local Councils, thus their influence in this field is higher than it may seem at first glance.

The policy of the local public administrations in the field of public utilities suffers from the lack of a coherent strategy, with clear priorities that can be followed on the medium and long term. Generally speaking, the Romanian local public administration has no local development programs, no set of priorities on the public service provision, because on the one hand the funds for such investments are insufficient, and on the other hand, there is no experience in developing in designing coherent and feasible infrastructure investment programs.

4.1 Local Public Finances

As part of the process of decentralization in Romania that began in 1990, local governments have become increasingly responsible for addressing the needs of the local communities in the country. The reforms to the system of local finances enacted in 1998 reinforced the trend toward greater autonomy. These reforms gave local authorities greater control over their own taxes and fees, as well as direct access to a share of the national wage tax. The reforms also gave the local and county councils full authority to decide how to spend and invest in these resources. These changes have increased the importance of making sound financial decisions at the local level.

In particular, the Law on Local Public Finance (LLPF), adopted in 1998, put local finances and the local budget process on an equal legislative basis with those of the national government. The law also introduced tax revenue sharing in Romania. Under the new arrangement the county and local councils receive a share of the income taxes collected from taxpayers in their geographic area of jurisdiction.

Amendments to the Law on Local Taxes and Fees authorized in 1997 and 1998 greatly expanded local control over their own revenues and authorized local councils to administer their own taxes. These changes are relatively less important for county councils, as virtually all-local taxes are paid to the local councils.

The new legislation also greatly simplified the transfer system. All dedicated transfers for operating subsidies of public service companies and investment subsidies to the local and county councils from the state budget were eliminated. The general transfer was replaced with an ‘equalization grant’ that aims to correct for differences in expenditure responsibilities and fiscal capacity among the county and local councils. The equalization grant is funded through a transfer from that State budget that is allocated directly to the county councils for redistribution by them to local councils in their area of jurisdiction. The state budget also specifies the amount of these equalization grants that the county councils may retain for their own use, within a limit of 25% set in the LLPF. The reforms also reduced the authority of the national government to approve local investment projects to larger projects above certain minimum cost levels, and to those funded partially or fully by the state budget.

4.1.1 Local Government Revenues

Own revenues:

- current revenues: property tax, tax on profit and tax on the net profit of the locally subordinated companies and public institutions, other direct and indirect taxes;
- capital revenues;
- special purpose revenues: special fees, fixed capital depreciation, donations and sponsorships, targeted grants from special state funds: (grants for roads, for housing).

Transfers from the State Budget:

- wage tax share (and starting with 2000, the global income tax share)—this shared revenues are distributed as follows: 40% to the local level, 10% to the county level and 10% represents the equalization fund, at the disposal of the County Council, for the communities with deficit within the county, and 40% to the State Budget. The territorial bodies of the Ministry of Finance make the transfers within the first 5 days of the month for the amounts

collected the month before. This represents the source of revenues for the County Councils and in many cases for communities within the county. The above shares may be modified by the Annual State Budget Law, as it happened in 1999 as well as 2000, when the share of municipalities was lowered to 35% in favor of the equalization funds at county's level, whose share became 15%;

- Shared wage tax amounts (and starting with 2000, shared global income tax amounts)
Out of the shared funds from certain revenues of the state budget annually approved, a part up to 25% shall be assigned to the own budget of the Judet council, and the difference shall be distributed to territorial administrative units by the Judet Council;
- equalization grants, calculated according to a formula established in the Annual State Budget Law;
- targeted grants (for subsidies for heating);
- special purpose grants from the Ministry of Finance, representing the contribution of the Romanian Government in projects funded through external loans (such as the Municipal Utility Development Program, partially funded through EBRD loans).
- public utilities: water, sewerage, water treatment plants, heating, waste collection, transportation and storage, local public transportation and other communal services;
- social housing and housing for youth;
- maintenance, upgrading, investment transportation, infrastructure: streets, communal and county roads, airports;
- social assistance: social aids, heating and transportation subsidies, social assistance for persons with special needs (disabled), social assistance for children in difficulty;
- material and investment expenditures for primary and secondary schools;
- health care institutions;
- wages, material expenses, investments for local cultural institutions: theatres, philharmonic orchestras, museums;
- wages for administrative staff.

The new legislative framework leads to an increased financial autonomy, and made the fiscal decentralization process more effective. A genuine 'revolution' of the budget management was orchestrated, since the local budget revenues are to a greater extent controlled by the local governments, directly reflecting the status of the local economy (for example, the share of own revenues has increased from 25% in 1998 to 51% in 1999), the range of responsibility has widened, and local investments have become decentralized. In addition to this, starting with 1999, the local governments have established their own departments for administration of local taxes and fees.

4.1.2 Local Government Expenditures

In the new context created after 1999, the concerns of the local governments have also dramatically changed. If until then local governments were merely administrators of a budget that was mostly coming from the central level, now local governments have a bigger incentive to manage more effectively and efficiently local resources, focused on boosting the development of the local economy as a basis for increasing their own revenues. This is possible since the local governments have the legislative framework that enables them to develop their own financial policies, targeted on the outcomes and goals they establish.

In fact, one of the major challenges faced by the local governments in Romania is to meet the huge investment need in infrastructure and public services. For example, a municipality with over 100,000 inhabitants needs around 10–15 budgets, as of 1999, for aforementioned extremely urgent investments. Such an investment program cannot be supported from revenues per capita usually varying between USD 30–80, irrespective to the number of projects funded by the Government, the European Union, the EBRD or the World Bank.

Enforcing the new legislative system increased the degree of fiscal decentralization, but also increased the discrepancies between the major municipalities, county capitals in general, whose local economy allowed them to double their total revenues from 1998 to 1999. The small communities (under 30 000 inhabitants), especially those in the rural areas, with no local economic resources, are still highly dependent of transfers, that represent the most important part of their total revenues. For this kind of local governments the new fiscal system brought a dramatic decrease in their revenues, due to cut of received transfers: they shrank from 16.1% of the central government's expenditures in 1996 to only 10% in 1999. Besides the already known horizontal imbalances between the counties, increased disparities were registered among the local governments within the same county due to the gap between the economic strength of the county capital and the other localities (in most of the cases the county's major city mobilizes over 80% of its fiscal capacity).

The quantitative and qualitative indicators of the local budget expenditures for 1999 are presented in Appendices 2 and 3.⁹

Conclusions:

- a) It should be mentioned here, the low level of local budget expenditures per capita for 1999, an expression of a weak economic activities. Thus, the national average is USD 59.8, with a peak for municipalities of USD 80.2 and a very low level for the rural areas—only USD 21.8. The total local budget expenditures per capita for municipalities exceeds the commune expenditures 3.68 times, reflecting the economic public utility infrastructure gap between the urban and rural areas;

- b) It is surprising how close the shares of the capital expenditures in the total local budget expenditures are, between 23.43% and 20.28%. The absolute gaps among municipalities, towns and communes are maintained here, too, the same in the case of total expenditures; for instance, the ratio between municipalities and communes for investment expenditures is 400.75%, while the municipalities make 59.57% of the total investment expenditures made from the local budgets. However, it should be noted that the municipalities, although having budgets per capita almost 4 times higher than the communes, have a very close investment rate: 22.06% and 20.28% respectively;
- c) The review of allocation of expenditures for subsidies by local administration types shows the extreme concentration of public services in the municipalities: they cover 88.12% of the total subsidies paid from the local budgets, and 92.37% of the overall urban areas. For this type of expenditure, the ratio between municipalities and communes, towns and communes, and municipalities and towns is 7,976.38%, 1,615.69% and 493.68% respectively. The communes cover only 1.12% of the total subsidies paid from the local budgets, which represents a closer image to the share of the rural area in the public utility services such as district heating systems or local transport. We should notice that the larger urban communities such as the municipalities (with over 25,000 inhabitants) pay subsidies per capita almost 5 times higher than the smaller towns;
- d) In the case of municipalities we should notice that the share of subsidies in the total budgets exceeds the share of investments: 31.5% and 22.06% respectively, which reflects the huge burden they represent for the urban community finance.

4.2 Tariffs and User Charges

The user charges are in the case of local public services in Romania tariffs or prices established either by the operators or central administrative bodies or the government. In this situation, the revenues made are not part of the local budgets, they are used directly by the operator. The local public administration may establish special taxes to provide a certain public service and the amounts collected from this source may be used only for financing the respective service.

The Law 69/1991 on Local Public Administration and Law 189/1998 on Local Public Finance stipulate that for operating the public services the Local or County Councils may establish special taxes. Their rate is established on a yearly basis depending on the invested amounts and the current expenses for maintaining and operating such service. The public services of local interest performing economic activities are bound to calculate, record and recover the wear-and-tear and obsolescence of the afferent assets to such operations through tariffs or fees (Article 47 of Law 189/1998). The amounts resulting from depreciation are used as financing sources for the investments in the respective field and are recorded separately in the investment program.

The establishment of fees and tariffs charged for providing public services is regulated by Law 21/1996 on competition, whose provisions are supplemented by the norms issued for regulating the activities in the field of water, heating, power, et cetera.

The fees and tariffs charged by the regies autonomes as well as those charged for the activities with the natural monopolies are established with the endorsement of the Competition Office, under the provisions of Article 4 of the Competition Law 21/1996. Such provisions are supplemented by the Government Emergency Ordinance 7/1998 of fees and tariffs for the performed products and provided services domestically within activities with the character of a natural monopoly, approved by Law 88/1999, and the norms issued for regulating the activities in the field of water, heating, power, et cetera.

The Government Emergency Ordinance 162/1999 Article2 (1) stipulates that the national reference price for the heating supplied to the population through centralized systems will be established by Government Decision, upon the proposal of ANRE (the National Energy Regulatory Authority), with the endorsement of the Competition Office. An example in this respect is the Romanian Government Decision 879/1999 establishing the national reference price for the heating supplied to the population through centralized systems.

Law 143/1999 on state aid, which entered into force on 1 January 2000, regulated the methods of the authorizing, granting, giving and monitoring of state aid. The state aid includes among others the price cuts afferent to the services provided by the public authorities or other bodies administrating state resources.

The billing of local public services to the subscribers is usually made on a monthly basis. Determining the billed consumption is based on reading the meters, around 30% in the case of district heating, while the rest is determined on a lump sum basis. There are some municipalities that have finalized the installation of individual meters, so that the entire water quantity is billed based on reading the meters. Significant progress has also been made by some municipalities in the case of district heating. There is an increased trend of installing meters at the door of an apartment. The continuous deterioration of the purchasing power of citizens has had a negative influence on the payment for such services, such as the average delay of outstanding debts, which is around 140 days. The financial blocking affecting the industrial consumers results in a similar situation at this category of consumers.

Introducing the Value Added Tax starting 1 April 2000, resulted in increasing the value of bills charged to the population by 19%. The payment system of the VAT to the State Budget, corroborated with the delays in paying the bills, produces a negative cash-flow in the treasury of the service providers, with a major negative impact on their financial results.

The tariff system for these services is still subject to the centralized control. The local public service expenses represent 24% of the minimum basket, according to the National Indexation

Commission, as of July 2000. The tariffs are established based on the historical data principle, through a mechanism discouraging the efficiency measures. The hyperinflationary environment, the delays in approving the tariff increases also diminish, to a significant degree, the financial profitability of the service providers. An encouraging breach was made by introducing in the EBRD loan agreement a clear formula for adjusting the tariffs to the inflation for the cities included in the MUDP Project, and a long term mechanism in the concession contract for Bucharest.

Delayed payment of bills, especially for the heating and drinking water distribution is a problem. Arrears hinder the mobilization of funds from the depreciation of the fixed capital. It should be noted that there are municipalities where the average collection period exceeds 200 days, which at the 40% inflation rate per year could mean a 25% devaluation between issuing an invoice and its collection. This blocking has several causes: the impossibility to individualize the costs by each family; cutting the bad payers off the system; and the high cost of the services provided. The exaggerated production costs generated by the bad technical condition of most networks and installations, inefficiency of big centralized systems, the monopoly situation characterizing both at the national and local level such public services also influence user charges. For instance, for the current prices for heating, hot water and drinking water, the costs for such services will amount in a winter month for a 4-person family with two average salaries living in a 3-room apartment, approximately 25% of their incomes. If we add up the power, telephone and other important bills, all these costs exceeds 30% of the monthly incomes, which is relatively high.

The possibilities of the local public administration to have an autonomous social policy, complementary to the public utility policies, are rather limited in Romania. The establishment of prices for drinking water, the reference price for heating, the levels and thresholds for granting the heating aid are the responsibility of central authorities. In this situation, the local authorities only fund the costs of a social policy established at the national level. The most important implementation mechanism of a social policy in the field of public utilities is the financial aid for heating granted to disfavored families. This system creates a very significant discrimination from the beginning: only the families whose housing units are connected to the district heating systems benefit from this aid, thus implicitly recognizing the exaggerated costs and ineffectiveness of this public service. Consequently, wide population categories cannot benefit from any support from the local authorities (practically all the inhabitants of the rural areas or those living in individual houses with own heating systems in the urban areas).

This financial aid system stipulates that depending on certain income thresholds, of income per family member, the local budgets will cover a part of the heating costs every year between November and March. The income thresholds and the level of the aid per family are established annually through a government decision. The families who may benefit from this support will only pay the difference between the actual heating cost in a month and the aid level, rather than receiving money, and the municipalities will disburse the heating supplier. The system functions quite hard and supposes the co-operation of the city hall with the owners' associations, since the families who may benefit from this aid must fill in special applications with their net incomes. It

is almost impossible for the city halls to control the accuracy of these statements. This system has been functioning since 1997, with an interruption in 1998. For the months November 2000 to March 2001, the income thresholds and the level of the financial aid were first established in October 2000 and amended in January 2001 as follows:

Table 7.2
Social Assistance by Level of Income

October 2000	
Net Income by Family Member [USD] ROL/USD Rate = 26,454 ROL = 1 USD	Aid Level [USD]
-22.7	17.0
22.7-28.4	9.8
28.4-37.8	4.9
January 2001	
Net Income by Family Member [USD] ROL/USD Rate = 26,454 ROL = 1 USD	Aid Level [USD]
-26.5	19.3
26.5-32.1	11.3
32.1-41.6	5.7

These values need to be correlated with the average monthly net salary in Romania, which is around USD 90, and the level of maintenance costs for a winter months, which may reach over USD 40 for a family of 4 persons living in a 3-room apartment. Depending on the economic condition of the urban areas, around 40-60% of the families living in apartment blocks benefit from the system.

The above mentioned system has certain advantages:

- the financial support is punctual and aims at disadvantaged families;
- a rather high share of the urban population benefit from the system and the aid covers over 50% of the maintenance costs in the winter months for the poorest families.

Disadvantages are:

- the system is rather complicated and difficult to control;
- the municipalities cannot adapt the system to the local economic conditions;
- the local budget burden is significant (it can reach 10% or more of the total expenditures) as well as difficult to predict; as we mentioned, the government modifies the income

thresholds and the aid level when and how it wishes, without providing additional financial sources to the local authorities;

- over half of the population of the country does not benefit from this system, especially the very poor categories from the rural areas.

5. ECONOMIC PROFILE OF THE PUBLIC UTILITY SECTOR

The economic and financial profile of the local public service sector in Romania is not fundamentally different from the overall economy. The fluctuations recorded by the Romanian economy between 1990-2000 have also influenced the financial status of this sector. Although there is no national system centralizing the financial statements of the local public service providers, from the statistical data at hand we may draw the following conclusions:

The sector's turnover is around ROL 50 000 billion (USD 2 000 million). The financial results of the service providers are very different from one city to the other. Very few of them make reasonable profits (5–10%), most of them have a profitability of +/-2%, yet there also some companies in extremely difficult financial situations, when the loss represent 10–20% of the turnover.

The calculation of the depreciation, mostly from the perspective of the changes to appear following the transfer of water, sewerage, district heating, public transport, and such like systems to public ownership, considerably reduces the development funds of the service operators.

Different forms of financing are used for current operations and capital investments. Services fully financed by allocations from the local budgets (no matter whether these are municipalities or counties) are: maintaining and upgrading streets, communal roads, county roads, street cleaning, park maintainance. It has been ascertained that these are services with a high degree of externalization, this being the main reason for which they are fully funded from the local budgets. Such services are provided either by regies/companies subordinated to the local public administration or by services established within the local councils.

Services fully financed by fees or tariffs paid by consumers are: drinking water distribution, wastewater collection and treatment, household waste collection, transport and disposal. The tariffs for these services have different regimes: while the tariff for waste collection, transport and disposal is fully liberalized, the tariff for drinking water and sewerage is controlled by the Competition Office. The companies or regies providing such services may adjust these tariffs depending on the evolution of the inflation rate, and based on a historical structure of the production costs. This methodology hampers the funding of major investments in the drinking water, sewerage and wastewater treatment sector in Romania.

In the urban areas, these services are provided by regies or companies and rarely by services within the city halls. The prices for such services are controlled and may be adjusted only upon the agreement of the Competition Office or the National Energy Regulatory Authority (ANRE), following the negotiation between the service providers and the local councils. Since the two services differ from this point of view, we need to analyze them separately.

The district heating tariffs paid by the population are determined by the policy of the major public utilities: CONEL (Termoelectrica), ROMGAZ and PETROM, which recommend the basic tariffs for the steam generated in heating plants and used in the district heating systems, for gas and light fuel. These tariffs are endorsed by ANRE and approved by a Government Decision. At the same time, the Government establishes a national reference price (maximum price) by Gcal for the population connected to the centralized heating distribution systems.

It has been noticed that the leverage of the local companies or regies is extremely limited, since the local tariffs, which are also approved by ANRE, are strongly influenced by the prices established at the national level (usually to a degree of 65–70%). Moreover, if the local tariff exceeds the national reference price, the difference is born from the local budget through a subsidy granted to the producer, which represents in many municipalities an additional burden to the local budget of 25–30% or even more.

Subsidized services are district heating and local public transport. In the case of the district heating distribution there are two types of subsidies:

- a) subsidy to the producer, calculated as the difference between the local and national reference price (that is the one paid by the consumers). This subsidy is paid out of the local budget, either from own resources or from equalization grants from the State Budget. This subsidy raises a series of issues:
 - a uniform social protection for all individual consumers, irrespective of their income, which leads to extremely high costs;
 - the burden for the local budget is very heavy, since in many cases this subsidy exceeds 25-30% of the expenses, especially in the smaller towns or those using light fuel for heating. The balancing amounts allocated from the State Budget for this purpose (similar to the social protection transfers prior to 1999) are insufficient and delayed;
 - the subsidy level, thus the level of the local budget resources allocated for this purpose is determined in a decisive manner by the decisions made by the national companies—CONEL, ROMGAZ and PETROM—which has a negative influence on the capability of the local public administration to follow a coherent financial policy in this sector.
- b) the financial aid granted to the low income families during November-March for heating. Such aid is in fact a subsidy to the most affected categories by the price increase. It is granted according to the net incomes of a family, and even if its practical argumentation is not

perfect, this system is more effective than the subsidy to the producer. Granting such a subsidy contributes to the diminishing of the financial blocking. (see Chapter 4.2 below)

The national reference heating price has a double function:

- to establishes the maximum price that the population can pay, in case the local price exceeds the reference price. If the local price is smaller than the reference price, the population pays the local price;
- to establish the manufacturer subsidy paid from the local budget in the case when the local price is higher than the reference price. The subsidy equals the difference between the local price and the reference price and is paid directly by the local administration to the heat supplier.

There are cases when light fuel is used for heating when the reference price does not present more than 30–35% of the local price, leading to blockages in the public service provision, taking also into account the fact the inability of the local councils to cover in full, and in due time the subsidy to the producer. Except for the drinking water and heat price, the price of all local public services are established either by the local operators (household waste collection) or the local administration (local public transport).

The subsidy for the local public transport is regulated by the Government Emergency Ordinance 97/1999, modified by the Government Emergency Ordinance 148/2000, and is paid out of the local budget. The prices are approved by the Competition Office for the companies benefiting from subsidies from the State Budget, and by local administrations in cases where they have established (defined and regulated the routes and other operation conditions) the public transport service.

If the local public transport is not provided under a regulation by which the local administration had defined the public transport service, and no subsidies are granted, than the operator (company/regie) is free to establish the price. In general, the Competition Office accepts the adjustment based on the inflation rate, based on a methodology privileging the situation and historical structure of the tariffs in the field. This makes it extremely difficult for finance projects to upgrade the vehicles, which are quite obsolete.

We should notice that the new regulation provides, through the amendments brought in by the Government Emergency Ordinance 97/1999 and the Government Emergency Ordinance 148/2000, a decentralization of the decision making process and provides the local authorities, who have defined and regulated the local public transport service, also with the necessary economic leverage to develop a coherent policy in the field. This example should be expanded to other public services with controlled prices.

The calculation method of the subsidy takes into consideration the difference between the estimated number of users and the actual number, and the difference between the tariff established

in commercial condition and the imposed tariff. The subsidy volume varies depending on the size of the municipality, the number of users and the existence of competitive transport systems: taxis or maxi-taxis. This is due to the fact that in a municipality there are both profitable and less profitable routes, which need to be covered in full since this is a public service. The taxi and maxi-taxi activities focus on the most profitable routes, diminishing to a significant extent the number of users of the local transport company. Moreover, many taxi and maxi-taxi companies evade taxes and benefit from the lack of clear regulations from the local council regarding the public transport activity (for example: tendering for the maxi-taxi routes, combining very profitable with less profitable routes, et cetera.). Consequently, mostly in the smaller towns with less than 200 000 inhabitants, subsidizing the local transport also means a resource transfer to the private taxi or maxi-taxi private companies.

Modernization of the existing local utility capacities and developing new ones is today an indisputable priority. This major and lengthy operation supposes important financial resources. Thus, a recent EU-funded study showed that for aligning Romania to the European standards in the field of drinking water supply, sewerage and wastewater treatment, Romania needs around EUR 4 310 million in the short term, and EUR 10 130 million on the long term in a coherent investment program for rehabilitating the existing systems and developing those systems in the rural areas. Such capital expenses are divided as follows: water supply—35%, sewerage—20%, wastewater treatment—45%.

For the other public services the following figures were available:

- Heating generation, transport and distribution USD 6 000 million
- Sanitation and urban environment protection USD 2 500 million
- Street and green area maintenance USD 1 250 million
- Public lighting USD 900 million

Financing the necessary investments to these major services is usually made from the local budgets or through subsidies from the State Budget. The operators, be it companies or regies autonomes, have very limited financial resources, which is mainly caused by very low profit rate (if any) and the high level of arrears.

Loans are financing methods that have been little used in the public service investments. Until 1999 the Local Councils could not take investment loans unless the Government approved it (through expressed provisions in the annual budget laws). The most frequent financing methods of major investment works performed through loans were EBRD, PHARE and the World Bank, yet all were guaranteed by the government and were mostly taken by utilities from major cities. The most significant achievements in financing the public investments through loans with sovereign guarantee are: MUDP I (Municipal Utility Development Project) (loan value—USD 28 million), Jiu Valley (loan value—USD 25 million), MUDP II (loan value—USD 75 million),

the EBRD Program for rehabilitating the district heating systems in 5 cities, the EIB Program for rehabilitating the district heating systems in Bucharest and Cluj, and the World Bank Program for rehabilitating the Bucharest water supply system.

With the enactment of the Local Public Finance Law (189/1998), the local public authorities are able to take loans with no direct governmental guarantee. After 1999, EBRD started to consider the possibility of financing certain infrastructure and public service projects in the field of drinking water and district heating through loans with no governmental guarantee (the so-called private EBRD loans) to local public administrations. Several cities were selected (all county capital cities): Bistrita, Tirgu-Mures, and Rimnicu-Vilcea, and the Bank decided to finance technical and economic studies identifying the optimum technical and economic solutions for implementing the proposed projects.

A number of municipalities attempt to finance certain investment projects in infrastructure through loans taken from the domestic or external market.

Unfortunately, there are some obstacles hampering the municipalities to take such loans:

- a) Incomplete legislation—especially the fact that the local public administrations are not allowed to hold accounts in commercial banks¹⁰
- b) Economic and legislative instability—especially the very high inflation rate and the instability. These phenomena also explain the high risk of inefficiency attached to foreign investments in and loans to Romania, representing additional costs for the borrowers.
- c) A high volume of loans is required for the performance of the investments as to the possibilities of the local budgets. For the most prosperous municipalities in Romania, the level of the local budget does not exceed USD 100 per capita, while in the Czech Republic it is between USD 500–700 per capita and in Poland between USD 300–500 per capita.
- d) The reluctance of the banking sector to grant loans to the local public administration, based on a number of causes including the following:
 - It is much more effective and safer to finance the state budget deficit by buying Treasury Bills issued by the Ministry of Finance, through the so-called eviction effect
 - A lack of familiarity with the specificity of the local public finance and financing public infrastructure investments, and lack of specialized staff in these fields. This leads to the analysis of the projects proposed by Local Councils based on the same criteria as those used for business companies, which is directly reflected in the analysis of the appropriateness of such projects;
 - The local public administrations cannot generally offer material guarantees, since their private domain is very limited.
- e) The reluctance of the local public administrations to take loans, considering that the interest rates are too high as to the evolution of the budget incomes. In the last few years, except

for 1999, the incomes to the local budgets in real terms have decreased, a phenomenon discouraging the development of the credit market for the local authorities.

- f) The reduced capacity of the local public administrations and public service providers (regies/companies) to propose financially viable projects, to draft investment programs with clear priorities and well defined objectives, to review the financing variants and opportunities for such projects, and so on. In general, only very short term investments are financed, the local public administrations initiate simultaneously several investments with a very slow development pace, and they do not take into consideration the advantages of finalizing rapidly a major investment when analyzing the adequacy of a loan.
- g) A lack of trained staff in project management in the local public administrations and public service providers.

6. POLICIES FOR IMPROVING LOCAL PUBLIC UTILITIES

6.1 National Development Strategy

The strategy should include objectives, priorities, implementation methods, funding sources and responsibilities for the two main actors: the central and the local level. The strategy should also be corroborated with the programs funded by the European Union and the World Bank and should comply with the criteria to be achieved by Romania for the European Union accession. The strategy should be realized following an interactive process involving both the local level through the associations of local public administrations.

The strategy should include at least the following elements:

- *performance indicators*: both qualitative and quantitative, specific to the public services and their infrastructure, to be achieved on a short, medium and long term;
- *the responsibilities of the central and local administrations*: including the separate approach of the rural infrastructure;
- *funding sources and methods*: allowing a medium term budgetary planning. The strategy should include clear criteria, formulas and priorities in allocating the funds from the State Budget to the local budgets for investments in the field;
- *methods and procedures*: for involving the three main actors in developing the strategy—the government, and the local administration and the associations of public service operators. Thus a Working Committee should be established, consisting of the representatives of the respective ministries, the associations of local public administrations and public service

operators. The Committee should convene twice a year and review the measures to be taken, the implementation procedures, the funding sources and methods and endorsing the legislative proposals of the Government affecting this sector.

The local public administrations, especially the county and municipal councils, should adopt medium and long-term *infrastructure modernization programs* with clear objectives and priorities, reflected in the preparation of the annual budgets and correlated with the national strategy in the field.

The local infrastructure upgrading programs need to be an integrate part of the local development programs established in the medium and long term by city halls or county councils. The access to government funding should be conditioned by the existence of such viable programs at the local level.

We should not omit the development of an upgrading program of the public service infrastructure in the rural areas, where the situation is the most dramatic and the investment need is the highest. This program is very important since the economic development in the rural areas is closely linked to the modernization of the infrastructure in this area.

The local administrations need to make *clear decisions*, with a long term impact, providing the answer to a series of fundamental questions such as:

- centralized or decentralized housing heating systems?
- regional or local water distribution systems?
- waste dumps for each community or for groups of neighboring communities?
- what would be the future of the public transport in cities with 100 000–150 000 inhabitants?

The answers to these questions should be fully debated from the technical, economic and environmental points of view. Unfortunately, there are currently a series of contradictory trends, a spontaneous expression of the crisis faced by the public service sector in Romania.

The best example in this respect is the district heating: due to the very high prices the consumers tend to disconnect from the centralized systems, using instead either improvisations or individual heating systems (gas fuelled apartment micro-plants). The phenomenon is also emphasized by the impossibility of individualizing the consumption in this sector due to the current technical conditions of the Romanian blocks of flats. There are local councils that have initiated major investment programs for upgrading the heating plants or micro-plants and the distribution networks without taking into consideration the consumers disconnecting from the centralized systems. There are municipalities where the heating provider has lost almost 90% of the customers. In these conditions, any upgrading of the centralized systems is economically inefficient and leads to very high prices per Giga calorie, even if the losses are completely eliminated.

The programs for upgrading the infrastructure and the public services should be accompanied by very clear *norms regulating this field* and allowing the monitoring of the operators in the sector. For instance, a detailed regulation should be developed for the metering of drinking water, hot water and heating, or a regulation for the taxi and maxi taxi activities.

For making the public services more efficient *alternative provision methods* should be introduced. To this purpose, a clear separation should be made between the service provider and the producer, and the development of intermediary service providers groups should be stimulated. The local public administrations will play a very important role in quantifying the consumers' demand for various types of public services or utilities and making this demand known to the providers.

The local public administration needs to develop, based on the legislation in force, clear procedures for the public service bidding and contracting, including the establishment of specialized departments in the field. In addition to that, the local public administration needs to set up high performance legal departments, especially in the context of concluding investment or concession/service contracts with foreign banks and specialized companies, working with different standards and legal systems.

6.2 Reorganization of Public Service Companies

Involvement of the private capital in the public service sector should be expanded in the future. It should include mainly the energy related services (power and heating, public lighting, gas), due to the higher internal recovery rates that may be obtained in this sector. The regulation of the public services by independent authorities is however necessary before a significant involvement of the private capital. There are already such bodies in the energy field, but not in the water supply, local public transport and waste management. The establishment of such bodies is thus a priority.

The privatization of the public utility services is a very important and sensitive aspect from at least two points of view: the majority status as natural monopoly; and the level of prices and tariffs that would make the sector interesting for investors. In this context, the following aspects are essential:

- The local public administration should take for granted the quality of regulatory and quality control authority for these services, and should establish clear and simple procedures to be applied in an intransigent manner. The sector needs to be regulated prior to the privatization so that the involved actors know the rules.
- The local public administration needs to maintain a certain control over the prices and the investment level for the privatized services constituting a natural monopoly.
- The evolution of prices and tariffs should not exceed the evolution of real income of a family, so that the share of the utility expenses in its budget to go down¹¹. This is very

difficult in the conditions of a very low profitability in the public service sector and the existing financial blocking. Two very important aspects need to be taken into consideration in the moment of privatizing the public services representing a natural monopoly: the level of prices and tariffs charged and the level of infrastructure upgrading investments. In both matters, the local public administration should maintain a certain level of control through the service concession contracts. Thus the price and tariff level should be negotiated and endorsed on an annual basis by the local councils, so that they are bearable from the social point of view and allow the established investment level. In addition to this, the local councils should also annually endorse the upgrading investments committed by the operator. It is obvious that the total investment level committed by the operator is provided in the concession contract, yet it is advisable that the local administration should endorse each year the capital expense volume so that there is a guarantee of the contract performance.

- The public service privatization policy should be corroborated with the subsidy policy, so that the investments are stimulated, reducing thus the losses and costs. The subsidy should go down, at least in its share of the local budget, reducing the financial blocking resulted from the bill payment delays, reducing the share of utility expenses in the household budgets.
- The individualization level of the costs of these services for the consumers should increase as much as possible, otherwise we will face a specific type of negative externalities that will block the system.
- A detailed analysis of the competition's impact on the quality and costs of certain services—it is not always that a higher number of competitors leads to an increased quality and lower prices.

Increasing the role of the private companies in the public service sector depends on a series of important factors:

- ensuring a clear and stable legislative framework;
- the existence of independent regulatory authorities;
- economic sizing of the scope of the service providers;
- ensuring a transparent competition in the service delegation process;
- recognition by the local authorities of the principle of reasonably capitalizing the invested capital.

Most of the local public administrations are now aware of the need to ensure these preparatory conditions and are open to initiate the preparatory process of long term public-private partnerships. Training courses will, however, be necessary for the management teams of the service providers, the civil servants and even some elected councilors. In addition to this, the central authorities will need to support this process mainly through the guarantee systems required by the strategic investors.

Unfortunately, the tendencies characterizing the period between 1990-1992, when the provisions of Law 15/1990 on the reorganization of state enterprises into regies autonomes and business companies were applied, resulted in over 250 entities (regies autonomes and companies) splitting off the 40 county municipal service providing groups.

It would be desirable that this period of trials and experiments could come to an end, and a natural process of consolidating the viable entities to begin, including mergers, takeovers and acquisitions. The starting point of this process is the corporatization of the regies autonomes, transforming them into business companies and expanding the scope of the sound entities from the financial and operational viewpoint to economic dimensions. It would be preferable if the process was 'fuelled' by economic arguments (profitability, economic efficiency) and not by administrative criteria. A fiscal incentive could stimulate the initiation and continuation of this process.

For the regulations envisaging natural monopolies, the consumers should be consulted in advance, that is, the owners' associations and the operators' associations. The functioning of such consultative councils should be regulated by local council decisions and a stabile and clear functioning framework.

6.3 Improving Service Quality

The determination of the quality standards (optimum, necessary, possible, and that which can be financially bearable for the beneficiary) should be made by consulting all the parties involved rather than unilaterally. Periodic studies should be performed on the efficiency of all public services and their compliance with the proposed quality standards.

The analysis of the public service quality should be based on mathematical models, developed in such manner that they should review:

- the efficiency of costs (through indicators such as: economies in the production costs, efficiency in providing the service, the way in which the service is provided, et cetera);
- alternative methods for increasing service quality (through indicators such as: what financial effort is necessary for a certain quality increase, what additional cost can the beneficiary bear for such increase, how much is he willing to pay, et cetera);
- efficiency of the public service provision process (inputs, outputs, procedures, outcomes, etc);

The local public administration should establish departments and procedures for monitoring the quality level of the public services, the compliance with the set of indicators provided in the concession contracts for the provision of these public services. The monitoring should be based on clear, precise and detailed regulations and the obtained information should be publicized.

It is necessary to *introduce performance indicators* for measuring the public service quality. The performance indicator system should include at least the following:

- a) cost indicators (measuring the output of a public service system depending on the input values);
- b) quality indicators:
 - indicators measuring the compliance of the result with proposed outcome,
 - consistency indicators, minimizing the effects of performance losses,
 - customer satisfaction indicators (that is, the correlation between the price the consumers are willing to pay for ensuring a certain quality).

In more detail, we suggest the introduction of the following performance indicators in the public service sector:

- a) indicators reflecting the quality standards of public services and protecting the consumers: quality of drinking water, hot water and steam temperature, number of hours of heating, hot water and drinking water, frequency of public transport by hours and routes, frequency of household waste collection in a certain area, the cleanliness of waste sites. These indicators should be part of the concession contracts for the public services and the service contracts with the consumers;
- b) indicators reflecting the technical efficiency of the public service infrastructure: the technical efficiency of the heat supplying installations, the volume of drinking water supplied per capita, the level of losses in the drinking water and heating networks, the quantity and quality of treated water in the treatment stations, the technical condition of public transport vehicles, the endowments with specialized vehicles for waste collection , et cetera;
- c) indicators of the public service operational costs: cost of a cubic meter of drinking or hot water, cost of one Giga calorie, average public transport cost, cost of collecting, transporting and disposing a cubic meter of household waste;
- d) indicators of the real level (eliminating the inflation influence) of prices and tariffs, especially their evolution in time, and the share of utility expenses in the household budgets;
- e) indicators of the investment level realized by the public service operators in modernizing their infrastructure.

The associations of local public administration should maintain a permanent dialogue with the government, the ministries involved, the professional associations of operator in all the performance measurement matters, quality standards, legal procedures and regulations, so that there is the possibility of comparing various concrete situations.

In achieving quality objectives we should take into consideration the EU standards. The main difference between Romania and the European Union in the public service sector lies mostly in

the heritage from the former regime, resulting from a policy that was not correlated with the current sustainable development concerns.

The low efficiency in using the energy resources, encouraged by the low tariffs for the public services, represents a major cause of the current status of the infrastructure. At the same time, the low investment level, both in quantitative and qualitative terms in the infrastructure field, and mostly the permissive regime in applying the regulations imposed by the domestic legislation, resulted in a further widening of this gap.

The preliminary results of the projects financed by the European Commission evaluating the law enforcement progress have shown that the full transposition of the legislation cannot end by the year 2005. Implementing the 'acquis communautaire' will need significant investment, so that the implementation framework will depend to a great extent on Romania's overall economic development.

The investments should lead to a gradual achievement of the standards required by the provisions of the European Union Directives. These are mostly the task of the public sector (especially the local authorities) and will represent a heavy burden on the public finance.

The most costly directives (in respect of their implementation) are listed in Table 7.3.

Table 7.3
The most costly directives (in respect of their implementation)

Directive	Transposition	Implementation
Drinking water (98/83/EEC)	2000	2015
Urban wastewater (91/272/EEC)	2000	2030
Surface water for drinking water (74/440/EEC)	2000	2015
Hazardous polluting factors in underground water (80/68/CEE)	2001	2015
Hazardous polluting factors in surface water (76/464/CEE)	2000	2030
Framework Directive on Waste (75/442/CEE)	2000	2002
Storing PCB/PCT (96/59/CE)	2000	2015
Framework Directive on Air Quality (96/62/CE)	2000	2010
Public access to environmental information (90/313/CEE)	2000	2002
Directive on environmental impact with subsequent implications (85/337/CE)	2000	2002

6.4 Financing Utility Service

A price policy for the service companies needs to be established, so that:

- the consumers should pay the real service cost where it can be clearly determined;
- crossed subsidies should be eliminated (as it is currently the case in the case of electricity);
- services should be provided at prices under the cost where the price reduction may stimulate the consumption;
- clear and transparent consumption-based methods for establishing the tariffs should be established based on consumption.

The methodology of determining controlled tariffs and prices needs to be decentralized and liberalized based on the following principle: the authority paying the subsidy should also decide upon the price level. The local public administrations should play a major role in the process of determining the public service tariffs and prices, the more that the development strategy of the local infrastructure, its methodologies and implementation pace are also their responsibilities. The systems for determining the prices and tariffs should be conceived in such manner as to encourage the investments in the service and the public utility infrastructure.

The main problem to be solved by the Government is the ever increasing prices of the public utilities provided by the major national companies holding monopolies in the field of activity. The drinking water price is not subsidized by the local administration, yet it is controlled by the Office of Competition based on a methodology starting from the historical prices. This hampers the operator in mobilizing sufficient financial resources for the investments needed. Another very important aspect is the very different local conditions in providing the water supply: there are free fall water collecting systems with very low operation costs, and there are water collecting systems needing water pumping where the costs are very high. What is common to all the Romanian municipalities with water supply systems is the very precarious condition of their distribution systems needing major investment. In this context various types of measures should be taken:

- a) developing regional distribution systems of the drinking water, by associating all the local councils involved and giving up to the current system provided in the Public Property Law (213/1998), by which such systems are part of the public domain of the county councils and are administrated exclusively by them. The beneficiary local councils should become involved since they are the closest administration tier to the direct beneficiaries of the respective service;
- b) the approval of the drinking water prices should be the exclusive responsibility of the local administration involved. In the case of a regional system, a price approval procedure needs to be established, which should be able on the one hand to protect the interest of every municipality (be it large or small) and on the other hand to enable the privatization of the respective public service, i.e., the public-private partnership.

The public service subsidy system should be modified. Before making any decision influencing the prices of the public utilities subsidized from the local budgets, the Government should consult with the associations of local public administrations and the associations of service operators. The current level of the subsidies to the producer is completely outside the control of the local administrations that needs to pay them. The share of these subsidies in the local budgets has increased significantly in the last year, diminishing mostly the funds for investments.

The current system of subsidizing the low-income families could be expanded, combining the income criteria with those referring to the difference between the national reference price and the local production price. Thus, the higher the difference between the local price and the national reference price, the higher the income thresholds for receiving various subsidy levels as well as their rate. The national reference price would remain solely a social protection indicator and the individual consumers who would not comply with the subsidy criteria pay the local price, irrespective to its level. Hence, the subsidy would concentrate on those who really need it and the costs for the local public administration would be much lower, thus freeing investment funds.

The subsidy granting system should thus be modified and made more efficient, taking into consideration the following aspects:

- a) The subsidy system should also include the consumers with individual heating systems, since an exponential increase of disconnections from the centralized district heating system has been noted recently. For this purpose, the local authorities could issue tokens to the disadvantaged families, for the payment of the gas, light fuel or wood, partially covering the heating costs, at the same level as in the case of the centralized systems;
- b) If for the public transport, due to the high degree of externality, it is practically impossible to give up to the general subsidy (the subsidizing system for the local public transport was regulated accordingly by the Government Emergency Ordinances 97/1999 and 148/2000, giving the local authorities sufficient freedom to establish the most appropriate policy in this field), in the case of district heating distribution the subsidy granted to the producer should be eliminated;
- c) The subsidy system should be correlated to the average period of collecting the utility bills from the population and its payment delays. A major problem is at this moment the impossibility of billing the heating or drinking water costs for each apartment.

The system of allocating the equalization grants to local budgets should also be modified to satisfy a number of conditions, as follows:

- ensuring sufficient financial resources to the small and medium sized municipalities facing an acute lack of budget incomes due to the prolonged economic crisis (in general, the economy of the large cities, the county capital cities, has done better than the economy of the small and medium sized towns and the rural communities);

- the system should be predictable, allowing the medium term planning (3-5 years) of capital expenses of the local public administration. This supposes the definition of clear, stable and quantifiable allocation criteria within a formula;
- encouraging the infrastructure investments. This could be achieved very effectively by introducing in the allocation formula of the balancing amounts indicators measuring the realized investments, their share in the local budget, et cetera.

For covering the high infrastructure investment needs, both the local public administrations and the public service operators need to have access to *loans*, because:

- a loan imposes economic efficiency and involves financial discipline. This investment funding method also imposes the compliance with the deadlines for finalizing the investment. The failure to observe such deadlines is a critical problem of the Romanian local administrations which has resulted in a series of negative phenomena: exaggerated costs for the ongoing investments, reducing the expected positive effects of such projects;
- the current funding sources do not allow a high investment level in this sector, where there are huge requirements taking into consideration the condition of the public services in Romania;
- a loan allows for spreading the burden of urgent infrastructure investments (generating long term benefits) on several generations of future beneficiaries. From this point of view funding major investment projects through loans is more equitable than from the current financial sources.

The past experiences in this respect with the loans from the European Bank for Reconstruction and Development, the World Bank and the European Investment Bank, have proven the viability of this approach. Continuing the development and implementation of such projects especially for small and medium sized towns is one of the priorities of this sector.

6.5 Increase in Capital Investments

Encouraging the partnerships among the local authorities, the public service providers and the private investors, could be a solution to the high investment needs in the sector. It is unlikely that the local public administration will be able to fully finance, from own resources, through loans, international grants, the major infrastructure investments. In this case, the private direct investments of domestic or foreign capital are extremely important. The most difficult problem is the profitability of such businesses, seriously affected now both by the financial blocking and the low level of individual incomes.

The partnerships and collaboration between municipalities should also be encouraged. It is obvious that there are public services for which the economies of scale compensate the additional costs due to the large or even very large size—of the drinking water distribution systems. In such cases, as well as others (building ecological waste sites), the cooperation among local councils

should be encouraged by creating stock companies where all the interested parties should invest, including the county councils.

In order to protect the fundamental interests of all shareholders, the strategic on the price and tariff policy or the investment policy should be made with a high majority (two thirds or three quarters). The current regulation in Law 213/1998 considering the infrastructure of such investments as the public domain of the county council, does not encourage such partnerships and associations. This is a negative aspect, since not always the interests of the municipalities match those of the county councils.

An urgent change of the management is required both at the level of the local public administrations and the regies/companies providing public services. The local authorities need to train their staff to be able to prepare viable projects to be financed by foreign investors. In today's global competition, the access to capital is difficult and it supposes the assimilation of the internationally recognized standards. In this respect, the associations of local public administrations should develop staff training programs, especially in project management, investment planning and local economic development.

The management of the public service providing companies must have management contracts with precise indicators (derived from the performance criteria provided in the concession contract) to be achieved every year. It is absolutely necessary for the management of the local companies and regies to be familiarized with the project management in order to be able to achieve their objectives and to have access to the internationally funded projects.

Currently all the internationally financed programs (EU-PHARE, EBRD, the World Bank, etc.) function in this manner, which is less familiar both to the municipal staff and the employees of the local companies and regies providing public services.

6.6 Legislative Changes

Since the local public administration needs to have access to the capital market and bank loans, urgent legislative measures are necessary:

- a) *Annulling the interdiction to hold accounts in commercial banks.* A possible solution would be to allow the local authorities to open accounts only in the banks specially authorized by the National Bank of Romania reflecting the solidity of the respective institutions (a similar system was applied when the currency market was liberalized, the approval to function as a dealer or broker was differentiated and was granted depending on the applicant's performance). Thus the local authorities could manage much better their cash flows, could obtain additional incomes and the banks would not be reluctant in granting loans.

- b) *Modifying the norms of the National Bank of Romania for evaluating the credit risk.* Currently, the loans guaranteed with future loans are rated with a 100% credit risk since the investment credit analysis norms of the Romanian banks refer only to business companies, with no relevance for the local public administration. This type of loan (guaranteed with future incomes) is the only one that a local administration can now contract, and in this case, the future incomes are not hypothetical amounts obtained from the sale of products, but taxes and duties collected with a high degree of certainty. This situation reflects a generalized state of facts in the Romanian banking system: lack of knowledge on the functioning of the local public administration and its income sources.
- c) *Stimulating the Romanian banks to lend to the local administration* for financing feasible investment projects in the field of infrastructure. A grant system from the State Budget could be created, subsidizing a part of the bank interest, or co-financing together with a loan a public service project
- d) *Stabilizing the capital market for stimulating the bond issuing.* Now it is too early to launch a bond issue on the capital market to finance an infrastructure investment project. There are several reasons for this, including: the chronic crisis of the Romanian capital market (in fact its underdevelopment); the lack of trust from the population in such securities following the numerous crises faced by a series of commercial banks and investment funds; macroeconomic instability and especially the high inflation rate; the lack of institutionalized investors on the market. However, in 2–3 years time, bonds may be issued for the major Romanian municipalities, which may ask strong investment banks to intermediate the issue and which have sufficient budget resources to guarantee such bonds.

The involvement of the private capital in financing the public services must first be stimulated through legislative measures. The evolution of the concession contractual arrangements in the fields of water, heating, sanitation, public lighting, and so on, will have to be rigorously evaluated, so that the good experiences and lessons are disseminated and the bad experiences avoided.

Legislative measures both at the level of the local public administrations and the public service operators should introduce requirements for using modern management methods and techniques (such as program budgeting or budgets oriented on performance, quality analysis, introducing performance indicators, et cetera).

The legislation in force should be revised for introducing the market mechanism in the public service sector, by correlating the legislation in the field, to allow the financing of public services (where possible) through user charges. Expanding the user charges system would create a better correlation between the demand/supply/quality for the public services financed through this method. This system will also enable the allocation of resources in conformity with the citizens' preferences and the necessities and will avoid the losses and overproduction. And last but not least, the 'exposure' of the public services to competition and a market system will increase the efficiency of the service provision and of the involved costs.

APPENDIX

Legal Organization Forms of The Romanian Public Services In Romania

The situation of the municipal service operators

<i>Local public service operators (around 400)</i>	100%
regies autonomes	35%
companies	35%
public services in the executive structure of municipalities	30%
 <i>The population services by:</i>	100%
regies autonomes	70%
companies	24%
public services	6%
 <i>Operation volumes:</i>	100%
regies autonomes	69%
companies	28%
public services	3%
 <i>Number of employees:</i>	100%
regies autonomes	66%
companies	30%
public services	4%

NOTES

- ¹ Starting with December 2000, the Ministry of Public Works, Transportation and Housing.
- ² Starting with December 2000, the Ministry of Waters and Environment Protection.
- ³ In respect of the concessioning of the land and assets in the public domain in relationship with the power and heating sectors, under the Government Emergency Ordinance 63/1998 on power and heating, besides the general criteria for approving the concession the specific criteria for the respective activity provided in point 7, Art. 60 of the Ordinance will be also applied. In addition to that, the natural or legal persons interested to participate to the bid for obtaining a concession must get a temporary authorization from the competent authority for performing the concessioned activity. Following the adjudication of the concession, the temporary authorization of the bid winner will be transformed into a final authorization.
- ⁴ At present, under the Ministry of Public Administration.
- ⁵ The contract to which at least one of the parties is a public person is an administrative contract and its main feature is that it aims at fulfilling directly a general interest (public service) and is subject to a legal regime pertaining to the public law. When the public interest requests it or when the service providing company fails to perform its contract obligations or when the performance becomes a burden to the company, the public administration authority may unilaterally modify or terminate the contract.
- Under the provisions of Law 4/1981 on the municipal services (still in force), the Local Councils must ensure the drinking water supply, the development of new sources and and the water distribution and sewerage networks, as part of their responsibilities regarding the municipal services (such as public transport, street lighting, district heating and hot water supply).
- ⁶ Law 189/1998.
- ⁷ Corporatisation of regies autonomes—Legal ground:
- Government Emergency Ordinance 30/16.06.1997 on the reorganisation of regies autonomes, published in the Official Gazette no. 125/19.06.1997.
 - Government Emergency Ordinance 53/24.09.1997, for modifying and supplementing the Government Emergency Ordinance 30/97, published in the Official Gazette no. 253/25.09.1997.
 - Law 207/12.12.1997 for approving the Government Emergency Ordinance 30/1997 with its subsequent amendments, published in the Official Gazette no. 366/18.12.1997.
 - Law 99/1999 on measures for accelerating the economic reform, modifying and supplementing the Government Emergency Ordinance 88/1997 on the privatisation of business companies, with its subsequent amendments.

- ⁸ In present, ‘The Authority for Privatization and Administration of State Allotments’, under the Government .
- ⁹ From the data presented by the Ministry of Finance we cannot precisely establish the level of investment made by the local authorities in the field of public utilities. However, taking into account the relatively low level of investment in education or culture, the overall level of capital expenditures represents a relevant indicator of the financial effort made by the local administration especially in the field reviewed in this report. The qualitative indicators presented in Annex 3 are less relevant for the county councils, especially when it is about the expenditures per capita for investments and subsidies. The capital expenditures made directly by the county councils are primarily focused on the rural communities, taking into consideration the scarcity of their local budgets. On the other hand, the county councils administrate in very few cases the public services benefiting from subsidies, which explains their very low share in the respective budgets.
- ¹⁰ The regies and business companies providing local public services have a higher flexibility in using the bank accounts than the local administration. The problem is that they administrate public domain assets, which cannot be used as a collateral. Their own patrimony, which could be used as a collateral, is limited in comparison with the size of the loans that should be taken for public utility investments. For this reason the loans should be taken by the local administrations, which can guarantee with future revenues (which are significant in the case of large cities with over 100 000 inhabitants). The ban of local administrations to work through bank accounts makes the credit development process very difficult for investments in the public utility infrastructure and the banks are very reluctant to borrow to clients that cannot unfold the loans through their accounts;
- ¹¹ One of the current problems of the drinking water public utility services—sewerage, hot water and district heating—is the high level of debts of the population to the suppliers. This phenomenon has two explanations:
- the technical system of constructing apartment blocks for the last 40 years makes it impossible to individualising the drinking water and heating costs for each apartment—in the best case scenario the physical consumption could be measured by groups of apartments (10–20 apartments or even more), and the bad payers cannot be disconnected individually. In this situation the so called ‘harsh budgetary restriction’ does not function—services are still provided to those who fail to pay since they cannot be disconnected without also affecting the good payers;
 - the level of costs for such services during the cold season is very high, it can reach 20–25% of the income of a family with two employed persons receiving the average net salary (around US\$ 90 per month). In the case of poor families or retired persons the share of these expenditures may exceed 50% in the cold season. This leads to the failure to pay the bills, the occurrence of debts and financial blockage. That is why it is so important for the prices of such utilities in Romania to grow to a slower pace than the population incomes so that the share of maintenance expenditures in the household budget to decrease.