

**STRUCTURE AND OPERATION REPORT OF  
LOCAL AND REGIONAL DEMOCRACY**

**ROMANIA**

**February 2014**

## **Structure and Operation of Local and Regional Democracy**

### **1. Legal Status**

#### **1.1 Constitutional provisions**

In Romania local self-government is enshrined in the Constitution.

##### **Territory**

ARTICLE 3 (3) The territory is organized, administratively, into communes, towns and counties. Some towns are declared municipalities, according to the provisions of the law.

##### **Equality of rights**

ARTICLE 16 (4) In the context of the Romania's accession to the European Union, the E.U citizens who comply with requirements of the organic law have the right to elect and to be elected to the local public administration bodies.

##### **Basic principles**

###### ARTICLE 120

(1) The public administration in territorial-administrative units is based on the principles of decentralization, local autonomy, and de-concentration of public services.

(2) In the administrative-territorial units where citizens belonging to a national minority have a significant weight, the oral and written use of that national minority's language, in the relations with the local public administration authorities and the decentralized public services, is secured, under the terms stipulated by the organic law.

##### **Commune and town authorities**

###### ARTICLE 121

(1) The public administration authorities, by which local autonomy is implemented in communes and towns, are the Local Councils and Mayors elected in accordance with the law.

(2) The Local Councils and Mayors act as autonomous administrative authorities and manage public affairs in communes and towns in accordance with the law.

(3) The authorities under paragraph (1) may also be set up in the territorial-administrative subdivisions of municipalities.

## The Prefect

### ARTICLE 123

(1) The Government appoint a Prefect in each county and in the Bucharest Municipality.

(2) The Prefect is the representative of the Government at the local level and leads the decentralized public services of ministries and other bodies of the central public administration in the territorial-administrative units.

(3) The powers of the Prefect are established by organic law.

(4) Among the Prefects, on the one hand, the Local Councils and the Mayors, as well as the county councils and their presidents, on the other hand, there are no subordination relationships.

(5) The Prefect may challenge, in the administrative court, an act of the County Council, of a Local Council, or of a Mayor, in case he deems it unlawful. The act is suspended de jure.

## 1.2 Main legislative texts

The main legislative texts which govern the local authority constitution and election of the members are as follows:

*Law on Local Public Administration, (no. 215/2001)*, amended, regulates the general system of local self-government and the organisation and operation of local public authorities.

*Framework Law on Decentralization (no.195/2006)* provides that the decentralisation of competences to the local public authorities should be performed by observing the principles and rules established by the legislation in force. Decentralisation, in legislative terms, means the transfer of administrative and financial powers from central government to local authorities or to the private sector.

*Law on election of local authorities (no. 67/2004)*, amended, regulates the system for the election of local councils, county councils and Mayors.

*Status of Local Elected Representatives (no.393/2004)*, amended, sets out the conditions under which local elected representatives exercise their mandate and the rights and obligations assigned to them by virtue of their function.

*Prefect Institution Law (no. 340/2004)*, amended, regulates the duties of the prefect and the institution of prefect. In accordance with the constitutional provisions, the prefect is the representative of the Government at local level and lead the de-concentrated public services of the ministries and other central government departments in the local authorities' areas.

*Fiscal Code Law (no. 571/2003)*, amended, represents the legislative framework for the taxes and fees that provide state budget and local authorities budget revenues. It establishes the categories of taxpayers and the detailed rules on the calculation and payment of taxes and fees.

*Local Public Finance Law (no. 273/2006)*, amended, regulates the principles, general framework and procedures relating to the raising, administration, commitment, and use of local public funds, and the responsibilities of the local authorities and public institutions involved in local authority finance.

*Law on civil servants (no. 188/1999)*, amended, regulates the general system of legal relationship between servants and central or local government, and relations with independent administrative authorities and with central and local government authorities and institutions. The aim of the law is to secure, in accordance with its provisions, a stable, professional, transparent, efficient and impartial public service which protects the interests of the public and of central and local public institutions.

*Public Servants' Code of Conduct (no. 7/2004)*, amended by the Law no. 50/2007.

Mention should be also made of the laws governing public community services:

*Health Reform Law (no. 95/2006)*;

*Service water supply and sewerage Law (no. 241/2006)*;

*Public service heat supply Law (no. 235/2006)*;

*Public Lighting Law (No. 230/2006)*;

*Local Public Transport Law (no. 92/2007)*;

*Property Owners' Associations Law (no. 230/2007)*.

Local self-government in Romania operates on the basis of the general competence clause. This clause means that the local authority may act in any matter, subject to its action meeting a local interest, complying with the law and not impinging on the powers of another central or sub-national authority.

## **2. Structure of local public authorities**

The legal basis for the structure of local public authorities is provided by the following above mentioned legislation: *Law on Local Public Administration* (no. 215/2001) amended, and *Local Public Finance Law* (no. 273/2006) amended.

### **2.1 Main Subdivisions**

In Romania, there are two levels of local government: county and municipality. Romania has 41 counties plus Bucharest - capital city, and 3 180 municipalities plus the municipality of Bucharest - capital city. Their bodies are elected.

## 2.2 Statistical data

**Table 1 - România: area, population and number of municipalities**

	Counties	Area (sq km)	Population	Number of municipalities
1	Alba	6,241.57	342,376	78
2	Arad	7,754.09	430,629	78
3	Argeş	6,826.31	612,431	102
4	Bacău	6,620.52	616,168	93
5	Bihor	7,544.27	575,398	101
6	Bistriţa-Năsăud	5,355.20	286,225	62
7	Botoşani	4,985.69	412,626	78
8	Braşov	5,363.09	549,217	58
9	Brăila	4,765.76	321,212	44
10	Buzău	6,102.55	451,069	87
11	Caraş-Severin	8,519.76	295,579	77
12	Călăraşi	5,087.85	306,691	55
13	Cluj	6,674.40	691,106	81
14	Constanţa	7,071.29	684,082	70
15	Covasna	3,709.80	210,177	45
16	Dâmboviţa	4,054.27	518,745	89
17	Dolj	7,414.01	660,544	111
18	Galaţi	4,466.32	536,167	65
19	Giurgiu	3,526.02	281,422	54
20	Gorj	5,601.74	341,594	70
21	Harghita	6,638.90	310,867	67
22	Hunedoara	7,062.67	418,565	69
23	Ialomiţa	4,452.89	274,148	66
24	Iaşi	5,475.58	772,348	98
25	Ilfov	1,583.28	388,738	40
26	Maramureş	6,304.36	478,659	76
27	Mehedinţi	4,932.89	265,390	66
28	Mureş	6,713.88	550,846	102
29	Neamţ	5,896.14	470,766	83
30	Olt	5,498.28	436,400	112

31	Prahova	4,715.87	762,886	104
32	Satu Mare	4,417.85	344,360	65
33	Sălaj	3,864.38	224,384	61
34	Sibiu	5,432.48	397,322	64
35	Suceava	8,553.50	634,810	114
36	Teleorman	5,789.78	380,123	97
37	Timiș	8,696.65	683,540	99
38	Tulcea	8,498.75	213,083	51
39	Vaslui	5,318.40	395,499	86
40	Vâlcea	5,764.77	371,714	89
41	Vrancea	4,857.03	340,310	73
42	București (Bucharest) - capital city	237.87	1,883,425	1 (divided in 6 sectors without legal personality)
	<b>Total</b>	<b>238,390.71</b>	<b>20,121,641</b>	<b>3,181</b>
	<b>AVERAGE</b>	<b>5,675.97</b>	<b>479,086.69</b>	<b>75.74</b>

**Table 2: The largest and smallest municipalities and counties in terms of area and population**

(Without capital - city of Bucharest)

	Area		Population	
	County (in sq. km)	Municipality (in sq. km)	County	Municipality
Average	5,808.61	74.94	444,834.54	6,325.57
Largest	8,696.65	237.87	772,348.00	1,883,425.00
Smallest	1,583.28	22.65	210,348.00	119.00

**Table 3: Breakdown of municipalities according to the size of the population**

Number of inhabitants	Number of municipalities	Percentage of total population
Under 2 000	740	5.69%
2 001-5 000	1 742	27.75%
5 001-10 000	488	15.50%
10 001-20 000	116	7.54%
20 001-100 000	75	15.45%
Over 100 001	20	28.07%
Total	3 181	100.00%

## 2.3 Special administrative structures

In Romania, the following structures have a special status and differentiated competencies: the capital city, the metropolitan areas, the conurbations and the development regions.

The competences are in the following fields: development of infrastructure and other objectives of common interest, joint provision of public services development and reducing disparities in economic and social development.

*The municipality of Bucharest*-capital city is divided into six local administrative subdivisions, known as sectors ("sectoare"), without legal personality, but with elected bodies (local council and mayor).

*The metropolitan areas* are intercommunity development associations formed on the basis of partnership between the capital city/big municipalities/county's seat and other municipalities in the immediate area.

*The conurbations* are intercommunity development associations formed on the basis of partnership between municipalities and cities having urban and rural areas in their area of influence.

Metropolitan areas and conurbations are established with the consent of the local councils of the municipalities-components. Deliberative and executive authorities in each component municipalities retain their local autonomy under the law. They are aimed at developing the infrastructure and at achieving development objectives of common interest.

*The development regions* are entities having the common objective of promoting regional economic policy, achieving a balanced development and reducing disparities in economic and social development. They also provide a framework for the development, implementation and evaluation of regional development policy and specific statistics in line with EU provisions established by Eurostat NUTS 2 classification level.

In Romania, there are eight development regions. They are not administrative units and have no legal personality. Development regions are areas that include those county territories, Bucharest respectively, constituted on the basis of agreements between representatives of county councils and, where appropriate, the General Council of Bucharest.

A Regional Development Council functions in each region in order to coordinate the development and to monitor the activities arising from the regional development policy. It is a regional deliberative body, without legal personality, which is constituted and operates on partnership principles. Therewith, a regional development agency works in each development region, as non-governmental and nonprofit body, of public interest and with legal personality.

## 2.4 Boundary changes and amalgamation

### Boundary change

In Romania, a boundary change may be proposed by concerned local authorities, and made only by law and after consultation of the citizens of the areas concerned (by referendum), in accordance with the provisions of the *Law no. 2/1968, on the administrative organisation of the territory of Romania*, republished in 1981. Therefore the body having the final decision with regard to a boundary change is the Parliament. The government may grant financial assistance for boundary changes.

While the *Law no. 2/1968* establishes the organisation of the territorial administrative units within the national territory - counties, towns and villages -, their territorial delimitation shall be determined under Article 22 of the *Local Government Act (no. 215/2001)*. Any modification of the territorial limits can be made at the proposal of the concerned local authorities and only after consulting the citizens by referendum.

A boundary change can only take place on the basis of a reasoned decision. Reasons may include the following: improved services, improved living conditions, improved operating environment for businesses, efficiency gains, government policy.

### Amalgamation

An amalgamation of two or more local authorities must be proposed by the local authorities after consultation of the residents, by respecting the provisions of the *Local Government Act (no. 215/2001)* and the *Organisation and Development of Referendum Act (no. 3/2000)*.

According to Article 11(1) of the *Local Government Act (no. 215/2001)*, two or more municipalities have the right, within the limits of their deliberative and executive competences, to cooperate and to associate, under the law, setting up community development associations, as legal person of private law and public utility.

The community development associations are structures set up for joint development projects of area or regional interest, or public services provision.

## **2.5 Territorial structures of central public administration and their relationship with local public authorities**

Romania has units of state administration in every county or development region, as applicable. The units operate according to a two levels system: the representative of the state administration dealing with local authorities is the institution of the Prefect; the ministries and other central bodies have units of public deconcentrated services.

The institution of Prefect is accountable to the Government, through the Ministry of Internal Affairs. The other territorial state administration structures are accountable to the correspondent ministry.

The institution of prefect has the following duties:

- to review the legality of the administrative decisions taken by the county council, the local council and the mayor;
- to lead the deconcentrated public services of the ministries and of the other central government departments in the administrative territorial units;
- to guarantee the implementation of the law and to maintain the order at local level;
- to ensure, in the county or in the municipality of Bucharest, as applicable, the implementation and the enforcement of the Constitution, laws, government orders and decrees and other binding decisions, and public order;
- to ensure, in co-operation with the authorities and the authorized agencies, the implementation of decisions regarding the preparation for emergency situations, in accordance with the law;
- to take, as president of the county Committee for emergency situations, the decisions needed to prevent and manage emergencies and use, in this respect, the funds specially allocated for the purpose in the committee budget;
- as head of civil protection, to use special funds allocated from the state budget and logistics based crisis intervention, to the smooth conduct of this activity;
- to take the appropriate measures to prevent crime and protect the rights and safety of citizens, through legal bodies authorized.

The state administration units are responsible for scrutinising the local authorities. The state administration units work closely with the local authorities and carry out tasks in the following areas: education, health, housing, environment, delegated powers, citizenship, police, prosecution, collection of state revenues, land registry, enforcement of judgements, etc.

The state administration units operate separately from local authorities. They cannot adopt regulations which have the force of law. They do not have the right to veto for decisions taken by the local authorities. The local authority, in its turn, has the right of appeal against decisions taken by a state administration unit.

### 3. Organisation of local public authorities

Aspects of local self-government enshrined in the Constitution:

#### **Basic principles**

ARTICLE 120 (1) The public administration in territorial-administrative units is based on the principles of decentralization, local autonomy, and de-concentration of public services.

#### **Commune and town authorities**

##### ARTICLE 121

(1) The public administration authorities, by which local autonomy is implemented in communes and towns, are the Local Councils elected and Mayors elected, in accordance with the law.

(2) The local Councils and Mayors act as autonomous administrative authorities and manage public affairs in communes and towns, in accordance with the law.

(3) Authorities under paragraph (1) may also be set up in the territorial-administrative subdivisions of municipalities.

#### **The county council**

ARTICLE 122 (1) The county council is the public administration authority to co-ordinate the activities of the commune, town and municipal councils, in order to provide public services at county level.

The *Law on Local Public Administration* (no.215/2001), amended, regulates the general system of local self-government and the organisation and operation of local public authorities.

### 3.1 Deliberative body

#### **The local council**

The local council consists of between 9 and 31 members. It meets once a month in ordinary meetings and extraordinarily, whenever necessary. The duration of meetings is not established.

**Table: number of members per population size**

<i>Population</i>	<i>Number of members</i>
<i>≤ 1 501</i>	<i>9</i>
<i>1 501-3 000</i>	<i>11</i>
<i>3 001-5 000</i>	<i>13</i>
<i>5 001-10 000</i>	<i>15</i>
<i>10 001-20 000</i>	<i>17</i>
<i>20 001-50 000</i>	<i>19</i>
<i>50 001-100 000</i>	<i>21</i>
<i>100 001-200 000</i>	<i>23</i>
<i>200 001-400 000</i>	<i>27</i>
<i>&gt; 400 000</i>	<i>31</i>

The members of the local council are elected by secret ballot and by direct suffrage. The length of the term of office is four years. It may be extended by an institutional act in the event of war or disaster.

Voting is not compulsory. In order to stand for election, a candidate (nationals, EU nationals) must be over the age of 23 years, be permanent resident in a EU member State, be resident within the local authority. The voting system used is the proportional representation.

A local council may be dissolved by a court or by referendum or after dissolution by law.

A local council may be dissolved for the following reasons:

- if it has not met for two consecutive months, although it was convened under the law,
- if it did not adopt any decision in three consecutive ordinary meetings,
- where the number of local councillors is reduced in half plus one and it cannot be completed by substitutes/deputies.

### **The county council**

The county council consists of between 30 and 36 members. It meets once a month in ordinary meetings and extraordinarily, whenever necessary. The duration of meetings is not established.

**Table: number of members per population size**

<i>Population</i>	<i>Number of members</i>
<i>≤ 350 000</i>	<i>30</i>
<i>350 001-500 000</i>	<i>32</i>
<i>500 001-650 000</i>	<i>34</i>
<i>&gt; 650 000</i>	<i>36</i>

## 3.2 Executive body

### The mayor

The executive body is the mayor. She/he is elected by direct election, universal suffrage and by secret ballot. The length of the terms of office is 4 years and runs concurrently with the deliberative body's terms of office.

The citizens running for mayor position must be at least 23 years of age and be resident in the local authority area. The following cannot run for mayor position: Constitutional Court members, people with mental deficiency, persons under interdiction, persons deprived of voting rights for the duration set by final judgment incompatible people.

The mayor attends local council's meetings. She/he is accountable to the local council and must report four times per year.

Her/his tasks are in the following fields: general administration, budget preparation, budget administration, legal representation, public services, tasks performed as representative of central government, in accordance with the law (supervisory authority and registrar of births, marriages and deaths and tasks connected with the census, the organisation and conduct of elections, civil defence measures and other duties assigned to them by law), public works, municipal property, appointment of administrative staff, execution of council decisions, citizens' complaints, concluding contracts, challenging council decisions, authorising expenditure, taxation, regulations. Those tasks can be delegated to the vice-mayor of the local council.

The following tasks can be delegated to administrative secretary or civil servants: guardianship authority; civil status register; specific census activities established by law; specific electoral activities established by law; specific activities of civil protection established by law.

Dismissal of the mayor is at the instigation of at least 25% of local residents, having right to vote, by referendum or by order of the prefect, in cases stipulated by law.

Reasons for dismissal are: acting beyond her/his authority or against the interests of the community, permanent residence into another municipality, a vote of no confidence, incompatibility, failure to exercise unjustified the mandate for 45 consecutive days, a criminal sentence, placing under judicial interdiction, loss of voting rights, loss by resignation of membership of political parties or national minority organization on whose list he was elected.

### **The President of the county council**

The executive person at the county level is known as the President of the county council. She/he is elected by direct election, universal suffrage and by secret ballot. The length of the terms of office is 4 years and runs concurrently with the deliberative body's terms of office.

The President of the county council must be at least 23 years of age and be resident in the local authority. Election disqualification criteria include: being banned from joining a political party, a judge of the Constitutional Court, advocate of the people, magistrate, active member of the armed forces, policeman and other category of civil servants, declared mentally deficient or alienated, laid under interdiction, deprived of voting rights for the duration determined by final judgment.

The President of the county council attends the local council's meetings. She/he is accountable to County Council and to citizens who elected him, and must report once per year and at the request of the county council.

Her/his tasks are the following: general administration, budget preparation, budget administration, legal representation of the council, public services at county level, relations with the county council, public works, municipal property, appointment of administrative staff, execution of council decisions, citizens' complaints, concluding contracts, legal action for the council, challenging council decisions, authorising expenditure. The tasks can be delegated to the vice-presidents of the county council.

Dismissal of the President of the county council is at the instigation of at least 1/3 of the county councils members or at least 25% of local residents, having right to vote, by referendum or by order of the prefect, in cases stipulated by law.

Reasons for dismissal are: acting beyond her/his authority or against the interests of the community; permanent residence into another local authority; a vote of no confidence; incompatibility; unjustified failure to exercise the mandate for 45 consecutive days; a criminal sentence; placing under judicial interdiction; loss of voting rights; resignation of membership of political parties or national minority organization on whose list he was elected.

### **3.3 Internal structures**

The legal basis for internal structures is provided by the following legislation:

*Local Government Act, amended (no. 215/2001)* which governs the general system of local self-government and the organisation and operation of local government;

*Government emergency ordinance (no. 77/2013)* establishes measures in order to ensure the functionality of the local public administration, the number of jobs and reduce costs in public institutions and authorities subordinated or under the authority or coordination of the Government or Ministries;

*Government Emergency Ordinance (no. 63/2010)* amending and supplementing the Law no. 273/2006 on local public finances and establishing financial measures.

#### **4. Direct participation in decision making**

The legal basis for citizens' participation to decision making is provided by the following provisions:

##### **Constitution**

###### ARTICLE 31: Right to information

(1) A person's right of access to any information of public interest shall not be restricted.

(2) The public authorities, according to their competence, shall be bound to provide correct information to the citizens in public affairs and matters of personal interest.

###### ARTICLE 74: Legislative initiative

(1) A legislative initiative shall lie, as the case may be, with the Government, Deputies, Senators, or a number of at least 100,000 citizens entitled to vote. The citizens who exercise their right to a legislative initiative must belong to at least one quarter of the country's counties, while, in each of those counties or the Municipality of Bucharest, at least 5,000 signatures should be registered in support of such initiative.

(2) A legislative initiative of the citizens may not touch on matters concerning taxation, international affairs, amnesty or pardon.

##### **Legislation**

*The Referendum Act (no. 3/2000)*, amended, provides that national sovereignty in Romania is vested in the Romanian people and is exercised through its representative institutions and via referenda.

*The Act regarding the transparency of decision in public administration (no. 52/2003)*, amended, establishes the minimal procedural rules applicable for ensuring the transparency of decision within the framework of the authorities of the local and central public administration, elected or named, as well as of other public institutions that use public financial resources, in the relations established among them and with the citizens and their legally constituted associations. The law has the following purpose: to increase the degree of responsibility of the public administration towards the citizen, as beneficiary of the administrative decision; to stimulate the active participation of the citizens in the process of taking administrative decisions and in the process of elaborating normative acts; to increase the degree of transparency at the level of the whole public administration.

There is no notable progress in respect of the ratification of the Additional Protocol to the European Charter on Local Self-Government, on the right to participate in the affairs of a local authority (CETS No. 207).

## 4.1 Informing residents

In Romania, there is an obligation to inform residents of the authority's decisions. The residents are informed through publications, journals, the internet, television or public meetings.

Local council meetings are open to the public. Local residents may take the floor during council meetings, and they may also submit proposals. Residents have a right to petition.

According to *Law on free access to information of public interest (no. 544/2001)*, every public authority or institution has obligation to communicate to citizens, ex officio, public information, including the decisions of the local government.

## 4.2 Referendum

Local residents do not have the right to initiate a referendum on local issues. A referendum may be initiated by the local authorities. The results of a referendum are binding for the issues concerning the dissolution/dismissal of the local authorities and not binding for other local issues.

Under Article 13 (1) of *Law on the organization of the referendum (no. 3/2000)*, particularly in administrative territorial units and administrative territorial subdivisions of Bucharest, the approval of the residents, by local referendum, may be required on issues established by the local or county authorities, as appropriate, at the mayor's proposal.

According to the *Local government law (no. 215/2001)*, the dissolution of the local council, by local referendum, is organized under the law. The referendum shall be held following a request to that effect to the prefect of at least 25% of citizens voting on the electoral administrative-territorial unit.

## 4.3 Rate of participation

At the last local elections (10.06.2012), the average rate of participation was: 56.39%. The average rate of participation for the last national referendum (29.07.2012) was 45.92%.

<b>Voter turnout in elections</b>		
	<b>Voter turnout (%)</b>	<b>Male/Female (%)</b>
<b>Presidential elections</b>	53.52% (first round) 54.72% (second round)	unmeasured
<b>National Parliamentary elections</b>	41.72%	unmeasured
<b>Local Authority Elections</b>	56.39%	unmeasured
<b>Mayoral Elections</b>	56.39%	unmeasured

## 5. Status of local elected representatives

The legal basis for the status of local elected representatives is provided by the following provisions. Local elected representatives are elected for a term of four years. The mandate begins after being sworn in.

### Constitution

ARTICLE 16: Equality of rights

(3) Access to public, civil, or military positions or dignities may be granted, according to the law, to persons whose citizenship is Romanian and whose domicile is in Romania. The Romanian State shall guarantee equal opportunities for men and women to occupy such positions and dignities.

(4) After Romania's accession to the European Union, the Union's citizens who comply with the requirements of the organic law have the right to elect and be elected to the local public administration bodies.

ARTICLE 36: Right to vote

(1) Every citizen having turned eighteen up to or on the election day shall have the right to vote.

(2) The mentally deficient or alienated persons, laid under interdiction, as well as the persons disenfranchised by a final decision of the court cannot vote.

ARTICLE 37: Right to be elected

(1) Eligibility is granted to all citizens having the right to vote, who meet the requirements in Article 16 (3), unless they are forbidden to join a political party, in accordance with Article 40 (3).

(2) Candidates must have turned, up to or on the election day, at least twenty-three in order to be elected to the Chamber of Deputies or the bodies of local public administration, at least thirty-three in order to be elected to the Senate, and at least thirty-five in order to be elected to the office of President of Romania.

ARTICLE 40: Right of association

(3) Judges of the Constitutional Court, the advocates of the people, magistrates, active members of the Armed Forces, policemen and other categories of civil servants, established by an organic law, shall not join political parties.

### Legal framework

*Local Government Act (No. 215/2001)*, amended, governs the general system of local self-government and the organisation and operation of local government.

*Local Election Act (No. 67/2004)*, amended, governs the system for the election of local councils, county councils and mayors.

*Status of Local Elected Act (No. 393/2004)*, amended, governs the terms of the mandate of elected officials, their rights and their obligations related to the mandate.

## **5.1 Conditions of eligibility for local elections**

The following may vote in local elections: national and EU nationals, permanent residents in the territory of the local authority.

The following may not vote in local elections: non-nationals (excepting EU citizens), persons detained under mental health legislation, persons deemed unfit under mental health legislation, persons disenfranchised by a final court decision.

The following may stand as candidate: nationals and EU nationals, people eligible to vote in national elections.

The following persons may not stand as candidate: Constitutional Court judges, ombudsmen, magistrates, active members of the military, police and other civil servants established by organic law, infirm or mentally ill persons, under interdiction, persons deprived of electoral rights during determined by final judgment.

A local elected representative cannot be a member of a national parliament. A local elected representative cannot hold ministerial office.

EU citizens domiciled or resident in Romania have the right to vote and to be elected to the same conditions as Romanian citizens, under the law. EU citizens have the right to be elected only as local councilor and county councilor.

## **5.2 Financing election campaigns**

The financing of election campaigns is governed by the following legislation:

*Law on financing political parties and electoral campaigns (no. 334/2006)*, republished, aims to ensure equal opportunities in political competition and transparency in the funding of political parties and election campaigns;

*Law on election of local public administration authorities, (no. 67/2004)*, republished, governing the elections of the local authorities: local councils, county councils, mayors and presidents of county councils.

Election campaigns are partially financed by the State. The following may also contribute to the funding: party members' contributions and subscriptions; individuals and organizations (companies, associations) through donations, within the law.

In addition, the State contributes indirectly, for example, by providing office space to central and local political parties, based on a reasoned request, respecting the legal regime for rental accommodation.

Together with the State's funding, private funds are essential source of financing of political parties. Since private financing, in particular donations, creates opportunities for influence and corruption, the following rules apply:

- prohibition to accept donations from governments or public institutions, state enterprises, national companies, banks owned by the state or under state control;
- acceptance of donations from other states or foreign organizations and from individuals or legal entities is also prohibited;
- prohibition to accept donations from a union or a religious cult, regardless of their nature;
- donations received by a political party in a fiscal year may not exceed 0,025% of income set in the budget for that year.

Non-EU nationals may not contribute. The law ensures candidates are given equal access to the media. The municipality is obliged to allocate billboard space for posters, which is allocated equally between parties and independent candidates or according to specific criteria.

### **5.3 Functions or activities, offices or positions incompatible with the elected office**

The following activities are considered incompatible with elected office:

- representing the municipality on commercial companies,
- holding more than one elected office,
- holding a position in the municipal administration,
- holding a position on the governing or supervisory board of commercial companies owned or partially owned by the municipality,
- acting as a commercial agent of a company owned / partially owned by the municipality,
- taking part in discussions on council business of personal interest or of interest to a close family member.

According to Articles 74, 76 and 79 of the Law on the status of local (no. 393/2004), in maximum 15 days from taking office, elected officials must declare in a register:

- any positions held in companies, public authorities and institutions, associations and foundations;
- the income from working with any person or entity and the nature of this collaboration;

- the shares held in companies, if it exceeds 5% of the company's capital or if exceeds an amount provided by law;
- associations and foundations whose members are;
- land and buildings owned or in lease/concession;
- positions held in companies, public authorities or institutions by husband / wife;
- land and buildings owned or in lease/concession by husband/wife;
- list of properties held across administrative-territorial unit;
- any gifts and any financial benefits or other benefits made by any individual or entity, related or resulting from its position in the local government authority (any gift or donation received by elected officials in a public or festive occasion become the property of that institution or authority);
- any other interests, established by decision of the local council for mayors, deputy mayors and local councillors, or by decision of the county council, for the president and the vice president of the county council and county councillors.

According to the *Law on measures to ensure transparency in exercising public offices, public positions and business environment, corruption's prevention and punishment (no.161/2003)*, as amended and supplemented, the following functions are considered incompatible with other functions:

Article 87

- (1) The office of the mayor and deputy mayor and deputy mayor of Bucharest, president and vice president of the county council is incompatible with:
- a) local councilor ;
  - b) prefect or sub-prefect ;
  - c) public servant or employee owning individual employment contract, regardless of its duration ;
  - d) the President, Vice President, Director, manager, administrator, board member or auditor or any leading positions in companies, including banks or other credit institutions, insurance and financial companies, the autonomus regia (regii autonome) of national or local interest, national companies and public institutions ;
  - e) function of chairman or secretary of the general meetings of shareholders or shareholders in a company;
  - f) function of representative of the administrative-territorial units in general meetings of the companies of local interest or representative in the general meeting of a company of national interest;
  - g) the quality of individual trader ;
  - h) a member of a group of economic interest ;
  - i) position of deputy or senator;
  - j) minister, secretary of state, secretary of state or other functionality, assimilated;
  - k) any other public functions or paid work, at home or abroad, except teaching function or functions within associations, foundations or other organizations.

(2) The mayors, deputy mayors and deputy mayor of Bucharest may not hold during their mandate, county councilor position;

(3) The mayors, deputy mayors and deputy mayor of Bucharest may exercise functions or activities in teaching, scientific research and creative literary arts.

#### Article 88

(1) The office of alderman or county councilor is incompatible with:

- a) the mayor or deputy mayor ;
- b) prefect or sub-prefect ;
- c) public servant or employee owning individual labor contract in the apparatus of the respective local council or county council or apparatus of the prefecture;
- d) the President, Vice President, General Manager, director, manager, partner, trustee, member of the board of directors or auditor in autonomus regias and companies of local interest or under the authority of the local council or the county council, or in any autonomus regias and companies of national interest which are headquartered or have offices in the administrative-territorial unit;
- e) the chairman or secretary of the general meetings of shareholders of a company of local interest or a national interest company which is headquartered or has subsidiaries in the administrative-territorial unit;
- f) position of state representative in a company which has its registered office or holding subsidiaries in the administrative -territorial unit;
- g) position of deputy or senator;
- h) position of minister, secretary of state, secretary of state and their related functions;

#### Article 89

(1) The local elected position is incompatible with significant position of shareholder in a company established by the local council, or county council.

(2) Incompatibility exists if the spouse or first-degree relatives of local elected representatives have significant shareholder in one of the operators under paragraph (1).

(3) Significant shareholder is a person exercising rights relating to shares, where the aggregate represent at least 10% of the share capital or conferring at least 10% of the total voting rights in the general meeting.

#### Article 90

(1) Local councilors and county councilors who own position of president, vice - president, general manager, director, manager, administrator, board member or auditor or other leadership positions as well as position of shareholder or associate in private companies or state or administrative-territorial units owned companies, may not conclude commercial contracts for services, execution of works, supplies or contracts of association with local authorities they belong, with autonomus regias, institutions or local interest subordinated or under the authority of the respective local or county council or the companies established by the local or county councils concerned.

## 5.4 Conditions relating to their employment

### **Employment contracts**

Elected officials' employment contracts are suspended and employment posts are kept open for the duration of the terms of office, if it is within a public institution or authority, an enterprise or a company owned or controlled by the State or the local government.

### **Remuneration and compensation**

Elected officials (mayor, vice-mayor, president and vice-president of county council) are entitled to an annual salary. The mayor's salary is related to the size of the municipality. The salary is subject to tax, health contributions and pension scheme contributions. They are also entitled to fixed and other allowances, for exemple, for travels, child care (full-time workers), meetings (maximum of three meetings per month, except for the mayor, vice-mayor, president and the vice-president of the county council which are entitled to a monthly allowance). They are entitled to annual leave.

### **Training**

Local elected officials are entitled to training. Mayors are also entitled to training. Training is organised in the following areas: leadership, performance management, human resources, local finance, etc.

### **Expiry or dissolution of the terms of office**

A local elected official's terms of office may be terminated for the following reasons: death, resignation, disqualification, unjustified absences over a specified period of time, conviction for electoral fraud, prison sentence, certification under the mental health legislation.

Once the terms of office have expired, an elected official who is not reelected is not given assistance in finding employment nor an unemployment allowance. There are no restrictions as to the type of activity that may be carried out once the terms of office have expired.

**Resignation**

Elected officials may tender their resignation in writing at any time. Following the resignation, there are no restrictions as to the type of activity that may be carried out afterwards.

The procedure for resignation is as follows:

Local councillors and county councillors resign by giving written notice to the president of the local/county council. The president adopts a decision which takes note of the resignation and declares the seat vacant.

The mayor gives written notice to the local council and to the prefect. At the next meeting of the board, the president of the local council takes note, which is recorded in the minutes. The prefect takes note by order. The prefect's order and an excerpt from the session minutes are submitted to the Ministry of Internal Affairs, which proposes to the Government to establish the date for the election of a new mayor.

**Gender representation (participation)**

The *Law on equal opportunities and equal treatment between women and men (no. 202/2002)* contains provisions to promote and ensure balanced participation of women and men in leadership and decisions making.

Current national legislation does not assure for women a guaranteed percentage of candidates for local elections.

In 2012, 14.73% of county councillors were women; 3.67% of mayors were women; 4.55% of vice - mayors were women; 0.00% of presidents of county councils were women; 7.14% of vice-presidents of county councils were women.

**Women's participation in public life**

Central government has adopted specific policies/measures to encourage an increase in participation of women in public life at local level.

**Table: measures to increase women participation**

<b>Governmental measures</b>
Law on equal opportunities and treatment between men and women, to promote and ensure equal participation of women and men in leadership and decision-making (no. 202/2002);
Indicators on Gender Equality and indices measured by the National Commission on Equality between Women and Men (CONES), belonging to the Ministry of Labour, Family and Social Protection Elderly);
Annual plan of measures adopted by each institution member CONES for promoting equality between women and men in their sector of activity.
Development programs for women;
Promotion of women's activities and concerns in decision-making

Some local authorities have not undertaken frontline initiatives to promote greater participation by women in local government.

## **6. Distribution of powers between local, regional and central authorities**

The legal basis for the distribution of powers between local and central authorities is provided by the following provisions:

### **Constitution**

ARTICLE 120 (1) The public administration in territorial-administrative units shall be based on the principles of decentralization, local autonomy and de-concentration of public services.

### **Local Government Act, amended (No. 215/2001)**

#### ARTICLE 6

(1) The relations between the authorities of the local public administration in communes and towns and the public administration authorities at county level shall be based on the principles of autonomy, legality, responsibility, cooperation, and solidarity in solving the matters of the county.

(2) In the relations between the local public administration authorities and the county councils, on the one hand, as well as between the local council and the mayor, on the other hand, there are no terms of subordination.

### **Framework Act of Decentralisation (No. 195/2006)**

Relations between the local authorities are based on the principles of self-government, on the strict compliance with the law, on the principles of responsibility, cooperation and solidarity in solving problems at county level.

There is no hierarchical relationship between the local authorities and the county council, or between the local council and the mayor.

The local authorities may take decisions on matters of general interest in areas within their jurisdiction, in accordance with the law.

## **6.1 Principles for governing the distribution of powers**

The powers between the different levels of local self-government are distributed according to the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.

### **Constitution (Articles 121 and 122)**

Local authorities shall, within the limits of the law, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority.

### **Local Government Act (No. 215/2001) amended**

Public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy.

(1) The relationship between local authorities in communes and towns and public administration at the county level is based on the principles of autonomy, legality, responsibility, cooperation and solidarity in solving problems in the county.

(2) The relationship between local authorities and county councils on the one hand, and between the city council and mayor, on the other hand, there is a relationship of subordination.

### **Framework Act of Decentralisation (No. 195/2006)**

According to the law, there is no hierarchical relationship between local authorities and county council or between the local council and mayor. Towns, cities, municipalities and counties can decide on matters of general interest, in areas under their jurisdiction, in accordance with the law.

Powers given to local authorities shall normally be full and exclusive and may not be undermined or limited by another central or regional authority except as provided for by the law.

Under the relevant legislation, there are also the *Fiscal Code Act (No. 571/2003)*, amended, and the *Local Public Finance Act (No. 273/2006)*, amended.

## 6.2 Division of competences

Function	Competent authority			Type of competence				Exercise of the competence				National standards(for mandatory powers, or no national standards)					Remarks*
	State	Intermediate ***	Municipality	Exclusive	Shared	Compulsory	Discretionary	Direct	Indirect	In own right	For another authority		Managerial	Decision making	Regulatory	Minimal involvement	
<b>Police / Public Order</b>																	
General administration																	
Security, police	●		●	●			●	●		●			●	●	●		
Fire protection	●		●		●		●	●		●			●	●	●		
Civil protection	●	●	●		●	●		●		●			●	●	●		
Justice	●			●		●		●		●			●	●	●		
Civil status register	●		●		●	●		●	●	●			●	●	●		
Statistical office	●			●		●		●		●			●	●	●		
Electoral register	●		●			●		●		●			●	●	●		
<b>Social</b>																	
Education**																	
Pre-school education			●	●			●	●		●			●	●	●		
Primary education	●		●		●	●		●		●			●	●	●		
Secondary education	●		●		●	●		●		●			●	●	●		

Function	Competent authority			Type of competence				Exercise of the competence				National standards for mandatory powers, or no national standards					Remarks*
	State	Intermediate ***	Municipality	Exclusive	Shared	Compulsory	Discretionary	Direct	Indirect	In own right	For another authority		Managerial	Decision making	Regulatory	Minimal involvement	
Vocational and technical	●		●		●	●		●		●			●	●	●		
Higher education	●			●			●	●		●			●	●	●		
Adult education	●			●		●		●	●	●	●		●	●	●		
Other																	
Public Health																	
Hospitals	●	●	●	●		●		●		●			●	●	●		
Health protection	●	●	●		●	●		●		●			●	●	●		
Social Welfare																	
Kindergarten and nursery			●	●		●		●		●							
Family welfare services	●	●	●	●		●		●		●			●	●	●		
Welfare homes			●	●			●	●		●			●	●			
Social security	●	●	●	●	●	●		●		●			●	●	●		
Other			●	●		●		●		●			●	●			
Culture, leisure & sports																	
Theatres & concerts	●	●	●	●			●	●		●			●	●	●		
Museums & libraries	●	●	●	●	●		●	●		●			●	●	●		



Function	Competent authority			Type of competence				Exercise of the competence				National standards (for mandatory powers, or no national standards)					Remarks*
	State	Intermediate ***	Municipality	Exclusive	Shared	Compulsory	Discretionary	Direct	Indirect	In own right	For another authority		Managerial	Decision making	Regulatory	Minimal involvement	
Roads	•	•	•		•	•		•		•			•	•	•		
Transport	•	•			•		•		•	•			•	•	•		
Urban road transport			•	•			•		•	•			•	•			
Urban rail transport	•		•	•			•		•	•			•	•			
Ports	•		•		•		•	•		•			•	•	•		
Airports	•	•	•	•			•	•		•			•	•	•		
Other traffic & transport	•		•	•		•	•	•		•			•	•	•		
<b>Urban planning /environment</b>																	
Housing and town planning																	
Housing	•		•	•			•	•		•			•	•	•		
Town planning		•	•	•		•		•		•			•	•	•		
Regional/spatial planning		•	•	•		•		•		•			•	•			
Environment, public sanitation																	
Water & sewage		•	•		•	•		•		•			•	•			

Function	Competent authority			Type of competence				Exercise of the competence				National standards (for mandatory powers, or no national standards)					Remarks*
	State	Intermediate ***	Municipality	Exclusive	Shared	Compulsory	Discretionary	Direct	Indirect	In own right	For another authority		Managerial	Decision making	Regulatory	Minimal involvement	
Refuse collection & disposal		●	●		●	●		●		●			●	●			
Cemeteries & crematoria			●	●			●	●		●			●	●			
Slaughter Houses	●				●		●		●		●				●		
Environmental protection	●	●	●			●		●		●			●	●	●		
Consumer protection	●		●		●	●		●		●			●	●	●		
<b>Other functions</b>																	
Employment	●		●	●		●		●		●			●	●	●		

(\*) for any remarks see last page in this country's table

(\*\*) the competence refers to both infrastructures and the management

(\*\*\*) please specify: region / canton / land / other

### **6.3 Participation of local authorities in national economic spatial planning**

According to the laws in force, the Ministry of Regional Development and Public Administration is the central public authority responsible for the spatial planning. Its competences in this field are as follows:

- it draws up the Strategy for spatial planning of Romania and the public policies, according to the objectives set by strategy;
- it draws up the chapters of the National plan of spatial planning;
- it draws up the Plan of spatial planning for regions and zones, which substantiates the regional development plans;
- it draws up the general regulations of urban planning.

The matters within central government's competence include also: the development of the the National Strategy for Regional Development and the development of sectoral strategies.

Local authorities participate in decisions on spatial planning for matters within their own competence, or within central government's competence.

Local authorities are entitled to draw up plans. They are not entitled to create specialist bodies for drawing up plans.

The county councils coordinate the spatial planning at the county level, according to the law. They set the overall direction concerning spatial planning, urban organisation and development of localities, by promoting and approving the spatial planning documents. They provide technical assistance to local councils.

The local councils coordinate and are responsible for the entire urban planning activities. They ensure that the provisions within the urban planning documentations are respected.

The mayor initiates and draws up draft spatial planning strategies, then submits them for approval to the local councils. The mayor draws up urban plans, according to the law. The mayor supervises the practical implementation of the approved urban planning documents.

### **6.4 Tasks delegated to local authorities as agents of state**

In accordance with the *Local Government Act, (No.215/2001)* amended, the mayor acts as representative of the State for the following tasks:

- tutelary authority;
- civil status service;
- specific census activities set by law;
- specific election activities set by law;
- specific civil protection activities set by law.

The duties related to the civil status service and to the tutelary authority may be delegated to the secretary of the administrative territorial unit or to other civil servants with expertise in this area, according to the law.

The local councils may exercise other powers stipulated by law or delegated by the General Council of Bucharest.

## **7. Co-operation and other types of linkage between local authorities**

The legal basis for co-operation and other types of linkage between local authorities is provided by the following legislation.

- *Local Government Act (No. 215/2001)*;
- *Community Public Utility Services Act (No.51/2006)*;
- *Law on treaties (No. 590/2003)*;
- *Governmental Decision 521/2005 on consultation procedure of the associative structures of local authorities in drafting legislation.*

### **7.1 National co-operation**

Local authorities are entitled to co-operate with municipalities, public law bodies and private law bodies. Co-operation at local level may be undertaken to pursue social and economic progress, to settle common issues, to defend local interests, to support local self-government, to support both local and central government concerns. The co-operation relationships are vertical and horizontal. They may be either single or multi-purpose and can be for a fixed or an indefinite term.

Under Section 11, of *Local Government Act (No. 215/2001)*, two or more local authorities may, within the limits of the powers of the decision-making and executive authorities, co-operate and, to that end, form *intercommunity development associations* (IDAs), in accordance with the law, which are governed by private law, are in the public interest and have legal personality. Intermunicipal co-operation may not be commercial in nature. Co-operation bodies may have legal personality.

IDAs are managed by a Board of Directors composed of the representatives of the administrative-territorial components of the co-operation body, designated by the city council or the county council, at the mayor's proposal or that of the president of the county council. Each member has the right for one equal vote.

A supervisory body is set up to scrutinise the intermunicipal co-operation activities and the intermunicipal association functioning. A committee of audit ensures the financial internal control.

## 7.2 Transfrontier co-operation

Romania signed the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (Madrid Convention) in 1996; Protocol no.1 in 1998; Protocol no.2 in 2001.

Local authorities are entitled to set up public bodies to co-operate across borders. The drafts of co-operation agreement (including twinning) shall be noticed both to the Ministry of Foreign Affairs and to the Ministry of Regional Development and Public Administration.

Local authorities may conclude twinning arrangements. Twinning arrangements are subject to the approval of both the Ministry of Foreign Affairs and the Ministry of Regional Development and Public Administration.

So far, 966 municipalities have concluded 2412 twinning arrangements with local authorities from the following countries : South Africa, Albania, Argentina, Armenia, Austria, Belarus, Belgium, Bosnia-Herzegovina, Bulgaria, Brasilia, Canada, R. Czech, Chile, China, Cyprus, Columbia, South Korea, Costa Rica, Croatia, Cuba, Denmark, Egypt, Switzerland, Russian Federation, Philippine, France, Finland, Georgia, Germany, Greece, Indonesia, Jordanian, Iraq, Iran, Ireland, Israel, Italy, Japan, Kazakhstan, Latvia, Lithuania, Luxemburg, "The former Yugoslav Republic of Macedonia", Great Britain, Morocco, Mexico, Republic of Moldova, Norway, Netherland, Palestine, Peru, Poland, Portugal, U.S.A, Serbia, Syria, Slovakia, Slovenia, Spain, Sweden, Thailand, Tunisia, Turkey, Ukraine, Hungary, Venezuela, Vietnam.

In Romania, 6 EGCTs have been set up under EC Regulation 1082/2006, which enables local authorities to form groupings with public law bodies and private bodies of a limited nature. There are other three future plans to set up EGCTs. The EGCTs set up to date have been for the following purposes: public health, education, culture and heritage, utilities, energy, roads, public lighting, public transport, low-cost housing (construction and management), economic development measures, spacial planning, design and planning of economic activity areas, fire fighting and emergency services, tourism, cooperation.

## 8. Finance

The legal basis for finance at the local level is provided by the following legislation:

*Law no. 273/2006 on local public finances*, with subsequent amendments establish principles, framework and procedures for training, administration, local employment and use of public funds and the responsibilities of local authorities and public institutions involved in local public finance.

*Law no. 571/2003 concerning the Fiscal Code*, with subsequent amendments, represents the legislative framework for the rates and taxes that provide state budget and local authority budget revenue. It establishes the categories of taxpayers and the detailed rules on the calculation and payment of rates and taxes.

*Government Ordinance no. 92/2003 concerning the Fiscal Procedure Code*, republished, with subsequent amendments, covers the fiscal procedure in monitoring and forcible clearance of local authority budget debts, tax inspection, filing of tax returns, settlement of appeals against decisions on taxation and inspection.

In Romania, the national budget is the financial plan of the State which provides income and expenses for a specific period of time - a year. It includes the state budget, the local budgets and the state social insurance budget.

Local budgeting has 4 stages:

- Preparatory work requires determining local budget revenues and expenditures at the level of the administrative territorial divisions - each village, town, county, the city of Bucharest.

- Approval requires debate and vote on local budgets by local authorities' deliberative organs - local councils, county councils and the General Council of Bucharest.

- Budget execution is the spending of the amount provided in the local government expenditures as intended in the local budget.

- End of year requires a full report on how to achieve revenues and incur expenditure for the budget year expired.

As local budgets fall within the national budget, they are implemented respecting the same principles.

## 8.1 Local revenue composition

taxes, fees and charges	expressed as 18% of total income
specific grants	-
general grants	-
Rents	-
other income	expressed as 2% of total income

## 8.2 Own taxes

The following taxes are collected as own taxes: building tax, land tax, tax on means of transport, registration, licensing, certifications, authorizations issuance taxes, tax on means of promotion and advertising, tax on revenues from public performances, hotel occupancy tax.

Central government collects: income tax, business tax, property tax, conveyancing tax, inheritance tax, gift tax and capital gains tax.

## **Building tax**

- For buildings owned by individuals, the tax rate is 0.1% and is levied on the taxable value of the building, determined depending on the structure, zoning and locality rankings. Various adjustments to the taxable base are provided for dwellings, older buildings, etc. The tax increases depending on the number of buildings owned.

- For buildings owned by companies, the building tax rate is set by the Local Council at between 0.25% and 1.5% of the entry value of the building, adjusted with the value of reconstruction, consolidation, modernisation, modification and extension works and the revaluation, if the case.

- If a building has not been revaluated the tax rate will be set as follows:

- »» between 10% and 20% for buildings not revaluated within the last three years;

- »» between 30% and 40% for buildings not revaluated within the last five years.

- The tax rate due for buildings with touristic destination which do not operate during the calendar year is a minimum of 5% of the inventory value of the building.

- The Local Council may grant an exemption from or reduction of the building tax, over a period of a minimum of seven years, to owners which have performed energy rehabilitation work on their apartments or buildings at their own expense.

- Exemptions from building tax can also be granted for a period of five consecutive years for owners performing architectural improvement work on their buildings.

- Building tax is paid twice a year, by 31 March and 30 September, in equal installments. As a general rule, if the building tax due for the entire year is paid in advance by 31 March, a reduction of up to 10% may be granted to individuals by the Local Council.

## **Land tax**

- Owners of land are subject to land tax established at a fixed amount per square meter, depending on the rank of the locality where the land is located and the area and/or category of land use, in accordance with the classification made by the Local Council.

- Owners of land are not subject to land tax on land where buildings are sited.

- Similar to building tax, land tax is paid twice a year, in equal installments, by 31 March and 30 September. A tax reduction of up to 10% is granted to individuals for full advance payment of this tax by 31 March.

- In the case of fiduciary contracts concluded by individuals and legal persons, local taxes related to the fiduciary patrimony are paid by the fiduciary.

**Tax on means of transport** is payable by owners of land/water vehicles, which should be registered in Romania. The tax depends on the engine capacity or vehicle characteristics (e.g. number of axles, suspension system, weight, etc.). The tax is payable annually, in two equal installments, by 31 March and 30 September. A tax reduction of up to 10% is granted to individuals for full advance payment of this tax by 31 March.

**The tax for construction authorizations** is established as a percentage on the construction value and is payable upon obtaining the construction authorization.

**The tax on means of promotion and advertising** is payable each month during the execution of the contract by the suppliers of publicity and advertising services rendered in Romania, except for publicity and advertising services through audio, video and the print medium. It is applied to the value of the publicity and advertising services. Users of outdoor advertising must pay an outdoor media advertising tax computed as a fixed amount established by the local councils per square meter, depending on the used surface.

The tax on revenues from public performances is payable by individuals and entities for public performances. It is payable monthly, in the month following the performance.

The hotel occupancy tax is payable by individuals over 18 years for their stay in resorts and is included in the accommodation tariff. The tax rate is established by local councils at 1% on the accommodation tariff.

Local authorities are free to introduce new taxes.

Local authorities are entitled to levy their own taxes on the following: the local authorities may impose a daily fee for temporary use of public places and for admissions to museums, memorials, or historical, architectural, and archaeological monuments, and also for the ownership or use of equipment that is held for the purpose of obtaining income using public infrastructure, as well as fees for activities with an impact on the environment.

Local authorities may set the rate or percentage of the following taxes: building tax, land tax. Local councils can increase tax rates by up to 20% per year over the statutory cap (except for the subcategory of tax for large, heavy load transporter vehicles). Areas exempt from taxation are: public property, public transport network, industrial parks, health, education, religious cults, energy, culture.

The authorities issue tax decisions and the taxpayers have to pay until a deadline occurs:

- in cash, at the local offices of the Directorate of Local Taxes and Duties;
- by payment order;
- by credit card held by the taxpayer at the Directorate of Local Taxes and Duties;
- by postal payment order.

If taxpayers do not pay their taxes, enforcement procedures are to be applied.

Municipalities may apply their own fees and charges for certain services. These are not subject to upper limits set by central government. The fees and charges are in general for the proper functioning of some local public services, created in the interest of both individuals and companies.

The local authorities may adopt special taxes. The domains where the local authorities are allowed to adopt special taxes and their amount are established accordingly to the regulations of *Law no. 273/2006 concerning local public finances*, with subsequent amendments.

### **8.3 Grants**

Grants are subject to certain restrictions: establishment of projects and units/territorial-administrative subdivisions beneficiary is based on the criteria proposed by each main fund of the state budget and approved by Government decision.

Financing contract contains mandatory provisions on: the conditions of the execution, the total project duration, the costs eligible for support from the state budget.

According to Article 34 of Law no. 273/2006 on local public finances, with subsequent amendments, transfers from the state budget to local budgets shall be granted for investments financed by foreign loans and with Government's contribution, approved annually by state budget law.

Financial resources to local budgets for full or partial funding of social and development projects, of national, county or local interest, may be assured by the state budget, the amounts deducted from certain revenues of the state budget or from other budgets.

Establishment of projects and the units/territorial-administrative subdivisions recipient is based on the criteria proposed by each main credit officer of the state budget and approved by Government decision.

Financing contract contains mandatory provisions on: the contract, the total project duration, the eligible expenditure of the contribution from the state budget.

In Romania there are no specific provisions for local authorities in mountain areas and / or islands.

#### **8.4 Financial equalization**

Financial equalisation may be full or partial, vertical or horizontal.

Equalisation is used to equalise revenues, spending needs and unit costs of service delivery through grants in the following fields: child protection and welfare centres for persons with disabilities; dairy and bread and honey; special education centres and payment of the salaries; financing specific expenditures of municipalities, towns, cities, sectors of Bucharest linked to the education; financing of some expenditures linked to county and municipal roads.

All grants are distributed according to article 33 of Law no. 273/2006 on local public finances, as amended and supplemented. The law also provides the method of calculation of the grants. It follows a formula for allocating equalization transfers counties that share 70% of the total amount inversely proportional to the income tax calculated as the average county per capita and 30 % of the amount in direct proportion to the county. The second phase deals with the allocation mechanism to balance between its budget amounts County Council on the one hand and local councils on the other hand and balancing the allocation of amounts between local councils .

Payments are made through matching grants or lump sum grants. The grants used are of two types: general and specific. A large number of equalisation factors are taken into consideration:

- the number of inhabitants of administrative-territorial units for statistics provided by the county, or the Department of Statistics of the City Bucharest, as appropriate, on 1 July of the year preceding the year of distribution;
- financial capacity determined by the income tax collected per capita;
- the average income tax per capita / per administrative-territorial unit;
- the average income tax per capita / per whole county;
- the number of inhabitants of the administrative- territorial unit;
- built-up area of the local government unit;
- chronological order of seniority arrears ( overdue payments arrears is older than 90 days, calculated from the due date );
- the degree of non-collection ( of local taxes , rents and royalties) ;
- calculated cost standards for beneficiaries /types of social services ;
- the number of pupils /preschool ;

- length and technical condition of county and communal roads;

Above criteria are used to substantiate the allocation amounts from certain state income taxes and allowance deducted from income tax to balance local budgets.

## 8.5 Borrowing

Municipalities are entitled to raise loans, subject to certain restrictions: municipalities are not allowed accessing to ot guarantying loans if the total debt representing annual instalments due on loans and/or guarantees, interest and fees, including the loan to be contracted and/or the guaranteed year, exceed the limit of 30% of the own revenues consisting of taxes, fees, contributions and other payments, other income and allowances deducted from the income tax.

Loans may be raised to finance salaries, operating expenses or for financial difficulties.

Loans are subject to the approval of deliberative authority of local government - city local council, county council, local council of sectors of Bucharest, Bucharest General Council, the local loan committee approval, Ministry of Finance.

External funds and domestic and external borrowing are included in the Annexes to local budgets and agreed with them.

The local, county and the General Council of Bucharest, as appropriate, may approve the contracting or guaranteeing of external or internal borrowing short, medium and long term investments to local public and local government debt to refinance.

The local, county and the General Council of Bucharest, as appropriate, decide on a proposal from the main credit, contracting or guaranteeing of loans, by a vote of at least half plus one of the elected councillors.

Local authorities may contract or guarantee loans, only with the local loan committee approval. Composition and functioning are approved by Government Decision.

Local authorities may also issue bonds.

The following are permissible sources of borrowing for local authorities: money markets, commercial banks, capital markets, special local/regional credit institutions, central government, foreign public agencies, foreign semi-public bodies (non-departmental public bodies, and not para public bodies), foreign capital markets, European bodies, eg European Investment Bank, EU Commission.

Foreign loans are subject to approval of, as appropriate, city local council, county council, local council of sectors of Bucharest, Bucharest General Council, the local loan committee approval, Ministry of Finance. External funds and domestic and external borrowing are included in the Annexes to local budgets and agreed with them.

## 8.6 Financial scrutiny

Local authorities are subject to financial scrutiny for the use of specific and general grants from the State. Scrutiny is carried out by the Ministry of Finance, the Ministry of the Internal Affaires, County Department of Local Public Finance.

Preventive financial control and internal audit are exercised over all operations that affect local public funds and / or public and private property, and shall be exercised in accordance with the legal regulations in the field. Employment, settlement and authorization of expenditure of local funds are approved by the officer, and their payment is made by the accountant. The use of local public funds and local budget execution are subject to control by the Court of Auditors.

External audit of EU funded projects are performed by independent certified firms in procurement contracts tendered by the beneficiaries - public authorities.

Scrutiny covers the draft budget, expenditure expediency (including expenditure cost-effectiveness, expenditure purpose, expenditure effectiveness, expenditure type), expenditure registration and payment, legal compliance, statutory dates, budget balancing, final accounts, generally accepted accounting principles are being used, local authority financial liabilities, local authority debt.

Other controls are the inclusion of local authority finances in the national financial and economic planning, restrictions imposed on local authority expenditure, and the use of marked grants.

## 9. Supervision of local authorities

The legal basis for supervision of local authorities is provided by the following provisions:

### **Constitution**

Article 23:

(2) The Prefect is the representative of the Government at local level and shall direct the decentralized public services of ministries and other bodies of the central public administration in the territorial-administrative units.

(5) The Prefect may challenge, in the administrative court, an act of the County Council, of a Local Council, or of a Mayor, in case he deems it unlawful. The act thus challenged shall be suspended de jure.

**Act on the Prefect and his institution, amended (Act 340/2004):**

- The prefect is the representative of the Government at county level.
- The prefect guarantees the respect of law and public order at local level.
- The ministers and the heads of other bodies belonging to the central public administration, within the Government, may delegate, to the prefect, some managing and control tasks regarding de-concentrated public services.

**Act on the organisation and functioning of the Court of Accounts, amended (Act 94/1992)**

According to Articles 21 and 23 of the *Law 94/1992*, amended, the Court of Accounts exerts control function on the way of making up, managing and utilisation of financial resources of the state and public sector, delivering to Parliament and administrative territorial units reports on the financial resources' utilisation and management, in accordance with principles of legality, regularity, economically, efficiency and efficaciousness.

**9.1 Supervisory body and forms of control**

According to the *Law 340/2004*, the Prefect is responsible for general administrative supervision of decisions of local authorities. He reviews the lawfulness of administrative decisions taken by the county council, the local council and the mayor.

**Table on supervision**

<b>Case</b>	<b>a priori supervision</b>	<b>a posteriori supervision</b>	<b>delegated competence</b>	<b>own competence</b>	<b>Mandatory</b>	<b>Discretionary</b>
local authority fulfils its tasks						
local authority fulfils its tasks in a particular field						
legality of all decisions		Institution of prefect supervises the legal decisions of the local and county councils	Institution of prefect supervises the legal decisions of the local and county councils	Institution of prefect supervises the legal decisions of the local and county councils		
legality of specific decisions		Institution of prefect supervises the legal specific decisions of the local and county councils	Institution of prefect supervises the legal specific decisions of the local and county councils	Institution of prefect supervises the legal specific decisions of the local and county councils		

expediency of all decisions		Court of Accounts	Court of Accounts	Court of Accounts		
expediency of specific decisions		Court of Accounts	Court of Accounts	Court of Accounts		
compliance with the public interest of all decisions						
compliance with the public interest of specific decisions						
compliance with human rights obligations		Ombudsman Institution of prefect in the context of the compliance with legal provisions	Ombudsman Institution of prefect in the context of the compliance with legal provisions	Ombudsman Institution of prefect in the context of the compliance with legal provisions		

When the supervisory authority considers a decision illegal, the following measures are available: right to investigate any municipal matter and access all necessary information, right to convene meetings with staff of the body being questioned, suspension of the decision, refer the decision to a court of law, suspension of all local authority organs.

The time limit for review of the decision by the supervisory authority is variable, depending on the situation, according to specific regulations. For certain situation, for example situation affecting the legitimate rights, there is no time limit for review of the decision by the supervisory authority (the prefect).

Decisions on budget, local authority accounts, taxation, loans, delegation of management to outside bodies (public and private law), the acquisition of holdings in public/private law companies are not subject to the approval of a higher authority.

Remedies available to local authorities for the improper exercise of administrative controls or restrictions on their autonomy by the supervisory authority are as follows: right to submit its point of view, right of appeal before an administrative court.

If a local authority appeals against the supervisory body's decision, in cases stipulated by law, there is a right to a stay of execution of the challenged decision.

## 9.2 Other forms of control

Local authorities must report to the ministries concerned: Ministry of Public Finance, Ministry of Regional Development and Public Administration, Ministry of External Affairs, Ministry of

Internal Affairs, on the following matters: budget, investment expenditure, auditor's report, economic outlook, local authority external cooperation projects. Some local authority decisions are subject to ratification. These include: budget, fees and charges, adoption of final accounts.

## **10. Remedies for individuals against decisions of local authorities**

The legal basis for remedies for individuals challenging local authority decisions is provided by the following provisions:

- *Constitution, Articles 21(1), 51 and 52;*
- *Act no. 233/2002 regulating the activity of solving petitions;*
- *Act no. 35/1997 on the organization and functioning of the Advocate of the People Institution (ombudsman);*
- *Administrative litigation Act No. 554/2004, amended.*

Complaints against local authority decision-making can be heard by the: mayor, local authority, public prosecutor, ministry, supervisory authority, administrative court, Supreme Court.

The time limit for complaining is variable, depending on the situation, according to specific regulations.

Complaints against the mayor made by a private person may be heard by the: ombudsman, local authority, public prosecutor, ministry, supervisory authority administrative court, Supreme Court.

Claims are limited to the procedural accuracy, the legality and the expediency of a local authority decision.

Claims can be made for the following reasons: planning, simple negligence, loss of property or damage to goods only, simple personal injury, professional negligence, malicious prosecution (evidence of assault malice needed), property intentionally lost/destroyed, serious wrongdoing, serious abuse of power or position, interference with goods, personal injury, trespass to property/land, discrimination, dealt with dishonestly, illegally, malicious reporting or with bad faith (misfeasance), mistakes made relating to Data Protection.

If a private person's complaint is deemed founded, the remedies available are: right to an opinion by the body in question, retrospective annulment of the decision in part, retrospective annulment of the decision in full, prospective annulment of a decision in part, prospective annulment of a decision in full, suspension of the decision, amendment of the decision, referral of the decision to a court of law, referral of the decision to central government, imposition of fines, award of damages to affected parties.

If the remedy is limited to an opinion, the opinion is not legally enforceable.

Legal action by a private person against a local authority may be found groundless on the basis of law.

Any person who considers harmed in its right or a legitimate interest by a public authority, through an administrative ruling or failure to respond to a request, may appeal before the competent administrative court for annulment and recognition the right or legitimate interest and for repair the damage caused.

Legitimate interest can be both private and public.

Also the person injured in his/her right or a legitimate interest, through individual administrative act, sent to another entity, may appeal to the administrative court.

Before addressing the competent administrative court, the person is considered a victim and through individual administrative act must request the issuing authority or superior authority, if any, within 30 days from the date of the document, the revocation, in whole or in part, thereof.

Ombudsman, after conducting a survey, according to organic law, if it considers that the illegality of the act or decision by administrative authority to refuse to perform legal duties can not be removed except through justice, can notify the competent administrative court of the domicile of the petitioner.

If the petitioner does not support the action brought by the Ombudsman at the first hearing, the administrative court will cancel the request.

## **11. Local administrative personnel**

The legal status of local administrative personnel is provided by the following legislation:

- *Civil servant Law (No. 188/1999), amended;*
- *Law no. 7/2004 on the Code of Conduct for civil servants;*
- *Labour code for the contractual staff Law (No. 53/2003).*

Entry to local government is by competitive examination for permanent, temporary or fixed-term contracts. Central and local government authorities are responsible for recruiting and hiring. The conditions of service are the same as those for the civil service and staff are divided by categories according to their level of education. Local authority staff has the right to join trade unions. Staff is trained on a regular basis in areas such as leadership, finance, performance management, human rights at local level, etc.

In Romania, the National Agency of Civil Servants, together with central and local public authorities are responsible for recruiting civil servants. For example, the National Agency of Civil Servants is responsible for recruiting the civil leadership of local government in the fields of child protection, computerized record of the individuals, internal audit, financial accounting, planning and architecture, human resources, European integration, secretaries of administrative units and public execution functions of the internal audit.

Local authorities are responsible for recruiting staff for the other vacancies, than those mentioned above, informing the Agency. Salary levels are set by the government, according to legal provisions.

<b>Public Sector Employment</b>		
	<b>No. of people employed</b>	<b>% of public sector employment</b>
<b>Local</b>	672.062	56,67 %
<b>Central</b>	513.938	43,33 %
<b>Total</b>	1.186.000	100,00 %

### ***Gender equality in top and middle management***

Local authorities are bound by law to facilitate the employment of women in middle (co-ordination) and top (planning, directing, controlling and organising) management posts.

*The Act regarding the equality of opportunity and treatment between women and men (No. 202/2002)* aims at promoting and ensuring the balanced participation of women and men in leadership and decision taking. It allows, also, local authorities to implement specific policies/measures to facilitate the employment of women in middle and top management posts in the local authority.

**Table: Legislative provisions to facilitate the employment of women in middle and top management posts in the local authority**

<b>Central government legislative provisions</b>	<b>Local authority measures</b>
Requirement to eliminate all discrimination	Gender mainstreaming awareness raising
Mentoring programmes for local authority female employees	Mentoring programmes for local authority female employees
Equal pay duties	Equal pay audits
Equal pay audits	

### ***Compliance with equal opportunity legislation***

Local authorities are bound to respect the provisions of the *Public servant Act (No.188/1999)*, amended, article 27(2): Is hereby forbidden any discrimination for the public servants depending on political criteria, union membership, religious conviction, sex, sexual orientation, material condition, social origin, etc. The above provision is compulsory for all civil servants, at central and local government level.

Data on local authority compliance with this law is collected by the Ministry of Labour, Family, Social Protection and Elderly and the National Commission on equal opportunities between women and men (CONES), body coordinated by Ministry of Labour, Family, Social Protection and Elderly.

## **12. Reforms envisaged or in progress**

According to the Government Program (2013-2016), Romania is committed to achieve the following objectives:

- Continue the reform of the public administration, with emphasis on local autonomy by unleashing a real decentralization, according to the subsidiarity principle;
- Prioritize and ensure a mandatory minimum package of public investment for Romanian villages in the following areas: school, church, medical clinic and pharmacy, library and community centre, water and sanitation, local roads, street lighting, sanitation, fire fighting machine, ambulance, municipal fair etc., and ensure minimum standards of civilization and comfort;
- Review all operating and regulatory rules so that the functioning and the activity of the public administration, both at central and at local level, be measurable and effective;
- Introduce a system of indicators to assess the functioning of all public administration institutions, both at central and local level, by using quality and cost standards for all public services;
- Streamline the concept of "one stop shop" and e-Government in order to reduce bureaucracy and operating costs, and to expand citizens' access to public information.

In order to achieve the above mentioned objectives, the following actions are to be implemented:

- Increase the absorption of EU funds;

- Prioritize investment and public works in the context of sustainable and balanced regional development;
- Achieve regionalization and administrative and financial decentralization;
- Amend legislation in order to streamline and to de-bureaucratize public administration;
- Promote incentive policies in order to stimulate the professional performance of public administration staff.

To continue the reform of the public administration, the Ministry of Regional Development and Public Administration has developed *The Strategy to strengthen the public administration (2014-2020)*. It contains actions which will bring the following improvements:

- Strengthen the role of the development regions in order to improve the correlation and the coordination of public policy and to generate economic and social development at development regions' level;
  - More functional, reliable, efficient, transparent, accountable, coherent, modern and client-oriented public administration;
  - Effective, coherent, correlated and coordinated policy-making;
  - Strengthen the capacity of local public administration according with new competences allocated through the decentralization process;
  - Strengthen administrative decision-making, as key component of interaction between the administration and the citizens.

The new *Law on decentralisation of new competences from the central government to the local governments* will lead to enact new legislation and to amend existing one.

The reform will be based on existing CoE standards.