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# **On the Way to Modernization: The 'Good Enough' Governance Making in Romania**

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# On the Way to Modernization: The ‘Good Enough’ Governance Making in Romania

## 1. ‘Good Enough’ Governance: Concept stretching<sup>1</sup>

Read in English, “Government” usually refers to both policy making (parliamentary) bodies and executive / administrative structures, and as of the 19<sup>th</sup> century is employed when referring to central as well as to local authorities. For most of the continental Europe however, “Government” (*Regierung* in German, *Gouvernement* in French or *Guvern* in Romanian) equates with the exercise of sovereign power, seen to be wielded solely at the central level, and has rather profound administrative and hierarchical nuances (Wollmann, 2006:1420-1421). Be it as it is, Europe comes in agreement when considering the similar challenges set before its different governments in the past few decades: The emergence of the so called wicked problems (Rittel and Weber, 1973), which fail to be resolved with traditional analytical approaches due to difficulty in definition, multiple causality and a lack of well described potential solutions (Humpage, 2005:50; Johnson, 2005:19-20) next to (amongst others) the (new) market logic, placing the knowledge, procedures and institutional memory of bureaucracies in the dark corner (Hess, 2003:3) led into considering that Government died, and Governance was set in place (Osborne and Gaebler, 1992; Rhodes, 1996).

Focusing upon the wider processes through which public policy is shaped at central and local levels, governance embraces the democratic policymaking and generically refers to the development and implementation of public policies through a broader range of public and private agencies than those traditionally associated with the governmental organization (Wilson, 2000:44; Alberti and Bertucci, 2006:1-4). J. Rosenau (1992:4) notes in this regard that while the classical governmental activities implied the existence of a formal authority, governance focuses on mutually shared objectives and activities not necessarily derived from the legally prescribed responsibilities, nor based on coercive power when being implemented. World Bank acknowledges also that accountability, political instability and violence, governmental efficacy, quality of regulations, and the rule of law and corruption control are basic indicators for assessing the practice of governance (Kaufmann, Kraay and Mastruzzi 2005:4). At its turn, but again rather normative, the European Union defines governance as a set of regulations, processes and attitudes which influences the exercise of power at European level, especially in what concerns the openness, participation, accountability, efficacy and coherence [COM 2001 (428)].

Practices of governance are not however, unitary, and so:

“not all deficits as implied above need to (or can) be tackled at once: institution- and capacity-building are products of time; governance achievements can also be reversed. Good enough governance means that interventions thought to contribute to the ends of economic and political development need to be questioned, prioritised, and made relevant to the conditions of individual countries. They need to be assessed in the light of historical evidence, sequence, and timing, and they should be selected carefully in terms of their contributions to particular ends such as poverty reduction and democracy. [Good enough governance] directs attention to considerations of the

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<sup>1</sup> This section draws from Iancu (2009): 42-43.

*minimal* conditions of governance necessary to allow political and economic development to occur” (Grindle, 2007:2).

The present paper makes use of this very last definition and considers good enough governance as being a set of minimum requirements necessary to a proper (democratic) functioning of a state. In addition, it narrows the context where “governance” applies and solely refers to the organization and functioning of the public administration system. To this end, Robert Dahl’s theory of democratization will provide the appropriate framework for “quantifying” the good enough governance and will be then applied against the Romanian public administration reforms (1998-2007). The authors expect to find that for the time of reference, Romania did have the proper conditions for nurturing good enough governance.

## 2. Quantifying the ‘Good enough’. A democratic approach to Governance<sup>2</sup>

Seen sometimes, in its practice as “inefficient, corrupt, short-sighted, irresponsible, dominated by individual interests and incapable of making policies for the sake of public good [...], democracy remains one of the virtues of a people”<sup>3</sup>, being (ideally) capable to: 1) prevent autocrats from governing; 2) guarantee the citizens’ essential rights and liberties; 3) assure a far greater personal freedom than any of its alternatives; 4) assist the citizens in protecting their fundamental interests; 5) offer the maximum guarantee for exercising the freedom of self-determination and choice of preferred laws; 6) allow the practice of moral responsibilities; 7) encourage the human evolution and 8) maintain a relative high degree of political equality, by generating: 9) a favorable peace attitude and 10) prosperity<sup>4</sup>.

What does then democracy stand for? Robert Dahl’s answer to this question is twofold:

- *Ideally*<sup>5</sup>, a system which offers (cumulative) opportunities for:
  1. Effective participation: all members of the system have equal and effective opportunities to make their opinions on the policy to be adopted, known;
  2. Vote equality: a decision will be taken based on each member’s equal and effective opportunity to vote, when all votes are considered equal;
  3. Enlightened understanding: which means complete and full information being provided to each member, in what concerns relevant decisions and their intended consequences<sup>6</sup>;
  4. Agenda setting control: the members of the system should benefit from the exclusive opportunity to decide the what-s, how-s and when-s of the institutional agenda setting; and:
  5. Total inclusiveness: all (adult) members of the system participate to decision making.
- *Practically*<sup>7</sup>, a system where one can identify the presence of:
  1. Elected officials, who constitutionally control governmental decisions;
  2. Free, correct and regular elections, which should be organized so to allow citizens’ control over the institutional agenda of policy making;
  3. Freedom of expression, closely connected to the principle of political equality (*supra* endnote 3) and that of control over the agenda setting (citizens will thus be entitled to express their preferences towards officials, governments, regimes, socio-economic systems, or predominant ideologies);

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<sup>2</sup> The argument here makes use of the theoretical framework provided for by Iancu (2008). For further reference, please see also: Matei and Iancu (2007); Iancu and Klimovsky (2008).

<sup>3</sup> S. Huntington 1991 apud Rose et al. [1998] 2003:28.

<sup>4</sup> Dahl [1998] 2003:46-61.

<sup>5</sup> Dahl [1989] 2002:148-160; [1998] 2003:39-40.

<sup>6</sup> Information is grounded on the principle of political equality which states that “all citizens are just as competent to participate to decision making, if they have adequate opportunities to inform themselves on issues through inquiry, discussion and deliberation” (Dahl [1998] 2003:41).

<sup>7</sup> Dahl [1971] 2000:27-31; [1998] 2003:83-84; 96.

4. Alternative sources of information, according to which citizens should have the right to search for alternative and autonomous sources of information;
5. Associative autonomy, expressed through the recognition and guarantee of the citizens' freedom of association (in the sense of creating and adhering to organizations); and:
6. Inclusive citizenship, which actually advocates that all individuals with permanent residence in the country of our interest should be legitimate subjects of the fundamental citizens' rights.

In fact, the *practical* democracy is, to R. Dahl, the modern version of democracy: that in which the *ideal* comes to compromise due, *inter alia*, to the size and quality of the current subject-unit. As such, modern democracy is the representative system holding six (minimal) institutional guarantees: officials elected (1) in free, correct and regular elections (2), by people endowed with inclusive citizenship (3), who enjoy the freedom of expression and associative autonomy (4, 5), and benefit from alternative sources of information (6)<sup>8</sup>. To put it differently, the system capable of keeping itself open to the preferences previously formulated by its members in a free and regular manner (*inputs*) and able to deliver the expected answers (*outputs*) on impartial and non-discriminatory grounds, is democratic.

What would be the characteristics of such a system? How would it function and under what provisions will it be organized? In answering these questions, the public administration concept becomes handy.

Generally speaking, public administration can be viewed as an ensemble of bodies and activities regulating and delivering services and implementing legislative, executive and judiciary mandates. Should the context for this ensemble of bodies and activities be provided for by democracy, one could even argue that the former need to obey democratic procedures. This leads us into saying that in a democratic society, the public administration should be organized and function in such way as to offer its citizens the possibility to freely and regularly formulate and receive impartial and non-discriminatory answers to their official requests.

For our assumption to move one step further, refinement is necessary: so, "what is democratic organization and functioning of a public administration?" This particular question is far from being simple to answer; yet, giving the leading interest of this paper, and the existence of a similar research already conducted by Iancu (2008), we could start our reply by stating that:

1. our interest here deals with the case of a public administration belonging to the European Union, an organization which has confirmed its strong attachment to democracy<sup>9</sup>;
2. there is a growing literature on the subject of administrative principles common to European states and the European Charter on Local Self-Government (Treaty no. 122, Council of Europe, 1985) has been nominated as a true European standard for the organization and management of local public affairs (Delcamp 1996:58 and Marcou 1999:31)<sup>10</sup>;
3. the European administrative law is a subject vividly debated inside the European Union (*inter alia*, Ziller 2000, 2003, 2004; Cassese 2003, 2006) and to this end, the comparative approaches of SIGMA (1998; 1999) discussing about an "European administrative space" are of great interest.

<sup>8</sup> The term used by Dahl for such a system is poliarchy [R. Dahl and C. Lindblom (1953) *Politics, Economics and Welfare* (Chicago: University of Chicago Press)]. However, introducing this concept here would have suggested that a large part of the pluralist school had become the bone structure of our argument; this actually is beyond our present intentions, and as such, when discussing Dahl's definition of democracy, we will solely refer to it as the modern, representative system as described above, in the body text.

<sup>9</sup> *Inter alia*, in the Preamble and Articles 6 and 11 of the consolidated version of the Treaty on European Union, Official Journal of the European Union C 321 E/1.

<sup>10</sup> Adding to these remarks, The Charter has also been ratified by all 27 Member States of the European Union [source: Official Website of the Council of Europe: [www.conventions.coe.int/Treaty/en/Treaties/Html/122.htm](http://www.conventions.coe.int/Treaty/en/Treaties/Html/122.htm) (last access: 18.03.2009)]

Adding to points 1 to 3 that a democratic administration should allow the presence of the six (minimal) institutional guarantees (freedom of association and expression, right to vote and be elected in free, correct and regular elections, alternative sources of information, and inclusive citizenship), it goes that:

In a country-sized unit, for the opportunity of the citizens to [...]:	The following institutional guarantees are necessary [...]:	And can be translated in the following principles of functioning and organization of the public administration [...]:
I. Formulate their preferences	1. Freedom of association	- local self-government and decentralization
	2. Freedom of expression	
	3. Right to vote and be elected	
	4. Alternative sources of information	
II. Make their preferences public	1. Freedom of association	- openness and transparency
	2. Freedom of expression	
	3. Right to elect and be elected	- partnership and cooperation
	4. Free and correct elections	
	5. Alternative sources of information	
III. Let their Government answer to the preferences, in an impartially and non-discriminatory manner	1. Freedom of association	- non-discrimination
	2. Freedom of expression	- accountability
	3. Right to elect and be elected	- rule of law
	4. Free and correct elections	
	5. Alternative sources of information	
	* Rule of law (as a guarantee for the governmental dependency on votes and other forms of preferences' manifestation)	

To resume our section's argument: In a democratic state, the public administration holds the levers for managing and implementing the executive, legislative or judiciary mandates. Its democratic organization and functioning (as defined with R. Dahl's assistance) relies upon several principles, commonly recognized as European references in this regard. Amongst them, we have chosen for our paper to focus on only six broad categories, namely: local self-government and decentralization, openness and transparency, partnership and cooperation, non-discrimination, accountability and rule of law. These principles will be further viewed not only as minimal requirements for a democratic functioning of an administration, but also for the good enough governance.

### 3. The 'Good Enough' Governance in Romania: The case of Administrative reforms (1998-2007)<sup>11</sup>

According to Rose et al [1998] 2003:61 „the fall of totalitarian systems implied the need for identifying alternatives, in a short time and under unexpected circumstances”. In 1989, Romania offered the premises of democratization<sup>12</sup>, since:

- a. “there are and remain dissolved all the power structures of the former dictatorial regime” (article 9, Decree-Law no.2 on creation, organization and functioning of the Council of the Front for National Salvation and of territorial councils of the Front for National Salvation<sup>13</sup>);
- b. it was officially recognized the right to universal, equal, direct, secret and free scrutiny for electing representatives (Decree-Law no.92 on election of the Parliament and President<sup>14</sup>); and:
- c. it was officially recognized the freedom of association into political parties with no discriminations based on race, nationality, religion, level of culture, sex or political believes

<sup>11</sup> This section draws from the argument elaborated by Iancu (2008), under the scientific supervision of L. Matei.

<sup>12</sup> Due to absence of official English versions of the Romanian legislation quoted in this section, most of the legal texts to be presented were translated from Romanian to English by the D.C. Iancu; any error in this regard remains her own.

<sup>13</sup> As published in the Official Gazette of Romania, no. 4/27.12.1989.

<sup>14</sup> As published in the Official Gazette of Romania, no.35/18.03.1990.

(Preamble and article 1, Decree-Law no. 8 on enlisting and functioning of political parties and rural organizations in Romania<sup>15</sup>), but under the exclusive obligation of respecting the national sovereignty, independence and integrity (article 2, Decree-Law no.8/1989), “as to achieve a true democratic society, to assure and defend the fundamental citizens’ rights and guarantee the existence of the political pluralism”;

However, it was the 1991 Constitution<sup>16</sup> that legally enshrined the new political system and stated that from that point forward, Romania was to be considered “a state under the rule of law, democratic and social (article 1.3, Constitution of Romania), which recognized Dahl’s six institutional guarantees necessary to the presence of democracy (Dahl [1971] 2000: 27-31; [1998] 2003:83-84;96):

1. [elected officials] The Parliament, the only legislative authority of the state and the President, the representative of the Romanian state along with mayors and local councilors, as public administration authorities, were elected under the rule of universal, equal, secret and free scrutiny (articles 59; 81;120 and 121<sup>17</sup>) for 4 years<sup>18</sup>.

2. [free elections] Under the law regulations, Romanian citizens had the right to vote (article 36.1) and be elected (articles 37.1,2; 120; 121), while their freedom of conscience and opinion was to be guaranteed (article 29.1,2).

3. [freedom of expression] Romanian citizens were equal in front of law and public authorities (article 16.1), might express their thoughts, opinions or beliefs with no fear of censorship (article 30.1,2) and had their rights to petition (article 47.1), apprise the Ombudsman (articles 55 and 56) and address a public authority if aggrieved in their legitimate right, in order to get the claimed right acknowledged, annul the act and receive the reparation of the damage suffered (article 48.1). In addition, national minorities were recognized and guaranteed the right to preserve develop and express their ethnic, cultural, linguistic and religious identities (article 6.1). Finally, all meetings, demonstrations, corteges were free and possible to be organized in a peaceful manner (article 56).

4. [alternative sources of information] In Romania, the freedom of the press was recognized (article 30.3), and the individual’s right to access any information of public interest was not to be enclosed (article 31.1). Public authorities were asked to correctly inform citizens on public affairs and issues of personal relevance (article 31.2), media - be it private or public - was compelled to give correct information (article 31.4), and the radio and television public services needed to guarantee to important social and political groups the right to antenna (article 31.5).

5. [associative autonomy] Romanian citizens might have freely associate in political parties, employers associations or other associative forms, under the rule of law (article 37.1). As the pluralism is a guarantee of the constitutional democracy, political parties were supposed to

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<sup>15</sup> As published in the Official Gazette of Romania, no.9/31.12.1989.

<sup>16</sup> The Constitution of Romania was enacted in 1991 (Official Gazette of Romania, no.233/21.11.1991); and amended in 2003 (by Law 429/2003, Official Gazette of Romania, no.758/29.10.2003). However, in order to keep the coherence of the present section, we will refer only to the initial constitutional text, as adopted in 1991.

<sup>17</sup> In the case of local public administration authorities, the constitutional provisions (in their 1991 form) may be corroborated to the regulations of the laws on local public administration no. 69/1991 (Official Gazette of Romania, no.238/28.11.1991) and local elections no. 70/1991 (Official Gazette of Romania, no.239/28.11.1991). According to these, mayors and local councilors are to be elected through universal, equal, secret and free scrutiny (articles 1.1 and respectively, 13, Law no.69/1991). A further clarification is necessary: both legal acts quoted above were in between amended and finally, abrogated as follows: Law no.69/1991, through Law no.215/2001 (Official Gazette of Romania no.204/23.04.2001), as amended and completed by Law no. 286/2006 (Official Gazette of Romania no.621/18.07.2006), and Law no.70/1991, by Law no.67/2004 (Official Gazette of Romania no. 271/29.03.2004). The texts used in the main document are the initial ones.

<sup>18</sup> According to articles 63.1 (Parliament) and 83.1 (President) of the Constitution of Romania and articles 22.1 (local councilors) and 40.1 (mayors) of Law no.69/1991.

contribute to the definition and expression of the citizens' political will (article 8), and the employers' association to defend and promote the professional, economic and social interests of the employers (article 9).

6. [inclusive citizenship] Romania is the common and indivisible country of all its citizens, with no discrimination of race, nationality, ethnic religion, language, religion, sex, opinion, political conviction, wealth or social origin (article 4.2). The rights and liberties as enshrined in the Constitution and other laws are guaranteed (article 15.1) and protected outside the Romanian state borders (article 17), and the Romanian citizenship obtained by birth cannot be drawn back (article 5.2). Finally, the right to vote and be elected are recognized to all citizens of 18 years old (celebrated in the day of election), with the exception of mentally disabled persons and people convicted by final court decision to the loss of electoral rights (article 34.1,2).

To summarize, in 1991, Romania formally embraced democracy, guaranteeing the indicators Dahl suggested as necessary to a practical democracy. In order to assess to what extent these democratic requirements were consolidated and good enough governance was achieved, this present paper will make use of the exterior scrutiny provided for by the European Commission in 1998-2007. In fact, it was during this timeframe that Romania's progress to the European Union was under close assessment; giving then that the European acquis contained specific references on good enough governance (as advocated in Iancu, 2009) and that during Romania's candidature to the European Union (1998-2007), and considering that the Regular (Monitoring) Reports<sup>19</sup> were elaborated by the European Commission on the basis of real decisions undertaken by Romanian authorities, international treaties and conventions already ratified and effective measures for implementing reforms, the authors agreed to consider the Regular and Monitoring Reports on Romania's progress toward accession within the time frame: 1998-2007 adequate sources of information for our research.

To this end, the documentary investigation of RR and MR on Romania (1998-2007) (English version) concluded that:

*Local autonomy and decentralization* - The 1998 Commission's Report did not contain explicit references on the principles of autonomy and decentralization as concrete European expectations for Romanian administrative reforms; in this sense, actually, pages 44 and 45 described only briefly the internal changes of the administrative system and make no further comments. In 1999 however, the Commission considered that in the context of economic difficulties, the restructuring and transfer of responsibilities towards local authorities as accomplished one year ago had generated visible deterioration of the child care protection system (RR 1999:11, 63; RR 2000:20). It then advocated as possible reform solutions in favor of identifying a single authority responsible for the child care protection system and creating common standards for institutionalization, making no references to the governmental tier where those competencies were to be exercised (RR 1999:16). Still, the same report encouraged the existent financial decentralization measures (RR 1999:63), draw attention to the need of consolidating the local capacity for collecting own revenues (RR 1999:26) and took notice of the decentralization trend in health system. In 2000 the Commission saluted the stable character of the Romanian decentralization legal framework; although financial transfers from central authorities to local ones were said to need further clarification (RR 2000: 16). Same opinion is to be found in 2001 (RR 2001:17) and 2002 (RR 2002:22, 24, 44), although RR 2001 (p.19) stated: „in March 2001, a new Law on Local Public Administration was adopted in order to extend and clarify the decentralization process. This legislation enshrines the principle of local autonomy, clearly sets out the competencies of local authorities, and defines the relationship between central and local government. [...] a greater fiscal autonomy is envisaged and the law sets out the right of local authorities to levy local taxes and to elaborate and approve their own budgets. This is a positive development, although difficulties

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<sup>19</sup> RR and MR for future references.

have continued to arise from the transfer of new responsibilities to local authorities (e.g. education, health, institutionalized children) without a corresponding transfer of resources". In 2003, the Commission resumed its interest in the decentralization process and made specific reference to the considerable lack of transparency in achieving financial transfers from county to local government's level (RR 2003:17); a situation which might endanger the local autonomy itself. In the wording of the Report, "the existing legislative framework is unclear and Romania lacks a strategy for managing the process of decentralization in a transparent and stable manner" (RR 2003:17).

In 2004, the transfer of responsibilities to local authorities was still not been matched with an adequate transfer of resources. The ability to raise local revenues remained limited and legislation governing financial transfers to local government still lacked transparency. However, "the Romanian authorities have made considerable efforts to develop a strategy for managing the process of decentralization in a transparent and stable manner" (RR 2004:18).

*Openness and transparency:* According to RR 1998, the Romanian administrative system was characterized by administrative weakness, secret of public information and deterioration of equitable application of law (RR 1998:9). Still, adopting the National Strategy for Informatisation and fast implementation of the information society<sup>20</sup> (in February 1998) appeared as a possible step in increasing the accessibility and efficiency of the public administration (RR 1998:26). In 1999, Commission positively noticed the legal development of the freedom of expression, making however a point when advocating against the latter's limitations (the case of media censorship was then in debate: RR 1999:17; RR 2000:21). Still on the issue of openness, the Commission suggested the need to increase the visibility of the Ombudsman (RR 1999:17) and the non-discrimination of Roma population in local policy making (RR 1999:19). Still in 1999 and again in connection to the preference-holders participation to policy making, the creation of the Economic and Social Council in 1997 and development of a social dialogue legal framework was positively noticed (RR 1999:18, 46, 51). In regard to the transparency as a principle of local public administration, the Commission enumerated it amongst the prerequisites of an efficient financial management (RR 2000:16-17, 30 and RR 2004:39). However, in direct reference to local policy making (RR 2000:31) and privatization of public enterprises (RR 2000:49), it was considered absent. In the same vein, still in 2000, the free access to judicial documentation was considered to be restricted (RR 2000:16, but also RR 1999:13).

The principle of participation was at its turn noticed by the Commission but only in connection to the consumer protection and health system, the need for preference-holders involvement in central and local policy making being then seen as imperative (RR 2000:73). In 2001, introducing regulations on e-administration<sup>21</sup> was considered a positive evolution of the administrative system towards openness and transparency (RR 2001:19); still, the absence of norms implementing the constitutional right to information<sup>22</sup>, and ensuring the transparency of local fiscal policies was considered a major administrative weakness (RR 2001:22; 35). One year later, the Commission advocated for the consolidation of the transparency of policy making processes (RR 2002:22), although progress in this regard was made once the law on free access to information was enacted<sup>23</sup> (RR 2002:23,27,32; RR 2003:26). On the same topic of free access, with special reference to civil service, RR 2003 reaffirms the positive evolution of Law no. 188/1999<sup>24</sup> on civil service (RR 2003:15) and, in direct connection to the law on

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<sup>20</sup> Adopted by Decision no.58/1998 on approval of the National Strategy, and published in the Official Gazette of Romania, no.93/27.02.1998.

<sup>21</sup> Government Decision no.1006/2001, as published by the Official Gazette of Romania no. 660/19.10.2001.

<sup>22</sup> Article 31 of the initial version of the Constitution of Romania (1991).

<sup>23</sup> Law no. 544/2001, as published by the Official Gazette of Romania no. 663/23.10.2001. This legal text however has so far known several amendments.

<sup>24</sup> Law on Civil Servant Statute initially published in the Official Gazette of Romania no. 600/08.12.1999. This text was severely and continuously amended, and in May 2007 republished (Official Gazette no. 365/29.05.2007. Hence, no alterations were being added.



transparency of the decision-making process, the Commission concluded that: “if implemented, that legislation [Law no.52/2003] could significantly improve the decision making process” (RR 2003:16-17). Same opinions are to be found in RR 2004, where only additional references to local implementation of the quoted legal texts were to be found (RR 2004:16). Still on the local level, RR 2004 recommended that the allocation of resource transfers to local authorities to be made in a transparent manner (RR 2004:18).

*Partnership and cooperation:* In 1998, the European Commission took evidence of the national social dialogue legal framework and of the existent local structures for cooperation (RR 1998:27) and noticed the intensification of the relationship between citizens, economic actors and administration (RR 1998:46). Romania was however asked to pay attention to the need of opening the public sector towards privatization and involvement of all private actors interested in public service delivery (RR 1998:11). One year later and relevant to this latter point, the Commission took notice of the progress made and asked for its consolidation (RR 1999:25). Still in 1999, RR mentioned the absence of formal provisions on institutional cooperation between central and local governments in the field of consumer protection (RR 1999:74). RR 2000 reiterated the need for a tripartite dialogue in policy making (RR 2000:23, 59) and asked for the strengthening of the institutional cooperation between central and local administration (RR 2000:39). Keeping the same line of argument, the Commission also advocated for the strengthening of the regional managerial capacity through encouraging an efficient and partnership based process (RR 2000:70; RR 2001:80; RR 2002:102; RR 2003:94; RR 2004:115). In 2001 and then again in 2002 and 2004, the need for consultation (RR 2001:18,28,65,73,76) and social dialogue in policy making (RR 2002:35,83; RR 2003:29; RR 2004:92, 144, 149) was reinforced. In addition, RR 2002 called for actions in enhancing the inter-institutional cooperation between the Ombudsman and, *inter alia*, the local public administration institutions (p.29). Finally, RR 2003 reiterated the problem of cooperation and sanctioned the trend of consulting local authorities in formulating legislative drafts relevant to local communities (p.17).

*Non-discrimination:* In 1998 (RR 1998:12), and with direct reference to Roma and Hungarian minorities, Romania received several red flags being called to offer opportunities to all its citizens to formulate, express and receive an official answer to their preferences, in a non-discriminatory manner. One year later, the Commission positively noted that the law on local public administration was amended as to create the obligation of civil servants working directly with the public to speak the language of an ethnic minority in areas where the minority represented at least 20 % of the population (RR 1999:19). RR 2000 cited the positive development of the Romanian administrative reforms, including there the civil servants' obligation to non-discriminate on grounds of nationality, race, ethnicity, age, gender or sexual orientation (pp.18,59), but warned the officials on the presence of gender social discrimination (pp. 23-24) and ethnic, general discrimination (for Roma population) (p.87). Still in connection to ethnic discrimination, RR 2001 positively noted the fact that the new law in local public administration (no.215/2001<sup>25</sup>) kept the previous provisions regarding the obligation of civil servants to speak the language of an ethnic minority should that specific minority was to represent at least 20% of the population (pp.19, 29) (a similar note would appear in RR 2002:35). It however suggested the imperative need to soundly implement Government Ordinance no. 137/2000 on anti-discrimination<sup>26</sup> (pp. 22, 67) (same aspect was to be mentioned in RR 2002:85). Similar to 2000, RR 2001 asked for limitation of gender discrimination (p. 27), while RR 2002 asked for consolidation of Roma non-discriminatory administrative measures (pp. 35, 37). Finally, RR 2003 and 2004 concluded that serious progress was made in what concerned the ethnic discrimination in Romania and that its consolidation at central and local administrative level was necessarily required (RR 2003:32; RR 2004:29-30, 32).

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<sup>25</sup> Published in the Official Gazette of Romania no. 204/23.04.2001.

<sup>26</sup> Published in the Official Gazette of Romania no. 431/02.09.2000 and republished in the Official Gazette of Romania no. 99/08.02.2007.

*Accountability:* For this present analysis, accountability raises attention only in what concerns the public administration's human resources. In this respect, RR 1999 (p. 56) discussed of the need of regulating accountability, impartiality and legality of civil service. One year later, positive notes were being made once the Civil Service Statute was enacted (RR 2000:16). However, the lack of specific regulations allowing the access to public information continued to create problems to the overall real accountability of the administrative authorities (RR 2001:22). In contrast, the creation of the Ombudsman and its activity to hold accountable all administrative authorities that might have infringed preference-holders rights and liberties was seen as a good indicator for enhancing the public administration's capacity to adequately answer to the received inputs (RR 1998:9; RR 1999:17; RR 2000:22; RR 2001:23; RR 2002:29; RR 2003:22-23; RR 2004:24). In addition, RR 2004 recognized that: "free access to public information, proved to be an important mechanism promoting public accountability" (p. 26) and called for an institution to hold the explicit responsibility in effectively implement the law on free access to public information.

*Rule of law:* a principle fundamental to the political criteria, rule of law was considered present in Romania's case in all the reports made public by the European Commission (RR 1998:8; RR 1999:11; RR 2000:14; RR 2001: 16; RR 2002:21; RR 2003:14; RR 2004:15). Its consolidation however represented a constant preoccupation for the Commission, the latter giving notice of the need to clearly separate the legislative from the executive by reducing the number of Governmental simple or emergency ordinances (in RR 1998:8; RR 1999:12; RR 2000:14; RR 2002:129; RR 2003:16; RR 2004:15). It also raised doubts on the efficacy of parliamentary scrutiny when the Government made use of so many ordinances (RR 2003:14; RR 2004:16).

#### **4. Final Remarks**

Generally speaking, administrating consists of employing human, material, financial and informational resources available at one particular time, in order to serve a common goal, with maximum results and minimum effort. By replacing the 'common goal with 'public interest', the definition stated above becomes practical for the case of public administration, too. More concretely, public administration may be understood both as an ensemble of bodies and one of activities aimed at achieving, manage and implement public affairs. In a democratic state, these activities require certain conditions, which this paper addressed under the name of "good enough governance". Using Robert Dahl's theories on democratization and the current European references to how a public administration should be organized and function, the paper offered a democratic approach to governance and thus supported the arguments according to which inter-disciplinarity in researching policymaking is necessary.

## 5. Selective References:

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