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**COMMUNITY PARTICIPATION IN DECISION MAKING PROCESS AT THE LOCAL
LEVEL LESSONS FROM ROMANIA AND POLAND**

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1. Introduction

An *effective* democracy is based on the strong belief that the partnership between the government and citizens can produce *mutual* results. The government (local or national) can improve and legitimize public policies using feedback from citizens, who can directly express and promote their needs and interests using deliberative procedures. It is believed that for this situation to work in Moldova, authorities should *make the first step*. This means that participation in decision making process can be efficiently enabled if local administrative authorities develop and implement on the ongoing basis clear procedures for this. This is to be done by adopting both national and local regulations.

Community participation in this paper is defined as follows: procedures applied by the local public authorities to efficiently provide relevant information to its residents about the way it (1) operates, (2) communicates with the citizens about their initiatives, (3) collects and takes into consideration comments and opinions of community members, and (4) applies the principle of subsidiary (entrusting NGOs with public tasks).

The current regulatory environment in Moldova is still unclear in stating the obligation of any public administration to establish specific procedures, allocate responsible staff and resources to make public management more open to community participation. For better or worse, it is entirely up to the local public administration to develop clear and efficient community participation procedures. This is the case of “revolution from within” when local administrations from Moldova can innovate without any traditional top-down interventions from the national Government, fully exercising their autonomy.

The goal of this policy paper is to learn from the experience of Romania and Poland in the area of community participation. In particular, the paper will focus on how local public administration from Romania and Poland are set up and how specific procedures can be applied in order to facilitate community participation (participation of simple citizens or civic organizations).

It is expected that this research will elucidate multiple ways in which local public administration from Moldova can become more open to community participation. More specifically, the findings will serve as a starting point for the Criuleni rayon from Moldova in establishing clear and effective community participation systems.

2. Learning value from Romania and Poland

Both Romanian and Polish models represent a great learning value for Moldova. This is because of the following reasons:

1. Both Romania and Poland have a relatively similar transition experience as Moldova. Moldova's top priority is EU accession, both Romania and Poland have recently joined the EU.
2. Both Romania and Poland have been implementing the legal frameworks for community participation for four years.¹ This period is long enough for local authorities to learn and test what works and what does not, what they should consolidate and what they should change.
3. The two models represent different approaches to community participation. The Romanian model is more focused on consulting the citizens and citizen's associations in the issues of community interest. The Romanian legal framework offers an explicit and top-down approach in offering specific procedures for this. On the other hand, Polish model leaves the issue of consulting the public up to the executive body of a local authority and focuses more on the work performed for the benefit of the public and society by non-governmental organisations within the publicly assigned tasks.²

3. Problem Description – Moldovan Case

3.1 National legal framework

During the 2007 local elections in Moldova, the topic of transparency and community participation was one of the most important topics discussed during the election debates, the other two being infrastructure and social issues³. Even though community participation seems to be so important for the citizens, at present Moldova does not have a special law to promote community participation, which is still governed only by general provisions.

¹ Romanian Law on Transparent Decision Making in Public Administration adopted on 21.01.2004. Polish Law on Public Benefit and Volunteer Work adopted on 24.04.2004.

² From the article 3 (1) Law on Public Benefit and Volunteer Work

³ *Equal chances in the election process, the case of local 2007 election in Moldova*. Centre Partnership for Development.

The law on the Local Public Administration of 28 December 2006 states that local public administration can make consultations with the community residents in the matters that are most important to the community. In this case local administration can organize a local referendum according to the electoral code. Also local administration can consult the population on the matters that are important only to a part of the community, using methods like public hearings, consultations, community forums, setting up partnerships with NGOs or business community.

On the other hand, the law on the Local Public Administration states that every council meeting is open to the public.

NGOs and citizens have the right to:

- participate in every phase of the decision making process;
- have access to the information regarding the community budget, the ways in which it is spent, every decision of the local council;
- submit to discussion and approval various drafts of the decisions of the local council;
- present recommendations regarding various decisions that are to be adopted.

Also, the law states that local authorities are obliged to perform all that is necessary to facilitate the community participation: to inform all the interested partners on the process of decision making, as well as to receive and analyze all the recommendations. The civil servant is subject to sanctions in case of restricting the access to the council meetings, or deliberately hindering the information or obstructing in some way the process of community participation. The law does not specify the sanctions to be applied in this case.

3.2 Local regulatory context

There is very limited information about the local regulatory context since no research has been done in this area and very few local governments have web pages and would post their decisions on their site.

The cases in which local authorities set up formal procedures to facilitate community participation are very rare. In the Criuleni raion, out of the total of 25 communities, only one local public administration set up formal procedures to enhance community participation.

One positive example is from Tudora community of the Stefan Voda rayon. The procedures established by the local authorities in 2004 are very innovative to the context of Moldova.

In order to identify the community opinion on certain matters local public administration will use: messages in the box at the mayor's office, focus groups, public hearings, hot line telephone, opinion surveys, interviews, workshops, conferences, joint working groups.

3.3 Current practices and challenges

In reality the level of community participation is very uneven. As the law on Local Public Administration states that the local administration will consult public on the most important matters. Community participation is not seen as an ongoing process, rather from time to time and when it happens it is very shallow.

The form that is among the most often used to consult local community is through general community meetings. These are held at least once in a year. In practice they are very unproductive, because most of the time the mayor is reporting on what has been done for the past year and not asking for recommendations or solutions from the local residents. The mayor usually has certain days when he/she can have appointments with citizens to discuss local problems.

Local civil servants are underpaid and overworked. Their job descriptions are very general, and the the Local Administration Law does not specifically delegate ensuring community participation to any specific person. That is why in most of the cases this is done by no one.

Very few authorities have access to internet or fax machines. In a typical mayor's office there will be 2 computers, one copier (probably the only one in the area). Seldom local public administration will have any other way to spread information other than posting it in the mayor's office. In most cases, the information is ignored by the large public.

The principle of the access to information is to some extent intrinsic to the principle of community participation. In 2000, the Moldovan Parliament adopted the law on Access to Information. In 2006 Access-info, an NGO promoting the principle of access to information, sent written requests on public information to 900 local governments. Only 88 of them responded, 39

providing completed information that was requested⁴. Over 6 years local public administration did not learn how to manage the principle of access to information. No community participation can be effective without ensuring proper access to the public information.

Council meetings are public, but very few people know the agenda and time where the meeting will be held. Only the most important decisions will be posted in the mayor's office.

Most of the times local administration is *using* community participation in order to collect the in kind contribution as a basic condition to receive grant from international aid agencies. Other times it is to present the community the local development plan for the next 4 years. Also it happens that community participation is enhanced by an active local NGO, through community information's center.

The experience from Moldova shows that at the local level the most active community groups are youth groups, especially youth who are under the voting age. Most of the time, young people set up consultative committees and initiate collaboration with local authorities. The experience shows that these committees are very effective in promoting the needs and interests of the youth at the local level. According to the Unicef Moldova there are 354 such committees in Moldova.

4. The case of Romania

4.1 National legal framework

In Romania, the Law on Transparent Decision Making in Public Administration obliges both national and local public administrations to set up minimum standard procedures⁵ to ensure citizens' participation. The law also recognizes the right of both citizens and citizens' organizations to participate in decision making process. With some exceptions⁶, the law states the responsibility of public authorities to inform and consult citizens and citizen's organizations on any decisions they take.

⁴ http://www.acces-info.org.md/upload/cap2_3.pdf

⁵ This is to allow all the public authorities to set up advanced citizen's participation procedures that would not contradict the general legal framework.

⁶ Decisions regarding national security, national economy, public order, exceptional situations, classified or personal information, or any other decision that might inflict the principle of loyal competition.

The law describes two types of procedures: participation in the process of elaborating a draft of a decision and participation in the process of decision making.

First, representatives of public administration will inform the public about the drafts on the decisions that are to be made. This will be done via public announcements. An announcement will contain information on the reasons of why the decision is needed, complete text of the decision, data and time until those interested can make their comments. The announcement should be made public at least 30 days before the decision is to be adopted.

The announcement is required to be posted on the public institution's web site, in the office of the public authority or in a place accessible to the public. The announcement will be given to all the persons upon their request. Also the law requires that the announcement will be transmitted to mass-media, without any further obligation of the mass-media to make it public. If the upcoming decision is relevant to the business community, the public institution will give the necessary information to the associations that represent the interest of these communities.

Upon a written request from a citizens' association or any other public organization a public debate will be organized by the public institution that made the announcement at least ten days prior to the announcement.

The draft of a decision will be adopted only after all the recommendations will be analyzed.

As for the second part of the procedures, the law states the possibility of the citizens and citizens' organizations to participate at the public authority's meetings, the person to head the meeting will allow all the interested the possibility to make verbal comments during the meeting. The public authority will announce the public at least 3 days before the meeting: the day, time, and place where the meeting will be held. All the citizens and citizen's organizations that made recommendations will be invited to the meeting.

The public authority is required to take the minutes of the meetings and make them public (posting them on the website or in the office). Every year the public authority will elaborate a report on transparent decision making. At minimum the report will include the number of: (1) all the recommendations received, (2) the recommendations that were considered, (3) the participants at the meetings, (4) the public debates organized by the public authority, and (5) of the cases where the public authority was sued for not respecting legal provisions of the law on

transparent decision making. The report should also include the number of the meetings that were not made public and the reasons they were not public and an individual evaluation on the cooperation between public authority and citizens or citizen's organizations.

If the right of a citizen or a citizens' organization to participate in the above mentioned procedures is restricted, the law provides the possibility to take legal action against the public institution. In addition, in such cases, the public servants can be sanctioned according to the law.

4.2 Local regulatory context

Since every public authority is obliged to set up citizens' participation procedures according to the standards of the law and since the law is to some degree explicit, most of the internal procedures within the local public administration are a more detailed and adapted version of the law.

In some cases, local public administration goes further and tries to institutionalize a framework for the community participation. This is the case when local public administration set up consulting committees. The committees are created on an issue or location bases. For example, in Timisoara, a consultative committee can be created by at least 7 citizens. Every member has a mandate of 3 years. The committee can use the facilities of the public authority and should meet at least once every 3 months. The municipal council will assign to every consultative committee a number of the councilpersons with whom they will primarily work.

On the other hand, some local public authorities (mostly municipalities) set up ICCs (Information Citizens' Centre). The ICCs serve primarily to inform the citizens about the activity of the public authority. The ICCs are organized in topic areas (taxes, petitions, municipal certificates). But also, the ICCs serve as a way to consult citizens on public issues. Citizens can make suggestions that are transmitted to the relevant public servant.

4.3 Current practices and challenges

It is considered that since the law on Transparent Decision Making in Public Administration was adopted in 2003, Romanian local public authorities have had the opportunity to learn how to *manage community participation*. One way to evaluate the way community participation is

managed is to study and evaluate the annual reports on transparent decision making, since this is a legal obligation of the local public administration.

In 2007, 4 years after the law on Transparent Decision Making in Public Administration entered into force, only 62% of the local public authorities in Romania would complete an annual report on transparent decision making⁷. Only 62% of the local public authorities publish the draft of the decisions to be taken and only 38% publish the announcement, 29% of the local authorities announce the deadline, place and person responsible to which all the recommendations should be made according to the provisions of the law.

The law on Transparent Decision Making in Public Administration requires that the head of every public administration will appoint a civil servant responsible for implementing the procedures required by the law. In practice, the civil servants that are appointed are the public relations officer, council secretary, human resource manager or in some cases the lawyer. The person in charge is very rarely responsible full-time for this issue.

The web sites are not used at their full capacity. Not all the public authorities publish basic documents of public interest, such as: the development plan, annual budget, and audit or performance reports. Most of the time, the information on the web sites is not up to date.

The number of the public debates required by the citizen's organizations is very low. The same conclusion is true in the case of the recommendations made by the citizen's and citizen's organizations. Analyzing the data from reports for 2006 (of 14 local public authorities) we can conclude that about 2397 decisions were taken, only 21 public debates were held and only 109 recommendations were made.

⁷According to a report produced by ProDemocratia and Transparency International Romania http://www.apd.ro/files/publicatii/Raport_de_monitorizare_cu_privire_la_aplicarea_si_respectarea_Legii_52_2003.pdf

6. The case of Poland

6.1 National legal framework

The legal framework of Poland in the area of community participation is different from that of Romania. The law of Public Benefit and Voluntary Work of April 24, 2003 is the national law that can be considered the law that sets up minimum standards for community participation.

According to the law, public benefit work is defined as the activities performed to support the public and society by non-governmental organisations within the publicly assigned tasks. The law also defines the fields in which public benefit work can be performed.

The executive body of a local authority shall resolve annual programmes of cooperating with NGOs. According to the law, the cooperation between public authorities and NGOs can take such forms as:

- entrusting NGOs with the performance of public tasks (with grants provided to fund their implementation);
- reciprocal feedback concerning all activities planned, and co-operation to the purpose of harmonising all related works;
- consulting NGOs on draft normative acts in areas relating to their statutory business;
- setting up joint advisory and initiative teams with a membership of representatives of NGOs and of relevant public administration authorities.

The law *leaves out* citizens as the law only provides legal opportunities for NGOs.

The law on Public Benefit and Voluntary Work offers no further detailed legal provisions regarding procedures on how the local public authorities should consult NGOs on draft normative acts or any other form of cooperation except the provision regarding commissioning NGOs to perform public tasks.

This is understandable at the point that the Local Government Act of March 8 1990 states the right of local authorities to regulate procedures on community participation. As local authorities can innovate and meet the local needs more precisely. But in some cases the general provisions of the law and the principle that only local authorities are to decide when and how to consult the

community on specific issues might be very limited if the local bodies don't have a clear understanding and willingness to manage community participation.

Also the law on Local Government Acts obliges the local representative to meet regularly with the voters and discuss community problems and communicate them to the local council. The law states that the mayor is responsible for making the budgetary procedure public and be open to consult with the community on these matters.

Another aspect of the national legal framework is that there are no provisions that would protect the *participatory rights* of the citizens or NGOs. Since the legal framework is rather general, it is hard for anyone to prove that a public authority or a civil servant has denied his/her right to participate. The law does not state the sanctions to be imposed to the civil servants or public institutions that deny the right of a citizen or NGO to participate.

6.2 Local regulatory context

At the local level there are different approaches of the local self government units on how to use the act of law in the field of community participation. Some units, especially in the big cities have detailed regulations that state the methods, timeframe, fields of interest and partners involved. The methods vary from public hearings to special e-pages used for the consultations.

Some local authorities created auxiliary units for both consulting and performing public tasks. In many cases this is the platform for both local authorities and citizens to discuss the problems of the community, development plans, budgetary procedures.

Some local authorities adjusted the constitutional provision that gives the right of the citizens to initiate a law. This can be done at the local level even though this is not reflected in the national law. At the national level 100 000 citizens can initiate a project of law, in Wroclaw 10 000 citizens can initiate a local normative norm.

Some local governments use methods such as studying public opinion on certain topics, taking polls or launching internet forums. In some instances, local authorities set up mail boxes to collect anonymous opinions, and ask certain citizens and professionals to make written recommendations. Sometimes, citizens who are also professionals in specific areas, are invited to the council meeting to express their opinions on these specific matters.

In most of the cases, local council or the mayor is empowered to start the consultations on certain topics. In some cases the local council leaves the decision up to the mayor whether to initiate the consultations or not. In other cases a certain number of citizens⁸ can initiate public consultations. If the process of consultations is really detailed and involves a lot of work, a special committee is set up to perform this task. The results of the consultations should almost always be published in the local mass-media.

The results of the consultations are not obligatory for the local public authorities.

6.3 Current practices and challenges

It is rather difficult to assess whether most local authorities in Poland have regulations regarding community participation and enforce them. The methods that are used vary among communities and different levels of local public administration.

The general conclusion is that local public administration does not use community participation on a permanent level. Public consultations in all of their forms are used only in specific situations such as: local development plans, changing the name of a zone in the community, strategic investments. Sometimes community participation takes place with financial incentives offered by the national government.

Most of the public governments have annual cooperation plans, but they are produced by the civil servants who lack the experience in working with NGOs. Not many of the annual plans are created in partnership with the third sector. The goals, priorities, fields of application and forms of support are repeated from year to year. Programs are constructed on the last year's models and not on the local needs, problem assessment and means⁹.

Cooperation with NGOs at the local level takes the form more of commissioning public tasks by the public government and it is less about giving recommendations or influencing local public

⁸ According to the local regulation Ushelsko gmina on public consultations at least 300 citizens can request a public consultation upon presenting a written request. The same right is given to at least one third of the councilpersons.

⁹ Conclusions from the project implementation report *Local Governments Transparency*. SIIG.

policies. There is a feeling that this has created a *grant mentality* for NGOs and that at some point NGOs would not be able to represent the needs of the community or of their beneficiaries.

Community participation is more developed at the lowest, gmina level than at the higher levels of administration, those of powiat (county) or voivodship (province).

7. Lessons from Romania and Poland

1. The experience of Romania and Poland show that one important step in enhancing community participation is to adopt national clear and detailed legal framework. Since local authorities from Moldova lack the understanding on how to manage community participation, the Romanian model is more useful to Moldovan context. This is due to the fact that Romanian regulation model is more detailed and exhaustive and leaves little space for interpretation.

2. Legal provisions need to state that community participation procedures should be mandatory and performed on the ongoing bases by the local authorities and not only on the “important” issues for the community.

3. Legal framework should at the same time leave space for innovation and adaptation to the local needs.

4. In the case of public consultations, whether they are national or local, the regulatory framework should, at a minimum, state the following elements: (1) the obligation of local authorities to inform the community and those interested in a timely and ongoing manner about the decisions to be taken and ways to collect the feedback, (2) the precise methods to be used during the consultations, (3) the obligation of the authorities to appoint a civil servant responsible to manage the process and (4) the legal sanctions in case the regulation is not followed.

5. Local authorities should improve the way they communicate with the members of the community. This can be done by setting up community newsletters, annual reports, websites, joint committees, ongoing public hearings. Also, local authorities should implement new systems to manage information so it can easily be made accessible to those interested. Upgrading the mayor’s offices with internet connection and fax machines will improve the situation.

6. The experience of Romania shows that it is very useful to oblige local authorities to compile annual reports on transparent decision making. On the one hand, this is a primarily a learning and self assessing tool for local authorities, on the other hand, it makes easier to track the progress that is made in this field by the NGOs and citizens.

7. Also useful is the experience of Poland local authorities to set up annual plans of cooperation with NGOs. If it is done in cooperation with the NGOs, it could contribute to solve the problems in which the local authorities do not have the necessary expertise.

8. It is also useful to set up precise procedures in which citizens or NGOs can initiate the elaboration of a local norm or decision. This is very important since more and more citizens and NGOs are capable to promote innovative solutions to community problems.

9. Local authorities need to become more autonomous from the national government. Currently the local authorities in Moldova act more as operating agencies of the national government. Local authorities of Moldova need to learn how to produce local public policies. This change would increase the value of community participation.

10. Since young people are the most active group at the community level, it is advised that both national and local procedures should not leave them out, even though most of this group is under the voting age. Special procedures need to be adopted to meet the *participatory needs* of this group of citizens.