

An Assessment of Public Consultation Practice in Romania

Introduction

The text that follows represents a resume of a study produced in 2006 (may 2006-january 2007) regarding the “Public Consultation Process in Romania”. The initiator and main beneficiary of the research was The Resource Center for Public Participation (CE-RE), a Romanian NGO aiming to provide support to public participation processes. The funding was provided through NDI office in Romania.

The main objectives were:

- *to describe and analyze the public consultation practice in Romania (including legislative analysis)*
- *to analyze the qualitative aspects of public consultation practice*
- *to formulate recommendations for improving the public consultation practice in Romania.*

The sociological research used several methods: questionnaire, semi-structured interview, focus group discussions, secondary data analysis.

The questionnaire was sent to 700 NGOs (registered in CSDF data base) and had 81 respondents. The questionnaire was sent electronically (e-mail, self-application)

In depth interviews were conducted with: public servants in managerial positions- 18, politicians-10 and NGOs- 30) with experience in organizing/participating public consultations. Geographical coverage: Bucharest, Timisoara, Cluj, Sibiu, Iasi, Constanta.

Also 2 focus groups were conducted with NGO leaders (24) with experience in participating in the public consultation processes.

The secondary data analysis was done on: The Agency for Governmental Strategies data base, data directly received from public administration units (central and local).

In the last 20 years we assist to a growing interest of governments around the world for public participation. New forms of public participation are emerging in various democratic countries, new frameworks and methodologies enabling public participation are experimented and implemented in different contexts.

At the same time, citizens around the democratic world, formally organized or not, shows more interest in participating in policy debates, asks for more transparency and accountability from Government side.

Romania makes no exception from this trend of growing interest for public participation. In the last six years in Romania the country registered a strong development of institutionalized or non-institutionalized mechanisms for public consultation and public dialogue, including legislation framework development, new institutions dealing with support programs for public participation, good practices development. All those elements are taking place within the country wide framework of good governance and public administration reform.

In a famous OECD report – “Citizens as Partners: Information, Consultation and Public Participation” (OECD, 2001)¹ it is stated “ there is a striking imbalance between the amount of time, money and energy that governments in OECD countries invest in engaging citizens and civil society in public decision making and the amount of attention they pay to evaluating the effectiveness and impact of such effort.”

Recognizing the pertinence and interest of such a statement, considering also the “visible” development of public consultation in Romania we decided to take a closer look at public participation practice, analyzing not only the quantitative aspects (volume of public consultation process), but also the quality of the public consultation process.

In the present research we have used the public participation definitions as presented in OECD or International Association for Public Participation (IAPP) research reports and sequential definitions showing the complex nature of public participation concept. For OECD the accent in defining public participation is placed on the “involvement “in the policy process. The policy process involvement has three different stages:

- **Citizen’s information – provide the citizens with necessary information to hold the government accountable and to reflect on policies and their implications.**
- **Public consultation – enable the citizens to interact with Government on different policy issues, to give feedback on different policy subjects prior to final decision.**
- **Public participation – the citizens are taking part in the decision-making process as full partners. They are involved in the policy process in all stages, from policy issue identification to implementation and evaluation.**

The International Association for Public Participation (IAPP) uses the OECD levels or sequences model, adding more in depths to the OECD definitions. For IAPP the “active participation” level can be analyzed more in detail, making a difference between public involvement exercises, collaboration exercises and empowerment.

- **Public involvement exercises – the citizens (the public) are involved in drafting the policy documents (strategies, legislation etc) making sure policy-makers consider the public views.**
- **Collaboration exercises – the citizens are involved in all stages of the policy process, including the generation of policy options and the selection of the policy option to be implemented.**
- **Empowerment – the citizens are involved also in implementation, sharing responsibilities with public authorities and having access to public resources.**

¹ OECD “Citizens as Partners: Information, Consultation and Public Participation”.. OECD Publications, 2001.

Legislative framework

In a more concrete way, and taking into consideration the above-mentioned participation process sequences, we consider the public participation process as citizens involvement in policy management decision in public services delivery. The enabling conditions for public participation are: identified and recognized public participation needs and legal and institutional framework developed and accessible.

Starting with 2000 in Romania we assist to the development of a legislative and institutional framework enabling public participation to decision-making process. The idea of public consultation was introduced in many legislative acts, but not in all of them the consultation process is feasible in good conditions. Considering the fact that public consultation is a process asking for good managerial skills and political determination we can see that in many cases the consultation was considered only as a formal event.

We have to acknowledge the fact the public consultation is a process, not a single event or a series of single events. In order to have a successful and meaningful public consultation process we need good process management. The citizen's participation in the policy process can be analyzed as a process involving two main actors: the Government and the citizens (organized or not). This is not an equal relationship in the sense that the Government interest and will to involve the citizens in policy process is key. The informational and power resources are unequally distributed between the two actors and their cooperation is always necessary. The main legislative document promoting public consultation in Romania is the Law 52/2003 – regarding the public administration decision transparency. Within this law we have a statement of clear conditions and procedures for public consultation, as a mandatory activity of public administration.

Another important legislative document stimulating public consultation is the GD 775/2005 – regarding the procedures for central public administration concerning the elaboration, approval and presentation of draft legislation. The GD 775/2005 includes public consultation as a mandatory step in policy elaboration process, establishing a mandatory methodology for all central government actors.

Some quantitative aspects related to Public Consultation in Romania

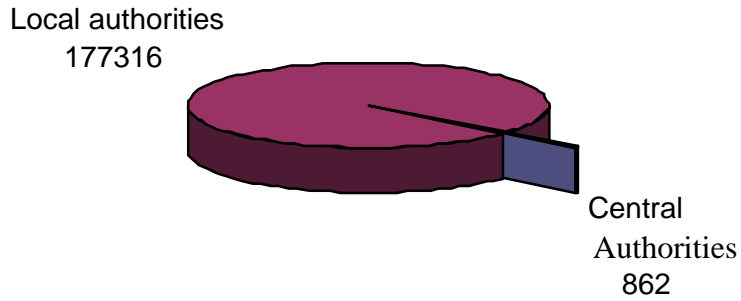
The present research, focusing on the evaluation of public consultation practice in Romania, took into consideration all forms of public consultation, but the main inputs came from the implementation of the two above-mentioned legislative acts.

For the year 2005 a total of 178178 legislative acts have been produced, out of which 177316 by local authorities and 862 by central authorities.

Out of 178178 legislative acts, 132025 have been publicly announced and open (by request) to public consultation.

Graph. I.

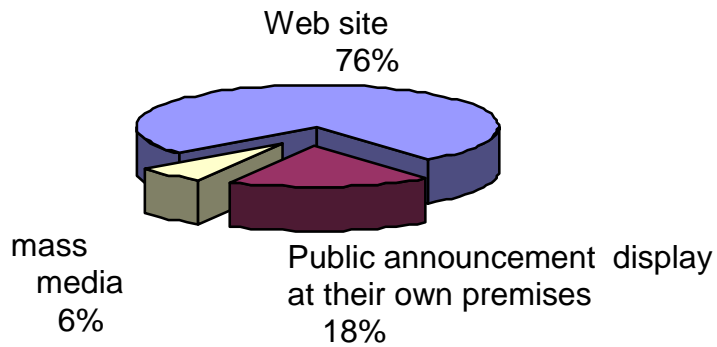
Number of legislative acts produced in 2005



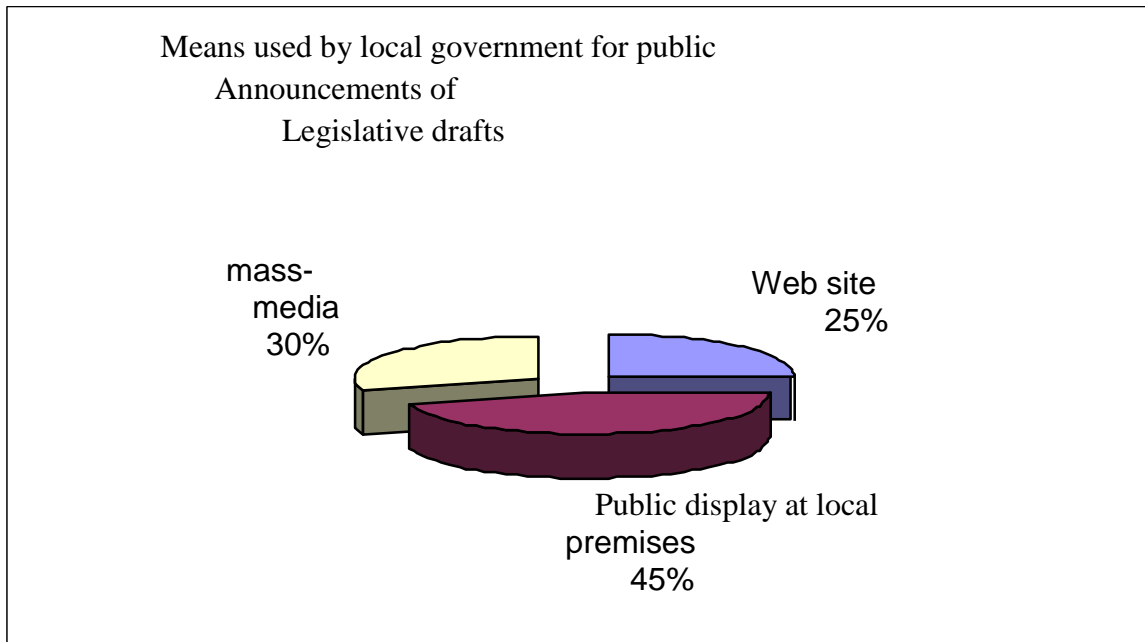
Out of 132025 legislative acts, 44% have been publicly announced by displaying the information at the public administration premises, 30% through mass-media, 26% through public administration web sites.

Graph.II

Means used by central adm. for public announcement of Legislative drafts

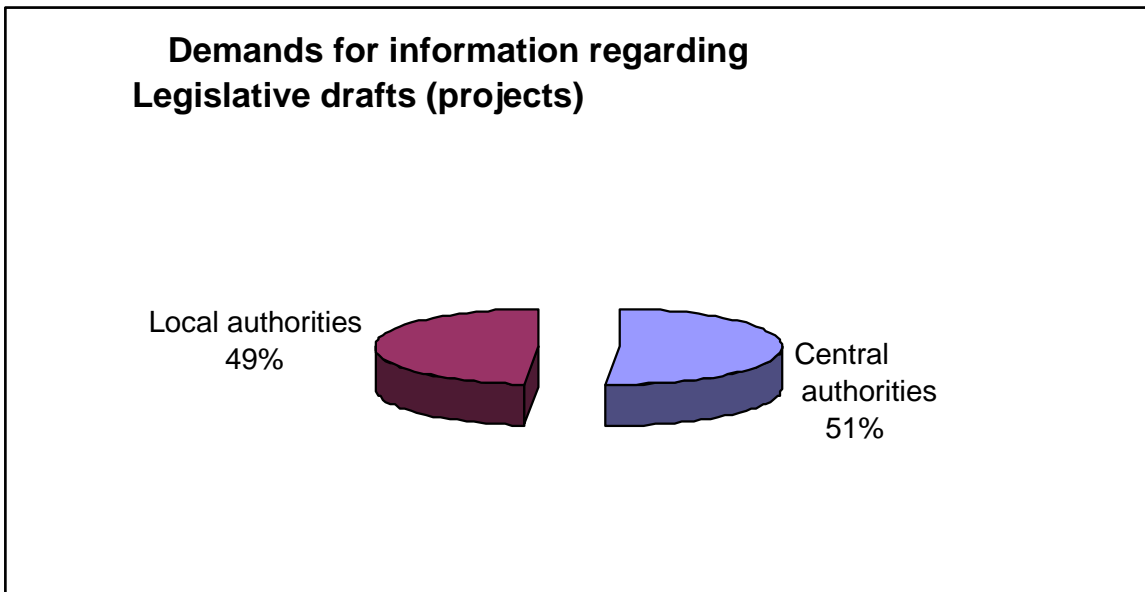


Graph.III

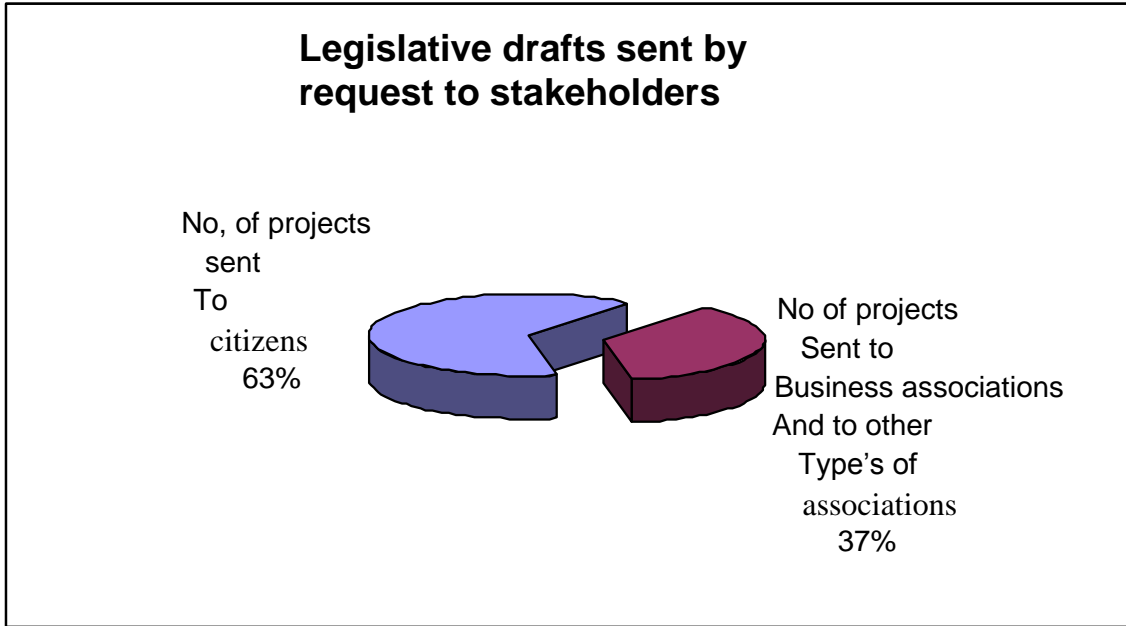


In 2005 a number of 5688 demands for information's regarding legislative drafts promoted by public administration have been send to the authorities.

Graph. IV.



Out of 5688 demands for information's, 4196 have been formulated by citizens (physical persona) and associations have formulated 1492.



For the 5688 demands for information the public authorities responded positively to 3993 of them.

As a result of the public consultation process in 2005 the public authorities received 6257 recommendations for changes of the legislative drafts, out of which 4310 (69%) have been considered and introduced into the new legislation.

An interesting detail is related to the legal actions filed by citizens or associations against public authorities for non-compliance with the Law 52/2003. For 2005 we registered 125 such legal actions. More than 86 of them have been solved in the favor of the plaintiff. (in December 2005 the statistical situation of legal courts decisions was as following: 86 in the favor of the plaintiff, 21 in the favor of the public administration unit, and 18 still in debate).

Some qualitative aspects related to Public Consultation in Romania

Starting from the aspects mentioned above we have to underline the fact that public consultation process is at the beginning in Romania and the citizens involvement in policy process is still regarded with suspicion by public administrators and politicians. Acknowledging the fact that public consultation volume in Romania is increasing, we have to interrogate the quality of the public participation processes.

From the findings of in depth interviews and focus groups we have some interesting elements related to the assesment of the public consultation process, as viewed and understood by the stakeholders.

The participants response to in-depth interviews generally emphasized the importance of the Law 52/2003, the flexibility and novelty of the law. “ The Law (52/2003) is more advanced then public administration, NGO and citizens.”; “the policy decisions are more

easy to be accepted and implemented”; “It is easier to take decisions in public administration”. In general it was stressed that the text of the law is well done, and the problems are related to the implementation capacity of public administration. From the interviews findings we have grouped the expressed opinions in two main categories: benefits of public consultation and obstacles to public consultation. Benefits of public consultation:

- Public consultation increases the quality of policy decisions;
- For the citizen, is a democratic way to express opinions about policy decisions to be taken;
- Public consultation can increase the citizen’s trust in public administration;
- Public consultation alleviate the pressure of policy decision from public administration;
- Public consultation can reduce the implementation costs for some policy decisions;
- Public consultation brings into the system (public administration) information and expertise;
- Public consultation can generate networks and partnerships; can increase the cohesion of NGOs coalition;
- Public consultation can represent a method of legitimate NGO sector;
- Through public consultation we can establish better communication between public administration and citizens;
- For NGOs, public consultation can bring image capital (added value).

Obstacles for public consultation:

- Romanian public administration has no strategic focus on development issues; they are doing more administration then public management; because of this, there is no focus on establishing clear goals and objectives.
- A lack of expertise (on how to do public consultation) both on public administration and civil society side;
- We don’t have a ‘culture of participation’; the citizens don’t trust public administration;
- The legislation regarding public consultation is not promoted sufficiently through mass-media;
- We have over-regulated procedures in the area of public consultation;
- The legislation is very weak on sanctions against non-compliance with the law;
- The implementation mechanisms on public consultation are formal; and the implementation of the law is incoherent.
- The public consultation was not institutionalized within public administration practice;
- The public consultation should be done in all phases of the policy process, not only regarding the draft legislation;
- Reduced management capacity from public sector side – no planning of activities, no dialog facilitation, not enough information sent to the stakeholders, no feed-back)

- Lack of organizational culture and political culture;
- Lack of transparency in public administration;
- No participation mechanisms created by public administration;
- Civil society is not strong enough in order to be able to generate good public consultation process – problems regarding interests representation, demands formulation, managerial capacity.

Public consultation and Policy Process

The public participation in policy development and implementation is increasingly recognized as an important mechanism to improve public trust in government and administration, to “democratize” the decision-making process, to bring more resources within the policy process and to bring more coherence in shaping the relationship between government and stakeholders.

We acknowledged the fact that after 2001 (enactment of Freedom Of Information Act - FOIA legislation in Romania) we assisted to the development of a legislative and institutional framework enabling public consultation to take place. Also, we acknowledge the fact that participation mechanism such as: public hearings, citizen/NGO forums, community meetings, citizen’s advisory bureaus, individual citizens representation etc., public-private partnership frameworks are known both by the public administration and citizens/NGOs (and in use).

However, there still remains the question of the institutionalization of public participation, the level of involvement in the policy process, beyond the political rhetoric. Public participation can take place in every step of the policy process. Based on the qualitative research results we have looked at the policy process stages (problem-solving approach), concentrating on each stage the opinions of Romanian NGO leaders. The selection of the 24 focus group participants had as the main criteria accumulated experience in public consultation processes.

Table 1: analysis of NGO/citizen involvement in policy process stages

Policy stages	NGOs/citizens possible role	Obstacles	Perceived level of consultation
Problem identification and definition (policy goals and objectives)	Contribution to problem identification through information, stakeholders views and interest representation; defining priorities	Decision-makers lack of interest for stakeholder’s involvement; non transparent process; difficult access to top decision makers.	No good practice examples

Strategy design and establishing policy criteria	Contribution to criteria design; technical strategy approach (possible policy instruments)	Formal approach to strategy design; lack of knowledge on NGOs capacity to contribute in the process;	Only very limited good practice examples –eg. FOND
Policy alternatives development	Building consensus;	Formal process, lack of debates; discussions and consultation reduced only to the governmental proposed alternative.	Here we have the bulk of consultation processes, but limited to the consultation on the governmental selected alternative (legislative draft)
Budget design	Input on costs; good practices collection; budget monitoring solutions.	Lack of trust in NGOs capacity to give input on budgeting process; non-transparent process	No examples
Monitoring and evaluation	Input for social audit design and implementation; participatory design of indicators	Weak M&E capacity; formal process	No examples

From the Table 1. above we can see that the policy consultation process in Romania is concentrated only to one stage of the process, related to policy alternative design. Even here, the consultation is limited on the governmental designed alternative. Practically the consultation starts at the moment when the public organization disseminates the legislative draft. This practice can be linked with the Romanian public administration strong juridical logic, in the detriment of managerial logic. According to that, all the problems can be solved through legislation.



At the end of this research resume, we present some general conclusions:

- The study found that the public consultation process in Romania is perceived as formal and lacking managerial coherence, engaging consequences on the quality of the process and outcomes;
- The study found that public consultation in policy making is limited to governmental alternative design;
- Also the study found that in order to improve public consultation equal attention should be paid to increasing capacity to both governmental and non-governmental (including individual citizens) actors;

- The public consultation is tight in the public administration reform. More strategic and managerial approach to public administration reform will bring more and better quality public consultation and participation.
- We cannot say if and how the public consultation processes in Romania improved policy decisions. But we can say that public consultation practice (legislation and mechanisms) improved a lot in the public administration attitude versus citizens.