

DOCTRINAIRE CONTROVERSIES ON THE CONCEPT OF PUBLIC SERVICE

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Abstract:

The article identifies the doctrinaire controversies existing in defining the public service. The main idea in defining the public service, as a an activity conducted or authorized by an administrative authority, is inextricably linked with the idea of general interest. In this context the public service must be considered as being an activity conducted by the public authorities in order to satisfy the general interests, because the public service appears only when the community points out some general need.

We can say that the necessity of the public service establishment is justified by the existence of a general need, common to the entire human collectivity or to a certain collectivity. The term of public services was defined across the time from different perspectives, being used both by public management and administrative law. The notion of public service has appeared and developed constantly in the context of increasing the general needs of the human society.

The problem of defining the concept of public service is, at the present, an extremely complex one, especially if we take into consideration the fact that, both through the content and through the modalities of organization, the public service represents a key component in building public administration.

Key words: public service, local government, decentralization, subsidiarity, public administration management

JEL classification: H83

INTRODUCTION

In the context of the diversification and multiplication of the society's general needs, the notion of public service has emerged and successively [1] developed, aiming, through it, to satisfy, at the appropriate level, the public character needs.

Regarded as a way to achieve the human needs of public policy, the concept of public service is recent, the analysis of the content and its significance being currently in the field of administrative sciences, especially since this is considered as representing the foundation of the public administration activity, the basic reason of organization and functioning of the public institutions and administrative authorities [2]

From the etymological point of view, the term of service comes from the Latin word *servitum*, which means slave. Thus, starting from the linguistic meaning, we can launch the idea of making a service to someone or being in someone's service.

THE APPEARANCE OF A PUBLIC SERVICE AS AN ANSWER TO A GENERAL NEED

The public service represents an activity conducted on the basis of the law, by state, district, town or village for satisfying a general interest of the community members. We can consider that public service represents the main mission of the public administration, thus existing the possibility of satisfying in an appropriate way the population's requests, the activities of the public services having to respect the criteria of quality and utility.

These activities that satisfy the general interests of the local community should be provided by the local public authorities, otherwise they being responsible in front of the citizens who have chosen them by direct vote in order to represent their interests.

As a result of the public services establishment, the administration must pursue the accomplishment of the population's general interests, a public service is established when there is a particular need in the local community, as shown in the figure below.

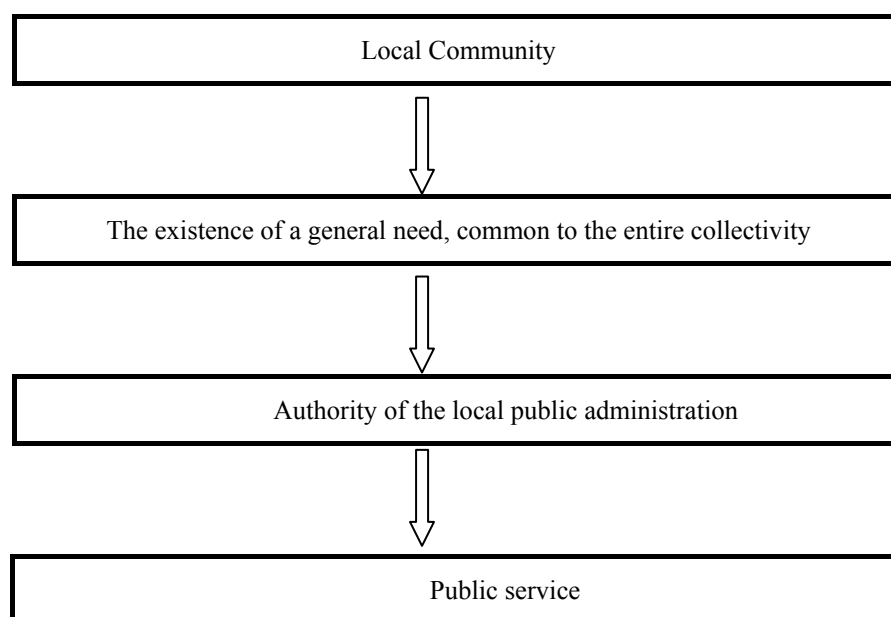


Figure no. 1. The appearance of a public service, as a result of the existence of a general need in the local community

In such conditions, the necessity of the public service establishment is justified by the existence of a general need, common to the entire human collectivity or to a certain collectivity.

The central element of defining the public service is represented by satisfying the general interest, through which it is understood the interest of the members of the society [3]

Public services should aim at satisfying the population's needs, which till that moment have been ignored, and should be offered after a real dialogue with the concerned citizens [4].

DOCTRINAIRE TRENDS ON THE NOTION OF PUBLIC SERVICE

The term of public services was defined across the time from different perspectives, being used both by public management and administrative law. The notion of public service has appeared and developed constantly in the context of increasing the general needs of the human society.

The term of public service has appeared for the first time in the French legal doctrine, in the first edition of The Administrative Law Treatise, edited by professor Maurice Haurion (Maurice Haurion, 1892).

From its birth, the term of "public service" could be met in various aspects, such as for example "public interest", "public utility", "general interest". The public service must be considered as being an activity conducted by the public authorities in order to satisfy the general interests, because the public service appears only when the community points out some general need.

In the interwar period, Anibal Teodorescu indicated that "the executive function of the state was exercised by public services, these ones being created and organized by the state or its administrative subdivisions in order to carry out their executive duties"[5].

In the French tradition public service consists at each level (local, regional, national) in combining three aspects:

- to guarantee the individual right of every person to have access to the essential goods and services for satisfying their needs, as a guarantee of the fundamental human rights exercise;
- to express the general need of the community, for ensuring the social and territorial cohesion (the equality concerning the right of access, the right for quality services, for the lowest cost search, the geographical alignment of rates, the service mutability);

- an essential means of the public power to regulate the market, to drive public policies (for example the energy policy, the security of supply, the environmental protection), to actively engage in the economical and social development (places of work, participation in local development etc.).

Philip Kotler defines service as being "an activity or an advantage, essentially intangible which one part can offer to another part and which doesn't have as a result the transfer of the ownership over a certain thing. Its realization may or may not be linked to a commodity" [6].

Jean Rivero [7] attributes three senses to the notion of public service:

- in a material or functional sense, the public service refers to an activity of general interest that the administration is called upon to perform;

- in an organic sense, public service represents a set of agents and means that a person of public law uses in order to accomplish a task;

- the third sense assigns a task that represents a public service to a certain legal regime, derogatory from the common law.

According to Anton Parlăgi's and Cristian Iftimoaie's opinion, which we agree, in order to talk about public service, it has to exist, first of all, a general interest, and secondly, over the activity of providing public services it has to be an administration control, the public service being an activity of general interest entrusted to a public person [8].

Thus, examining the specialized literature [9], we note that, in the attempt to define the notion of public service, were outlined two ways:

- a material or functional sense and

- a formal-organizational sense.

According to the material component, public service provides an activity of general interest that takes multiple forms depending on the nature of social needs.

Emphasizing the material content of public service, Antonie Iorgovan, defines public service as being the form of the administrative action according to which a public person takes the responsibility of satisfying a need of general interest, the public service representing "the means by which administration is functioning"[10].

Rodica Narcisa Petrescu claims that we are in the presence of a public service if the following conditions are fulfilled:

" - an activity of general or public interest is held by an authority of the public administration or a public legal entity organized by this;

- if a private person is authorized by the public administration to perform certain activities of general interest" [11].

As it is noticeable, this type of definition tries to combine the conceptions of some Romanian interwar authors, respectively P. Negulescu and A. Teodorescu, but also of the French authors, too.

As long as regards the formal-organizational component, this one is closely linked to the material component, because it can't be conceived a public service without the set of agents and material resources, assigned to accomplish specific interests.

Paul Negulescu emphasizes the formal character of public service, defining it as being an "administrative body created by state, district or village, with defined jurisdiction and powers, with financial means obtained from the general heritage of the creating public administration, put at the disposition of the public in order to satisfy in a regular and continuous way a need with general character, to which the private initiative shouldn't give anything else but an incomplete and intermittent satisfaction" [12].

Not frequently the material and the organic significance of the public service concept match, therefore the activity of general interest, managed by public administration is always considered public service [13].

From the investigation of the Romania doctrine, we note the thesis according to which administration represents the totality of public services, and public service constitutes the means by which administration is functioning. It is relevant in this context the definition assigned to public service by Mircea Preda [14] who considers public service as "an organizational structure

established by law or on the basis of it, by state, district, town, village, or by individuals, endowed with powers, staffed with specialized personnel (civil servants) exercising these powers, endowed with material and financial means in order to satisfy, in a continuous and permanent way a community of common interests".

Ioan Alexandru defines public service as "that state or local community organization, established by the competent authorities, in order to satisfy the requirements of the society members, in the conditions of administrative and civil law, in the law enforcement process" [15].

The same ideas regarding the concept of public service are also met at M.V. Bedrule-Grigoruță and V.A. Munteanu. The public services managerial approach has proved to be an essential condition for satisfying the public interest, providing an analysis of the methods of management, coordination and control of these ones and contributing to the knowledge of the real situation of each public service.

In the light of those presented above, we can say that public service represents an activity carried out or authorized by an administrative authority, seeking to satisfy requirements of community members.

Public service represents first of all an activity. Not any action undertaken for satisfying the needs of the population represents an activity of providing public services, but only those activities that are necessary to satisfy some social needs appreciated by the public power as being of public interest.

Thus the activity of a private agent can't be considered as an activity of providing a public service, because even if it is intended to satisfy a general interest, this is done to obtain a certain benefit for the investments and the submitted work, as opposed to the public administration services, which don't have profitability for an object.

It has to be specified that it isn't sufficient to exist the interest of a person or a restricted group of persons for developing a public service, because there are necessary the interests of a community for certain requirements [16]. So, for the development of a public service we need firstly of the general interest, and then of a willful act of legislative authority [17].

The state satisfies the general interests of the society, often without making a profit, but, on the contrary, supporting loss. For example, the costs which public administration supports through public education services or public health care services, are usually undertaken by the budgets of public administrations in whose jurisdiction these public institutions are.

Even if fees are charged for some services, they are insignificant compared to the total expenses for this service. In order to provide these services guaranteed by the state, the costs are supported by the national budget or the local budgets. There are, presently, many social needs which are not served by public services. The need to establish a public service is justified by the existence of a general need, common to all human community or to a particular community.

In other words, when it is noticed the existence of a broad social phenomenon, recognized by policy makers, the organization of a public service is required to answer the needs of the social reality.

CONCLUSIONS

Concerning the above mentioned, we believe that devolution and decentralization of public services are components of the central administration reform, involving a distribution of competences. The decentralization of public services consists in transferring the services from the "center" to the local communities, in order to satisfy adequately the social needs.

In a regime of administrative decentralization the local interests can be solved in better conditions, the local public services can be better managed by the chosen local authorities, because these do not have the obligation to comply with the orders and the instructions from the centre. We believe that through decentralization and devolution the activity of public services will be improved, because their management is adapted to the specific of those communities tasks.

The necessity of establishing a public service is justified by the existence of a general need, common to the all human community or to a certain community.

Consequently, the public service, as an activity, is closely linked to the idea of general interest that animates it.

Thus, it 's indisputable the fact that the organization of a public service has as a starting point the coexistence of the two fundamental elements – the social need and the willing act of the legislative authority – the only ones which allow the qualification of an activity as a public service.

ENDNOTES

- [1] *The gradual evolution of the concept of public service, due to the amplification of the social needs, was accomplished simultaneously with the more obvious intervention of the state, in order to ensure the citizens' general well-being, reaching a culminating development in the middle of the twentieth century.*
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