

THE PHENOMENON OF THE POLITICIZATION OF PUBLIC ADMINISTRATION IN ROMANIA

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Abstract: *This article aims to capture the image of the evolution of the profile of the prefect in Romania between 2006-2020, with an important focus on the relationship between the policy and the Institution of Prefect, as well as the effects of politicizing the civil servant. Our analysis aims at presenting theoretical concepts and analyzing the effects of laws attesting to the status of the prefect. We observe a beginning of the process of public administration reform, but with different pathologies and stage imperfection. Actors involved in the construction of the prefect at the local level, independent actors and party members actors, have taken advantage of a development of the constant legal framework, a fluid political context, in order to form and develop clientistic, and patronage strategies that have prevented the expected effects of the Europeanization processes. We thus note that the appointment and revocation of prefects in Romania have a link of dependence on the legal framework as well as the existing dynamic political context.*

Keywords: *public administration, political function, political power, political parties.*

PUBLIC ADMINISTRATION AND POLITICS. THEORETICAL PERSPECTIVES AND MODELS OF COHABITATION.

Public administration is the interface between the state and society. It works in two senses: from the state to the citizens and vice versa. In fact, public administration institutions have the role of carrying out public policies, but also in resolving the requirements of the actors involved and civil society. Social reality, as well as existing theories (Denni & Lecomte, 2004), (Carpinschi & Bocancea, 1998) underline the difficulty of drawing a clear border between politics and administration. The causes may be diverse and they also encompass the pressure of politics, but also the complexity of human relations, social networks and networking strategies. In fact, we believe that the relationship between politics and civil servant will always exist. The differences are given by the degree of autonomy or the level of involvement of the political, but also by the social and political contexts at a given time. On the other hand, in democratic systems things are more nuanced, the public administration being autonomous from politics, partially subordinated to or imposed by politics, as is the case in the US. In the case of the United States of America, the time career was identified, a common practice of political parties after winning elections to grant jobs in public administration to supporters, relatives or friends. In the American administrative system, during the 19th century there was a system

called a spoils system, with which those who won the elections had the power to promote to public office people who were partisan and who were primarily loyal to politicians. Subsequently, the transition to a system based on the recruitment and selection of officials took place. However, there has always been the question of whether a civil servant needs to be elected on the basis of competence, skills or to be appointed by the party, knowing much better the mentality of the group from which he comes (Disalvo, 2016).

After the 1989 revolution, Romania had a public policy of depoliticization and training of administrative staff in order to streamline and develop services offered to citizens. The objective was only partially achieved. If we take into account the legislation on the Institution of Prefect, we may observe that, in fact, during 30 years of democracy, public institutions have experienced politicization. The institution of Prefect is regulated and organized by the Romanian Constitution, but also by the new Administrative Code 2009. The following paragraph shall be added to Article 249 of the Romanian Constitution, the Prefect is the representative of the Government at the local level. He is therefore appointed by the Government and must represent the interests of the government in the territory.

Today, journalistic investigations, investigations carried out by the "RISE Project", reports on the state of public administration in Romania and the involvement of politicians carried out by "Clean Romania" bring to the attention of the public situations in which politics penetrates quite deep into the administrative area. In a study carried out by the Faculty of Political, Administrative and Communication Sciences in Cluj County on a sample of 100 citizens and 50 civil servants, aspects have been noted that the spoils system still remains. When asked whether the selection of future civil servants is made on political grounds, from the point of view of citizens, in a proportion of more than two thirds they answered in the affirmative, i.e. 72.30%. We inevitably ask ourselves the question of what makes people understand and answer yes in such a large percentage? The situations found at the level of the institutions to date are the most appropriate answer. Reform in public administration in Romania was often done only formally or, at worst, only on paper. Nepotism and the power of political parties have often influenced public administration, which has led to the inevitable politicization of the civil servant.

All this shows that the link between politics and administration is a complex phenomenon in which partisan activities, political leaders, recruitment mechanisms and forms of engagement in local/national public administration will play a particularly important role. Relations between politics and public administration were theoretically analyzed by a number of authors such as: J. St. Mill 1859, K. Marx 1844, M. Weber 1978 and R. K. Merton 1952, Th. Veblen 1904, M. Croisier 1964 and many other contemporaries. In general, theoretical approaches move between three major levels that usually exploit the relationship of bureaucracy and administration with the state and politics. Thus, we identify *positive valorizations* (for Weber, for example, technological superiority over other organizational systems is important), *negative values* (bureaucrats for Marx, for example "delegates of the state tasked with administering the state against civil society" (Marx et al., 1933)) and *neutral values* (Touraine & Merton, 1952).

Joel Aberbach in *Sharing Isn't Easy: When Separate Institutions Clash*. Governance took into account four variables, and looked at the role and relationship between bureaucrats and politicians according to them. These variables are *the implementation of*

policies, policy formulation, citizens' interests and clarification of missions (Aberbach, 1998).

However, it should be noted that an important area for partisan action is the final results that are reflected in the work of the administration. Either this can only be controlled by the policy and its influence in the administrative apparatus or by the training of officials with specific expertise. However, Polit Boutkaert considers that the public administration is called upon to submit to the political which has gone through the legal stages and has come to represent the wishes of the citizens (Polit & Boutkaert, 2004).

In this respect, it is interesting to watch the influence that the civil servant exerts on the decision, how it can be a guarantee of the implementation of public policies. In view of all this, the public administration presents itself as a service to the citizen, which connects with the political area. The purposes of the public administration service, as well as those of political and non-political activities, are to achieve collective goals. For this reason, an accurate demarcation of the two in terms of actions and objectives is difficult to achieve.

The literature identifies several models of political relation with the administration. Guy Peters, for example, identified four models:

1. *Formal-legal model*

It is marked by a *subordination report*. The civil servant plays the role of adviser and mentor for the politician; the ones who will make the decisions are the political decision-makers. In this case, the official is prone to political compromises, being contractually constrained by the mandate of the elected politician. For example, where there is a single regime, a single party, the administration is subject. However, different forms of politicization can also be found in democratic regimes. For example, changing the administration in the White House involves certain changes in public administration.

2. *Model of the administrative State*

It affirms an area of *separation* between the administration and the political issue of the freedom of the civil servant whose career does not depend on political actions but only on his expertise. In this case, greater political imbalances give the public a greater power to manage problems. For example, it is interesting to follow certain departments of the national security state in which, regardless of the nature of the policy, expertise will be a safety bridge in the actions of that state.

3. *Community model*

The civil servant becomes the expert in relation to the politician. The report appears to be in favour of the civil servant. The civil servant may negotiate from an expert position the politicization of his actions or not, depending on his interests. His mandate is not constrained by direct political action. Usually, in this case, the upper hierarchical line of the civil servant is established politically and, in this case, there is perhaps a slight form of indirect coercion. When positioning the civil servant in the same relationship as in the Community model, the difference is given by the fact that the subordination ratio is made only on specific departments. For example, the county councillor on the Environment Commission may only influence the civil servant in the Environmental Opinions department, with a common area of action.

4. *Conflicting model*

This model creates a situation of conflict between bureaucrat and politics. This happens in situations of sudden change of government apparatus, of policy makers. It shall be balanced only when the Community model is available. An illustrative example would be the

conflict between the institutions that ensure compliance with the laws and political parties in that country's parliament.

Beyond these models, we cannot fail to notice a permanent game between the political and bureaucratic system represented by the administration. Thus, we identify three situations: *balance* between the two when dealing with political stability and respect for the laws and rules of the democratic game, a *political imbalance favourable* to undemocratic states or those in which democracy operates, and a *monetary-friendly imbalance* when political instability occurs.

Political-administrative relations are complicated, complex, and they also raise a problem: ensuring the loyalty of public administration to political leaders in accordance with democratic principles, but also to have public administration autonomy from the political environment, in order to preserve its neutrality, impartiality towards any citizen, whether partisan or not. The existence of an autonomous administrative domain in relation to politics as Woodrow Wilson claimed (Stid, 1994) is difficult to imagine in the current Romanian codifications. However, an increase in the degree of professionalisation and efficiency of services is an achievable, feasible goal involving political will and organisation.

(DE)POLITICIZATION OF THE ADMINISTRATIVE AND THE GAME OF THE AUTHORITY

The changes brought about by modernity are also reflected in the relationship between the chosen one and the one appointed to administer. Who has greater power? Who, to whom must obey? If the modern state works through the presence of bureaucrats, the administrative body, does political power still have the same authority? These just a few questions reaffirm the importance of identifying a balanced and effective relationship between political and administrative.

If the legitimacy of the politician is given by the citizens' vote, the legitimacy of the bureaucrat is built on their expertise, but also on the relationship with the citizens. In reality, the legitimacy and authority of the bureaucrat moves along an axis between the formalism and rigidity attributed to him by M. Croisier (1964) and the ideal-type weberian (Weber, 1978) in which efficiency and progress are the ends of the bureaucratic act. The legitimacy of the bureaucrat is, in Weber's view, rational-legal, which implies the existence of a system of rules and procedures that regulate the activity and power of the administrative in relation to political power. In *Economics and Society* (Weber, 1978) the German sociologist develops this aspect on several pages, being deemed characteristic for modern Western societies.

However, it cannot be ruled out that in certain situations the authority of the bureaucrat should expand and manifest with greater power than that of politics. Following Weber's reasoning, this would be possible in two situations: either when it comes to a charismatic personality in the administration who can eclipse political power, or when we witness a process of developing and valuing administrative resources and skills in the field of power tending towards the technocratic model. It is not by chance that bureaucracy has been associated with a rational model of society's organisation. In practical terms, a phenomenon is acutely rationalising decision and power. This may diminish the importance of the political game and ideological directions that could influence decision-

making and political action. Moreover, J. Chevalier calls technocracy "the system in which the preponderance in the direction of public affairs belongs to the technicians"(Chevalier, 1974). However, the technocratic system also manifests a number of limitations, as R.K. Merton observed (2015). They reside in the very characteristics that give it efficiency and prestige.

□ *Supraspecialization* – manifests itself in the form of continuous professionalization in limited directions, which limits knowledge and adaptation to new situations. Thorstein Veblen (1904) calls this the training of incapacity.

□ *Rigidity and formalism* – the routine of bureaucratic activities, the environment in which they take place and the conventional regulations can decrease the performance of the bureaucrat, predisposing him to all kinds of occupational psychosis. In addition, this rigidity can affect the relationship with citizens who want help and quickly solve problems.

□ *Sacralisation of rules* – rules end up being perceived as capitals for the functioning of the organisation and not just simple tools for achieving goals. In such a context, actions are cumbersome, endless procedures and deadlines follow.

□ *Autonomy and body spirit* – are given by a sense of belonging to a caste in which hierarchies, rules and mode of operation develop systems of relationships, dependencies and forms of protection from the outside.

In this context given by the advantages and limitations of a technocratic administrative service, the issue of politicization or depoliticization of local or national public administration does not depend solely on the capacities of the bureaucratic body or on the level of rationalisation of social life. Existing studies (Guy, 2004) show the presence of several factors (Manda, 2008) that influence the level of politicization of public administration:

- the characteristics specific to the administrative service;
- the strategies that politicians have - to maintain power and increase electoral capital;
- political parties - through the mechanisms of using public administration to gain power;
- influence groups – also called *the Third Chamber* or *Invisible Government* (Delanu, 2001) can intervene to maximise their chances of winning in a particular area;
- *the financial factor* which may lead to certain compromises on the part of the official;
- social and economic factors that may influence the reality between public administration, political aspects and the business environment (Anton & Onofrei, 2016).

Given this, it is impossible to discuss a pure technocratic administrative body that is not contaminated in any way by the political factor. In fact, the question is that of dosage and limits within which political influence is allowed for better and more efficient administration activity.

The concept of new public management (NMP) was first used by Christopher Hood (1995), he compared management styles in public administrations. At the level of human resources, the clear advantage of the NMP is that it is based on the internal motivation of civil servants. The new Public Management proposes a distancing from the traditional-bureaucratic way of organizing by making staff policies more flexible, terms and conditions of employment, measuring performance, a top management devoted to political parties, reducing expenses through privatization or externalization of services. The new wave of public management (NMP) was based on themes of disaggregation, competition and incentives (Pollitt, 2007). NMP could thus be interpreted in one state as an opportunity for public managers to be 'professional' and 'modern', while in another country it can be

regarded as anything connected with the services of citizens-customers. In both cases, Romania has received support through training programmes on public managers and the improvement of services offered in relation to citizens.

Contemporary developments and the development of new technologies place the problem of administration in a completely different context. Governance in the Digital Age (DEG) is a new concept involving changes in substance in management and public administration, a rethink of policy in relation to the administration, and another reconfiguration of the relationship between the administration and citizens (Aikins & Kwamena, 2012).

At least from a functional perspective, the digitisation of the administration would lead to excessive autonomy of the service in relation to politics, but also to citizens, relations becoming impersonal and actions logarithmed and encrypted into a digital system. In fact, the digitisation of the administration may be the invisible hand of politics in the administrative space, which, this time, acts directly, without intermediaries. May this be a first step towards the full expression of political authority, or is it just the technological expression of political rationalization? Hard to say how things will evolve further and the forms that the administration will take in regards to (de)politicization.

If the classic, bureaucratic model gives the image of a neutral, impersonal civil servant, attached to his office and the function he has, the new management emphasizes the training of the official, his delimitation from the political and the efficiency of his actions, and the electronic government sees in the civil servant the man with expertise, an interface between the citizen and the public administration, many of his tasks being taken by the government through electronic systems.

THE POLICY AND INSTITUTION OF THE PREFECT IN ROMANIA. CASE STUDY.

Our research aims to map the situation of (de)politicisation of the administrative apparatus in Romania, with direct focus on the Institution of Prefect. The analysis was based on the documentation technique and involved a secondary data analysis over a 14-year period (2006-2020). The motivation for 2006 is the entry into force of Law No. 340 of 12 July 2004 on the Prefect and the Institution of Prefect, by which they are senior civil servants and are not eligible for a political formation.

Social reality and even theory will make it difficult for us to draw a clear border between politics and administration, because of the politicisation of human resources in public administration. In our view, the relationship between politics and civil servant will always exist in one form or another, the differences being given by context and circumstances. We will also try to respond in the course of this paper if politicisation has advantages or disadvantages in the current context, bearing in mind that it is opting for a delimitation of the official from the political, but at the same time it is chosen to have control over it, for the successful implementation of government policies through efficiency and for the benefit of citizens.

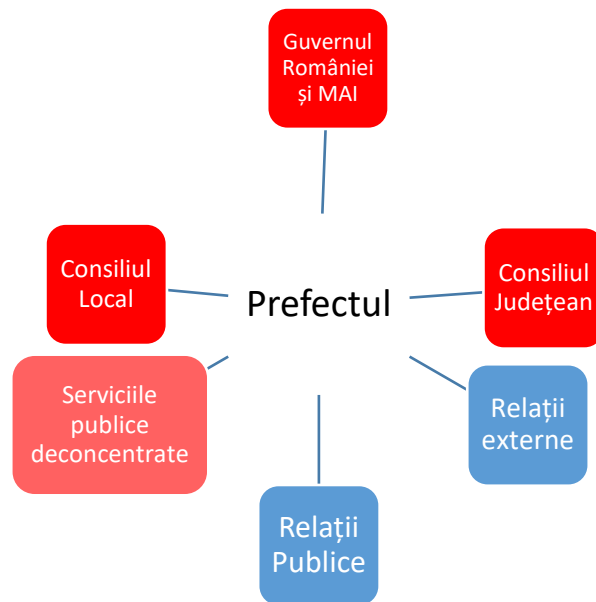
It should be noted that for the period analysed by us (1990 - 2020) there is a number of regulations, which directly concern the status of the prefect. They also express the policy's view of the administrative service. This is how we say:

- Law No.5 of 1990, from 9 July stipulates the re-establishment within the administration of the Prefecture, an appointed county body, which will be able to coordinate the activity in the territory until the promulgation of the new Constitution. According to this law in the counties, the Prefecture Institution consisted of the prefect, two subprefects, a secretary and members. Law No. 5 of 19 July 1990 on the administration of counties, municipalities, towns and municipalities until local elections are held is approved on 20 July 1990 and certifies by political consensus the emergence of the Institution of Prefect, defined as a "local body of state administration with general competence".
- Law No.340/2004 - The Law of the Prefect, followed by the amendment of 2005 by OUG no.179/2005 to amend Law 340/2004, points out that: 'the prefect and the sub-prefect belong to the category of senior civil servants'. As of July 21, 2004 the Prefect becomes "the representative of the Government at the local level", being appointed by the Government on the proposal of the Ministry of Interior as well as administrative reform. By political consensus, Law No 340/2004 enters into force on 1 January 2006, which has two essential elements: the prefect and the sub-prefect cannot be members of a political party or political party and are appointed following the promotion of an examination of attestation by post.
- The Administrative Code approved by Emergency Ordinance No.57 of 3 July 2019 and published in Official Gazette No. Article 250 of the new Code provides that '*Prefect and subprefect functions are functions of senior civil servants*'. Article 396 specifies the method of promotion for the occupation of public functions. The senior civil servant shall participate in a competition managed by a permanent and independent committee and shall not be part of a 'political party or organisation to which the same legal regime applies as to political parties' (Article 5(e)).

In the legislative reality it appears as an administrative function, but in practice the prefect is supported by a political party, comes from the members of a political party and/or has direct links with partisan persons and management functions in the party. The method of appointment of prefects meets the legal criterion at the limit.

In Romania, research into the relations between the Institution of Prefect and the other institutions can be an indicator of political influence in the administrative sector. When we try to define the politicisation of the prefect's function, things are also viewed in relation to those involved in this whole system. We have a subordinate relationship between an institutional partner with political or politically assumed leadership and a collaboration and control relationship with the most important executive apparatus, the local council and the county council. Inevitably, the influence of politics will also be felt in the sphere of the prefecture, in the light of the relations shown in Figure 1.

Figure 1. Prefect's relations with partner institutions



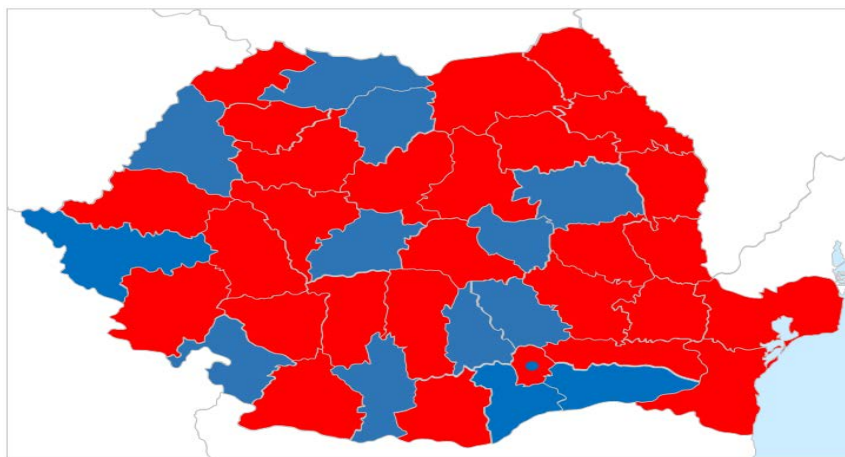
Source: Database Analysis

Caption:

- have in the decision-making apparatus appointed/elected politicians (red)
- may have appointed/elected politicians in their decision-making (pink)
- are not covered by any of the above situations (blue)

In Figure No.2 we can identify that 69% of the Prefects' Institutions in Romania are managed by persons who have presented and maintained direct links with the governing party, by the presence of the membership card or by maintaining socio-professional relations before their appointment. Looking at the 42 institutions, we note that we do not find at any appointment an activity report of the person in the function of the institution, or certain elements attesting to the expertise in the field of that person named or the training. These elements can only be found in the application resume without having a management plan for the period immediately following.

Figure 1. Situation of Romanian Prefectures for each county, including Bucharest. Analysis for 2019-March.



Source: Database Processing

Legend: County where the Prefect's Institution is headed by a representative who was a party member before taking office as Prefect (red). County where the Prefect's Institution is headed by a representative who had direct links to the party/members but was not a party member before taking up the office of Prefect (blue)

In order to understand better the appointment process and the connection of the civil servant with a political party, we present to you a thorough analysis from 2006 until 2020, when Law No. 340/2004 was established by political consensus, whereby the prefect and the sub-prefect cannot be members of a political party or political party. Even if at the time of the appointment of the prefect he met this criterion, I shall note in Table No. 1 that many of them were former party members or supported by certain political formations.

Table 1 Relationship between the Institution of Prefect and the political institution in Romania in the period 2006-2020

Crt. No.	Counties	Total number of prefects analysed (cv+press magazine)	Prefects - former party members/or with political party implications before or at the time of validating the post	Prefects - no publicly declared political affiliation prior to appointment.
1.	Alba	5	80%	20%
2.	Arad	3	66,66%	33,34%
3.	Arges	8	75%	25%
4.	Bacau	6	66,66%	33,34%
5.	Bihor	4	50%	50%
6.	Bistrița-Năsăud	5	80%	20%
7.	Botoșani	4	100%	-
8.	Brașov	6	66,66%	33,34%
9.	Brăila	5	80%	20%
10.	Buzău	6	83,33%	16,67%
11.	Caraș -Severin	6	50%	50%
12.	Călărași	5	60%	40%
13.	Cluj	5	40%	60%
14.	Constanța	5	80%	20%
15.	Covasna	5	60%	40%
16.	Dâmbovița	6	66,66%	33,34%
17.	Dolj	3	100%	-

18.	Galati	5	80%	20%
19.	Giurgiu	4	100%	-
20.	Gorj	3	66,66%	33,34%
21.	Harghita	-	-	-
22.	Hunedoara	2	50%	50%
23.	Ialomita	1	100%	-
24.	Iasi	9	88,88%	11,12%
25.	Ilfov	10	70%	30%
26.	Maramures	4	50%	50%
27.	Mehedinti	3	66,66%	33,34%
28.	Mures	2	100%	-
29.	Neamt	1	100%	-
30.	Olt	5	40%	60%
31.	Prahova	6	66,66%	33,34%
32.	Satu Mare	2	100%	-
33.	Salaj	2	50%	50%
34.	Sibiu	4	75%	25%
35.	Suceava	8	87,50%	12,5%
36.	Teleorman	4	100%	-
37.	Timis	2	-	100%
38.	Tulcea	4	75%	25%
39.	Vaslui	4	75%	25%
40.	Vâlcea	4	100%	-
41.	Vrancea	4	75%	25%
42.	Bucuresti	12	100%	-
TOTAL		193	74,09%	25,91%

Source: Database Processing

The CVs officially presented on the websites of the Romanian Prefectures of the persons who held the position of prefect were initially analyzed, but it was found that the political functions or membership of a political party was not specified. In this respect, in order to complete the data, a thorough investigation of the local press has been carried out to identify statements or articles, which may lead to the establishment of membership of a political party or not of that official. The risk of pertaining to this research is the lack of national databases from which we can retrieve public information.

193 prefects have been identified and analysed since 2006 and the following aspects can be identified because of the analysis:

1. Most of them have held positions in the local/county/national public administration prior to taking up the prefect's post, which certifies the need to know some professional aspects of the field.
2. Prefects in Romania have almost always had the support of political parties and local branches.
3. Even if by law they are considered apolitical, after the end of the term of prefect, the occupation of political public positions is observed: councillor, local, county or deputy.
4. For 74% of the 193 prefects analysed, elements are found in the CV or in public statements attesting their involvement in politics before obtaining that position: they were party members, collaborations, kinship relations and so on and so forth.

5. The presence of prefects without publicly declared political affiliation before the appointment is found especially in the period 2016-2017, when in Romania there was a technocratic government.

PREFECTURES BETWEEN CIVIL SERVANTS AND POLITICAL INSTRUMENTS

The prefect is a highly functional public "de jure" and a true "de facto" politician. The politicisation of the office of prefect will have immediate consequences in the public administration plan: the lack of impartiality in its actions, the presence of corruption through abuses of the occupied office or public resource, political clientelism, the presence of staff without studies in the field corresponding to the function; the structuring of a strong and impartial body of officials was an indicator of administrative reform; fragmentation of public administration; lack of transparency of decision-making; lack of stability of public institutions; presence of political compromise; implementation of policies in support of the party as well as the programme of government; decreased confidence in the administration.

The Phare 2004 Programme - Strengthening Civil Society in Romania financed by the European Union was carried out between October 2006, 10 months after the introduction of a new law of prefects for their depoliticization and until September 2007, a research study aimed at observing the effects of this law. The counties of Arad, Constanta, Iași, Harghita and Bucharest took part in this study, where the following were found:

1. 59% of respondents said that nothing had changed at the level of the Institution of Prefect after the implementation of the law;
2. 37% replied that the prefect complies with the political guidelines;
3. 66% specified that the Institution of Prefect must verify the legality of acts issued by local public institutions, but without the intervention of political interests.

After 1989, after the communist system collapsed, a period of unrest and turmoil followed in the regulation of this office of prefect. The way in which prefects and subprefects were appointed made it easier throughout the post-December period to systematically appoint people with different partisan sympathies or even party members. The current changes are found in the formal-legal model as representing the metaphorical model called "yes, Minister", through which the main role in decision-making will always be positioned in the upper hierarchical area, the prefect being a mere executor, according to the needs of the ministry or government concerned. In this case the prefect will always be prone to constraints by contract with the elected Government, and the predisposition to political compromises may arise at any time.

The reform process in public administration must meet certain objectives: deep restructuring of central and local public administration; proximity of administration to the citizen; decentralisation of public services and strengthening of local autonomy; efficiency of public office; professionalisation of public office (Abaluța, 2018).

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