

Reflections on challenges during the transfer process in Iași – the legal framework

The goal of Iasi, as partner in Civic eState project, is to find ways of valorizing common urban assets, by involving local stakeholders and civil society in their administration. Thus, the transfer of the good practice aims to improve the degree of awareness of the local associations, stakeholders and informal groups regarding the role of civic patrimony in Iasi. In order to transfer, with appropriate adaptations and improvements, the good practices of project partners in the management of urban goods, we have started, within our LAWG, to identify and discuss the legal context and barriers regarding property, involvement of civil society and co-administration of urban assets. This first step will help us to substantiate the debates and discussions with stakeholders, to define a potential asset or to design a plan of measures which will be the object of our transfer process.



The governance of urban commons at the level of Iași Municipality becomes a challenge from the perspective of identification and capitalization of legal formulas and instruments. The challenge for Iași Municipality mainly involves the national dimension of legislation that constrains the local administrative level from the perspective of regulation.

The national legislative framework governing the possibility of co-management at the level of the public administration, involves the following laws:

- a. Local Public Administration Law 215/2001
- b. Law 350/2005 on the regime of non-refundable grants for non-profit activities of general interest
- c. Law 350/2006 of young people
- d. Law 233/2016 on public-private partnership



Law 215/2001 does not specify clearly the way in which this association can be achieved but uses the term "financing", and speaks only about the role of the local public administration of a public service and public goods provider without taking into account the co-management formulas.

Law 350/2005 identifies the formula of cooperation between the local public administration and non-governmental organizations, as structures generating nonprofit activities of general interest, only in the form of financing. The law does not mention other forms of co-management of public or common goods or services. The law also limits funding to "nonprofit activities", any other intervention or profit generating investment being outside the law. Law 350/2005 also states that funding can only be done for "actions or programs". Regarding the legislation regulating the public-private partnership, despite the current legal framework (Law 233/2016 on public-private partnership), which proves to be more current and more adapted to the economic requirements than the previous normative acts, there are still no such projects in Romania, and there are doubts about the effective, real possibility of the public authorities to implement public-private partnerships, observing a relatively low desire for private players to get involved in such novelty projects for our country. Furthermore, Government Emergency Ordinance no. 39/2018 refers to Law no. 98/2016 on public procurement, Law no. 99/2016 on sector acquisitions, as well as to Law no. 100/2016 on works concessions and service concessions, which at local level implies their more frequent use than the legislation of the public-private partnership, which is changing.

So, we can see that the form of co-governance proposed by our partners within the project is not common in our country/city. In this context, Iasi will have to take some steps in the direction of substantiation of public-private partnership legal instruments, which must go beyond the classic model of the concession agreement of a space / building made available by the Municipality.

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