INSTITUTIONAL CHALLENGES –
PUBLIC TRANSPORT SERVICES CONTRACT IN ROMANIA – THE WAY FROM WISH TO NECESSITY

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ABSTRACT:

Given the current background and the rapid increase in the share of private car use it is critical to render public transport a comfortable, affordable and safe transport mode. Given the above premises, the Public Transport Services Contract becomes a key tool in raising awareness of stakeholders and improving the efficiency of services that are provided.

RESUME :

Dans le contexte actuel et dans les conditions d’une croissance exponentielle du transport auto individual, il est fondamental que le transport public de passagers devienne un moyen de transport confortable, accessible et sûr pour les utilisateurs. Dans cette acceptation, Le Contrat de Services Publiques de Transport devient un instrument essentiel dans l’augmentation du degré de responsabilité des acteurs de domaine du transport et d’efficience de services déployées.

I. Romania today

România situated in Europe, at the crossroads of Central Europe, Southern Europe and Eastern Europe. It borders Ukraine and the Republic of Moldova at the North and East, Hungary and Serbia at the West and Bulgaria at the South. In the South-East, Romania has access to the Black Sea. The capital is Bucharest, the largest city in Romania, with a population of 2.5 million people. Romania joined NATO on March 29, 2004 and the European Union on January 1, 2007. Currently it has a population of 22 million people.

Romania is the largest, high-income EU member economy of Central-Eastern Europe, the 12th largest in European Union by total nominal GDP and the 8th largest based on purchasing power parity and is one of the fastest growing major nation in recent history, with consistent annual GDP growth rates above 5%. Certain forecasts indicate that Romanian GDP will double by 2011.
Right after Romanian Revolution in 1989, the inflation rose spectacularly till 1997, due to excessive government spending till late 1996. The year 1993 is to be mentioned as a structural changing point as the yearly inflation rate has changed from a three-figure number to a two-figure one. The following table representing the inflation rate demonstrates it:

![Inflation Rate Graph]

In February 1997, Romania embarked on a comprehensive macroeconomic stabilization and structural reform program. Restructuring programs included the liquidation of large energy-intensive industries and major agricultural and financial sector reforms. Since then, inflation decreased yearly until 2006, reaching then the lowest level after 1989, of 4.9%. Consequently, purchasing power parity became again in December 2006, after 16 years, equal to that of October 1990, when the price liberalization and inflation started. Afterwards, throughout 2007, the current account deficit rose to a warning level and hence the inflation increase to 6.6%.

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<tr>
<td>Inflation</td>
<td>32.3%</td>
<td>38.8%</td>
<td>154.8%</td>
<td>59.13%</td>
<td>45.8%</td>
<td>40.7%</td>
<td>30.3%</td>
<td>17.8%</td>
<td>14.1%</td>
<td>9.3%</td>
<td>8.6%</td>
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For the next period of time, the European Commission has revised decreasingly its forecasts concerning the economical growth for EU, as well as for Romania. The causes consist in the financial markets crisis, slowing down of the USA economy and price rising of goods.

The rise in the GDP and the drop in the inflation rate have fostered rapid growth of urban areas over the past 18 years since the former regime was overthrown. Also, residential and industrial areas have sprawled beyond urban areas administrative borders, which lead to an increased mobility demand. This was also caused by a rise in the use of motor vehicles. In 2006 some 3,924,925 motor vehicles were registered, out of which 3,220,682 cars. Simultaneously, the share of public urban transport has remained the same, approximately 80% out of total urban transport.

The rather poor condition of urban transport infrastructure requires massive investments and creates high operation costs. This fact, combined with a low level of average wages which makes it a tough decision to increase fares, have lead to a need to provide funding for urban public transport. The level of funding differs among various towns and cities, but generally speaking it is rather high. For example in Bucharest some 50-60% of the fares are subsidised.
It is no easy job to solve the problems emerged as a result of increased number of motor vehicles: traffic jams, increased pollution, urban congestion, lack of parking spaces, wear of infrastructure. To achieve this, all decision-makers in the field of urban planning, underground and surface public transport must be involved.

II. From urban transport to regional transport

The sprawling trend of large cities in their suburban areas has resulted in large metropolitan areas. This fact creates new challenges as far as the organisation of urban and regional public transport is concerned.

From an institutional perspective, there are two levels of government and competence for such areas: the first is local, with administrative responsibilities, and the second is regional, with regional coordination responsibilities. The method of implementing an integrated metropolitan transport is generally speaking not effective.

Achieving increased safety, superior quality of public transport services, tailoring the services in order to suit passenger needs, ensuring good mobility in the metropolitan areas are all priorities of decision-makers, which translates in the large number of public transport regulations aimed at solving the essential problems such as preparation of a uniform strategy and planning in metropolitan areas, or providing integrated public transport services based on well-defined contractual relations and public services obligations.

As Romania is currently adapting its legislation to the EU legislation, it became a common practice to establish regional transport managing bodies either metropolitan authorities or intra-community associations.

III. Public Services Contract, from theory to practice
A public services contract defines rights and duties of the contracting parties, authority and operator.

Fig 1. Rights and obligations of the parties within a public service contract

The method of organisation and funding of public transport, the ownership of public transport infrastructure, the legal status of transport operators, legal duties of local and regional public administrations, the risk level as far as operators are concerned; all the above define the type of contract that will be concluded between a public transport operator and the local or zonal relevant authority.

![Diagram showing the relationship between authority, operator, obligation, compensation, and contract]

Fig 2. Relationship: Fixing instruments

Each party’s duties and role in achieving public transport refers to the 3 management levels:
Strategic level setting out general goals of transport services (transport policy, area due to be serviced, income or budget targets, goals regarding breakdown by modes, intermodality, etc). Strategic decisions are basically set out by the authorities.

- Tactical level setting out usual public transport parameters: routes, timetable, vehicles, fares and quality parameters as image of the transport, related services, staff skills. Tactical level decisions are taken by both Operator and Authority, part of the operations are carried out by Authority (for example: transport modes, transport plan, minimum headway (service frequency), minimum quality requirements for vehicles, interchanges, etc.). The method of allocation of decisions at tactical level may be different, depending on the dynamism and decision-making capacity of the Operator.

- Operational level setting out management of vehicles, infrastructure, sales staff, drivers so that the planned parameters are achieved. Such decisions are usually taken by the Operator; however in certain cases such as passenger information or ticket sales the Authority as well may be involved.

From Operators’ legal status perspective, they may classified as follows:

- Public ownership
- Mixed ownership (majority private partner of more than 50% or minority private partner of less than 50%)
- Private ownership

In order to implement the aims of the authority into day-to-day operations, agreements about planning and design of public transport services, the control of performances and the risk level for the operator need to be fixed. These three agreements are explicitly laid down within public service contracts.

In Romania, urban public transport infrastructure (tunnel and metro stations, rolling track, catenary, road network) is part of the Government’s asset base. In accordance with the existing legislation, it can not be alienated and it can not be the subject matter of concession contracts concluded with public transport operators. The rolling stock and transport modes are private public property (owned by the Government or the local public administration) or are owned by private operators.

The main transport operators in large cities are autonomous authorities placed under the supervision of local public authorities (RATB Bucharest, RATP Ploiești, RATP Iași, RATP Brașov, RATL Turda, etc) or they are entirely state-owned commercial companies, placed under the supervision of local or central authorities (SC Tursib SA Sibiu, SC Transurb SA Vaslui, SC Transport Public SA Bacău, SC Metorex SA Bucharest).

National legislation provided that urban public transport is part of community services of public utility and of economic and general social interest and it shall be provided within administrative-territorial units under the supervision, management and coordination of local public administrative authorities.

The existing regulations also regulate the relations between public transport operators and local authorities meaning that it is mandatory to conclude contracts whereby local public transport services are awarded. In such contracts, the Authority transfers to public transport operators its own duties and responsibilities regarding the actual provision of the service and also the operation, maintenance, rehabilitation and upgrading of assets that are publicly-owned related to the local public transport system.

Local authorities shall select the method of awarding the local public transport services, also they shall adopt the Public Transport Programme and the local public transport legislative act, on the basis of the standards adopted through the national legislation. In case of entirely state-owned commercial
companies (emerged as a result of restructuring state-owned autonomous companies) and commercial companies established by local administrations, award may be done directly, with no need for a tender.

Local public authorities may give the transport Operator the right to use free of charge the road infrastructure (streets, urban furniture, etc.) and entitles the Operator to use free of charge the transport facilities (stations, terminals, parkings etc.). Throughout the term of the contract, the road transport Operator avails of exclusive rights of using the routes assigned to him.

The funding of current public transport service costs shall be secured using the proceeds and government or local funds, including transport for special categories of passengers (calculated as fare balance). The funding of rehabilitation and upgrading of the local public transport shall be secured using local/central government funds or private sources.

The minimum requisite contents of the public transport contract is provided under the legislation. Local authorities are free to adapt such contents to the local situation. Some of the above-mentioned requirements are listed below, as follows:

- Scope of contract
- Term of contract
- Rights and obligations of parties
- Contractual liability
- Royalty level
- Conditions regarding restitution and allocation of concessed assets after termination of contract, including allocation of investments.
- Public transport operation conditions
- Interdiction of subcontracting public transport services
- Tentative timetable of investment projects, including duties and liabilities of parties regarding investment programmes
- Service performance indicators
- Fares and fare-setting, modification and adjustment
- Social and human resource strategy

Privately-owned commercial companies are entitled to provide urban public transport services using minibuses on the administrative territories of communities. Local authorities may decide, under the law, whether or not there is a need for such transport mode.

IV. **Strengths and weaknesses in performance of PTS contracts**

After reviewing the management practices and conclusion of Public Transport Services contracts, one may come to the following conclusions:

- The method of setting out transport programmes and concluding PTS contracts is not based – in most cases - upon scientifical analysis. There is a need for long-term transport demand and supply forecasts, for a strategy clearly defining the transport service goals (mobility, social, regional development, budget and cost-effectiveness, etc.)
- In most cities and towns, particularly in Eastern Europe, local authorities have concluded contracts with traditional (state-owned) operators, regardless of the latter’s legal status. Contracts have been concluded without prior tenders, which gave them a competitive advantage. In many cases, traditional (state-owned) operators do not pay taxes for using the routes unlike private operators who are supposed to pay taxes for using the routes.
- Provisions of operation contracts are incomplete, performance criteria are not quantifiable and in direct relation with the compensation system.
- There is poor interest of local authorities in privatising state-owned operators. Privatisation of public transport state-owned operators would lead to renegotiation of contracts on the basis of real economic criteria which would finally result in increased efficiency, a drop in subsidies and superior service quality.
- Given the subordination of state operators, most of local authorities fail to foster development of private sector, which is more competitive and does not receive operating funding from the government.
- Lack of concern by local authorities to implement an integrated transport system based on a single ticketing system and intermodal stations/stops.
- Local authorities are usually understaffed. Their staff is poorly trained in concluding, funding and monitoring contracts of such complexity.

Notwithstanding the above, it is worth mentioning that the above situation is constantly changing, many positive actions have occurred in the field of urban public transport, such as the following:
- The Romanian legislation is constantly adapting to EU and international public transport system management legislation. Following the enactment of Legislative Act 1370/October 23, 2007 of the European Council regarding railway and road public transport system, the method of awarding and the contents of contracts which will be concluded in the future shall take into consideration the provisions thereof.
- Public administrations of large cities such as Sibiu, Bucharest Iaşi have understood the need to prepare long –term urban planning studies and strategies in the field of urban public transport. Such cities will make good examples worth to be followed by other Romanian cities.
- Experienced consultants with extensive international exposure that prepare well-documented public transport contracts, based on good international examples in managing similar contracts are more and more interested in providing assistance to authorities in achieving such goal.
- International organisations taking consistent action in disseminating good international examples are bridging the gap as far as international exchange of experience and information are concerned.

The establishment of *metropolitan transport authorities* in metropolitan areas of large cities, playing a role in preparing a public transport global strategy, in regulating and procuring transport services with operators, in funding day-to-day operations through subsidies given to operators and managing transport infrastructure is a necessity in the current context of public transport in Romania. Thus, managing such contracts may be carried out uniformly, efficiently, paving the way to long-term development of public transport, with social, economic long-term effects.

### V. Organisational issues of Public Transport Services in Developing Countries

Urban and regional public transport is an important factor of economic and social development in all communities, ensuring mobility for population, being a condition for active participation of all social categories in the economic, social and cultural life of the community.

The stage of public transport development, capacity and quality of public transport are critical and the attention given to investments in such areas as infrastructure and rolling stock are well-known, particularly in developing countries that are facing major needs in this field.

Equally important are the institutional and organisational measures that create the appropriate framework of providing public transport services and ensure fair and reliable relations among infrastructure owners and operators.
The lack of such regulations, particularly in developing countries, results in troubles in implementing pre-established relations regarding the quantity and quality of services due to be ensured by the operators, as well as in the public administration that has to shoulder the compensations due to be paid to the operators.

Romania’s experience in the past period, shifting from a hyper-centralised economy dominated by the state monopoly on all assets and services, may serve to other countries currently facing similar problems.

The way of achieving performance and quality of public transport services is implementing transparency and competition principles in awarding public transport services, specifying all right and obligations of parties.

The public transport services contract becomes thus a key tool in achieving real progress in this critical field.

One may say that in Romania, in Bucharest and in other major cities, real progress has been made, one hand in developing and upgrading the infrastructure and in setting institutional and organizational measures in line to international practices, on the other hand, such as:
- restructuring of state-owned operators in commercial companies, in order to have it privatised to do away with the problem of monopoly;
- encourage participation in creating public transport services by private operators established lately based on free competition;
- establishing institutional organisations with the view of achieving a uniform development and organisation strategy on behalf of various local and government authorities acting simultaneously. It is about the establishing of Bucharest Transport Metropolitan Authority and other institutions with similar national institutions.

It has been noted that the efforts made to develop and upgrade the rolling stock infrastructure can not achieve their expected goal and efficiency unless they are combined with measures such as the above.

What it is worth mentioning is the fact that in setting out the organisational and coordination measures, we have availed of the support of international Consultants boasting extensive experience in the field of urban and regional public transport.

Also, one has managed to organise study tours by the officials from managerial bodies in other cities, who have obtained excellent results in transport services management.

Worth mentioning are the study tours made in 2007 to the Metropolitan Transport Authorities in Lyon and Barcelona, that enjoy worldwide recognition for the way they were able to organise and manage public transport-related operations.

We deem that the officials from local and central authorities interested in improving public transport services (such as those of the country that is hosting the Conference, we believe) must seek the support of CODATU in its position of organisation playing a critical role in training urban transport specialists, in disseminating scientific information and particularly good practices.

CODATU may recommend relevant authorities and local administrations that should be consulted and whose experience may be useful and/or reputed consulting firms to provide assistance in deciding the most appropriate method of setting out specific goals and strategies, as well as sets of measures and
actions aimed at ensuring improved public transport services in accordance with current requirements, efficiency and effectiveness, taking into account the local conditions.

VI. Conclusions

More than 18 years after the former regime was overthrown, in Romania, as well as in other developing countries, the main urban public operators are state-owned, availing of preferential procurement conditions and operation subsidies, failing to implement tight control of performance and costs based on the commercial principles of free competition and transparency.

There is a need of a real involvement of local authorities in the organisation and management of public transport services and also speed up the privatisation of main transport operators. Once this stage is completed, award of contracts based on transparency principles, equal access to the public services market, effectiveness and competition should become real principles of solving the public transport requirements.

In this process, CODATU, in its position of international organisation operating in this field, may play a key role in assisting local and central administrations in adopting the most appropriate organisational and institutional measures aimed at developing urban and regional public transport services as a key factor in the economic and social development of communities and in improving the life standard of population.

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