

SOME CONSIDERATIONS REGARDING THE ADMINISTRATIVE ORGANIZATION OF ROMANIA UNDER THE EMPIRE OF THE 1923 CONSTITUTION

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Abstract:

The union of Transylvania and the other lands left under foreign occupation with Romania is the most important event in the history of the Romanian nation, accomplished under particularly difficult conditions, being the work of the entire Romanian people. The adoption of the Constitution of 1923 constituted the main legislative theme of Romania as a whole, giving the Romanian state a monarchical form of government, but based on the parliamentary-constitutional democratic regime. Having a new constitution, it was necessary to draft the law for the administrative unification of Romania of June 14, 1925.

Keywords: *Constitution, administrative reform, law, unification, decentralization*

General considerations

After the establishment of the Great Union, the Constitution of 1923 represented the main legal establishment, on the basis of which the fundamental institutions of the entire Romania functioned.[1] Although the Constitution enshrines, in its eight titles, prescriptions related to the constituent elements of the state, the organization and functioning of the state powers, the composition and functioning of the electoral system, social organization, organization of the army, financial and administrative organization, etc., it was imperative to adopt the Law for the administrative unification of June 17, 1925.

The 1923 Constitution established and developed the principles of national sovereignty and the separation of powers in the state, predicting and ensuring the participation of citizens in the exercise of political rights and in the management of public affairs. [2] Through this constitution, which was the supreme law of great value of the Romanian state, the Romanians perfected their institutions and legislation. [3]

Administrative unification - an essential element of the legislative unification process

In the context of unified Romania, administrative unification was the main component of the legislative unification process. The existence of four different administrative systems endangered not only the stability of the Romanian state, but also the spiritual unification, the synthesis of the historical development of a given era, in the life of a people. [4] Constantin Hamangiu's statement regarding the "unification of legislation" with the axiomatic vocation cannot be reduced only to the sphere of civil law, it must be understood as the essential objective for the consolidation of national consciousness. Andrei Rădulescu, for the same purpose, described the importance of adopting a new unitary legislation, for the "soul unity of the nation". [5]

Similarly to other major components of the legislative unification process (civil legislation or criminal legislation), administrative unification was a difficult process, due to the heterogeneity of the existing legal system on the territory of Romania, in the first years after the achievement of political unification. The administrative system on the territory of the old kingdom was of Western inspiration, predominantly French, an essential foundation of modernization from the second half of the 19th century, but which at the beginning of the interwar period required numerous adjustments.

In Transylvania, the legal order was formed by the rules of Hungarian law, and in Bucovina Austrian law was applied, while in Bessarabia the legal system was made up of tsarist legislation[6] and partially of some fragments of the old Romanian law of Byzantine inspiration. [7]

In relation to this normative background, Paul Negulescu specified that there is a complex, a set of traditions and public mentalities, which made "the public spirit of these provinces to be so different from ours, that we are facing a serious obstacle in the work of administrative unification to which the national and political unity of the Romanian state is linked." [8]

Anibal Teodorescu, during a public lecture in April 1922, drew attention to the fact that one of the most important reforms, which must be carried out, was the administrative

reform. Considering that there was no compatibility between the four existing administrative organization systems on the territory of Romania at that time, Anibal Teodorescu raised the issue of their unification. [9]

There were numerous controversies regarding the legislative and administrative unification, but in accordance with the provisions of the 1923 Constitution, it had to be taken into account that it provided, similarly to the fundamental law of July 1, 1866, that the territory of Romania is divided into counties and communes. The regulation in Article 4 of the 1923 Constitution also had a series of specific elements, determined by the criticisms that appeared in the doctrine or in the political discourse regarding the administrative organization of the old kingdom. It was expressly provided that the territory of Romania is divided, from an administrative point of view [10], into counties, and the counties into communes. Although this addition seems unnecessary in a text that precisely regulated the administrative division of the state, it was considered necessary because the territory of Romania is indivisible from a political point of view, but divisible from an administrative point of view. [11] Thus, the mistake committed in 1866 was corrected, giving up the highlighting in the constitutional text of the nets, whose mention in the contents of art. 4 of the 1866 Constitution caused long controversies regarding their legal status. [12] Considering that the provisions of articles 106 and 107 of this Constitution recognized the independence (in the sense of local autonomy) only of counties and communes, it was concluded that the counties had no legal personality, being only simple administrative subdivisions of the counties. [13]

Principles of administrative organization in the Constitution of March 29, 1923

In all the debates, comments and projects regarding the principles to be the basis of the administrative organization of Romania as a whole, two immediate imperatives were addressed in an almost identical manner: the depoliticization of the Romanian public administration and decentralization. The two imperatives showed the deficient structure of the Romanian public administration both regarding the composition of the attributions of the administrative bodies and regarding the qualification and conduct of the public administration personnel. Analyzing the provisions of the Constitution of March 29, 1923, it was observed that four principles relating to public administration were included:

- the administrative division of the territory;
 - decentralization;
 - the representative principle in the constitution of county councils and communal councils;
 - the establishment of administrative disputes within the jurisdiction of the courts.
- [14]

Removing politics from the administration was one of the great expectations of the administrative reform, according to the March 1923 Constitution, and this meant tying the civil servant to his position, recognizing his stability. [15] The lack of stability of civil servants determines the purge campaigns after the elections and encourages corruption, political clientelism, lack of vision, etc. Anibal Teodorescu emphasized the need to remove the administration from political influence and proposed decentralization, for the administrative organization of the country. After the achievement of national unity, the problem of decentralization acquired a new dimension, in the context in which each of the new Romanian provinces brought a different administrative organization, with its own forms of decentralization. [16]

Decentralization was seen as the starting point for a new stage in the evolution of Romanian society. The idea of renewing the Romanian society determined the adoption of the Law for the administrative unification of June 14, 1925. Centralization served the ideal of the political unity of the state, and decentralization perfected the cultural ideal, science, art and Romanian civilization. [17]

After the entry into force of the Law for administrative unification, its limits were also noticed, as the centralizing tradition of the old kingdom continued. [18] As Victor Onișor, professor of administrative law at the Cluj Faculty of Law, observes, "Although the 1923 Constitution provided for communal institutions as the organizing principle, administrative decentralization in Article 108", the 1925 legislator did not deviate from the basic principles of the laws above. [19] Also, the law preserved the prefect in his double capacity, as the representative of the government, but also as the executive authority of the county administration.

The law for administrative unification was repealed on August 3, 1929, and the law for the organization of local administration entered into force, by which the dual role of the

prefect was renounced, by regulating the role of the president of the county delegation as the head of the county administration. [20]

Moreover, the Minister of the Interior I.G. Duca, in his statement from 1928, specified: "In the interval of almost three years, since the Law for administrative unification of June 14, 1925 came into effect, we could find that the strict application of some provisions of this law often encountered great difficulties and it was really impossible." [21]

After the union of Bessarabia with Romania [22], for a better administrative organization, seven regions were established, namely: Upper Moldova, with the residence in Iasi; Lower Moldova, with residence in Galati; Upper Bessarabia, with residence in Chisinau; Lower Bessarabia, with residence in Izmail; Dobrogea, with residence in Constanta; Muntenia, with residence in Bucharest; Oltenia, with residence in Craiova. Each region was represented by a regional council composed of prefects, the presidents of the county councils, one delegate of these councils and the mayors of the county residences that were part of the region. [23]

In 1921, during the second government led by Alexandru Averescu, the best draft law for the organization of public administration appeared, initiated by the Minister of the Interior Constantin Argetoianu, which created nine administrative regions by merging several counties. Each region was led by a regional council made up of members delegated by the county councils and municipal councils in the region and by legal members (the heads of the decentralized public services and one delegate each of the public institutions based in the region's residence, which carried out activities in the cultural field , agricultural, commercial, industrial or labor). The decisions of the Regional Council were implemented by a one-person administrative body, appointed by the president of the region. [24]

By establishing the regions, the aim was not to undermine the autonomy of the communes or counties, but precisely to develop the public life in these administrative-territorial units by coordinating efforts in order to achieve larger objectives, because the region could coordinate efforts to carry out major works of general interest. [25] Although the arguments invoked by the doctrine and by a part of the political class were scientifically substantiated, there was no constant political will in the sense of establishing

regions as intermediate units from a territorial administrative point of view. Therefore, the administration bill of August 3, 1929 renounced the region to appease the fear of the state's unity. [26]

Although both the law for administrative unification of June 14, 1925 and the law for the organization of public administration of August 3, 1929 had opted for the notion of general county association, this phrase was abandoned in order not to create confusion and to avoid the word region in order to not to create a legal person with a political-administrative and territorial character superimposed on the counties and communes with their own powers as their tutelary body. It was considered that this association was nothing more than the region, as it had been provided for in the draft law of 1929, published. [27]

We must mention that the liberal and later the national-peasant governments were extremely reluctant to accept the notion of region, citing an alleged violation of some provisions of the Constitution of March 29, 1923, which provided for the administrative division of Romania's territory into counties and communes (art. 4), the achievement of exclusively county or communal interests by county councils and communal councils (art. 41) or the possibility of establishing taxes only for the benefit of the state, counties, communes and public institutions that performed state services.

In addition to these constitutional reservations [28], there was also the fear, repeatedly expressed from the parliament's rostrum, that the administrative regionalization of the entire Romania could be speculated by the partisans of the irredentist discourse. Under the 1929 law, general county associations were bodies created on a voluntary basis, for a limited period, by reuniting counties from a directorate in order to execute, create or maintain works or institutions of sanitary, economic, cultural or works benefit public and for any other act of creation or exploitation of services or institutions that fall under the attributions and competence of the counties. [29] The general county associations were legal entities under public law, having as governing bodies the Association Council, the Association Council Delegation and the President of the Association Council Delegation. The seven local ministerial directorates created were "local administration and inspection centers", based in the cities of Bucharest, Chernivtsi, Chisinau, Cluj, Craiova, Iasi and Timisoara. These bodies were led by a local ministerial

director, appointed at the proposal of the Council of Ministers, by royal decree, having under him the heads of all the ministerial services in the directorate and the prefects of the arrondissement counties. Since the organization and functioning of this complex administrative body through general county associations and directorates proved extremely difficult in practice, until the repeal of these legal provisions in 1931, no general county association had been established. [30]

The First Constitution of Romania from 1866 reinforced the sense of local autonomy for county and communal institutions, which carried out their activity based on administrative decentralization (art. 107 and 108). Later, the Constitution adopted in 1923 through articles 41 and 108 fixed, in turn, the principle according to which "county and communal institutions carry out their activity on the basis of administrative decentralization and the members of the councils are elected by Romanian citizens, through their universal, equal vote, direct, secret, mandatory and with the representation of the minority." [31]

The creation of a modern administration after the reunification of Romania was based on the preeminence of several fundamental principles:

- decentralization;
- deconcentration;
- consulting citizens on local issues of particular interest;
- local autonomy;
- the eligibility of local authorities. [32]

From a political point of view, decentralization represents a liberal institution called to formulate and guarantee the exercise of local freedoms. This liberalism belongs to political liberalism, being nothing more than a democratic system, which involves the participation of citizens or their representatives, in order to achieve public interests. From an administrative point of view, decentralization represents an effective principle for managing local interests. [33]

Regarding the decisions adopted by the devolved bodies, they are adopted on behalf of the state, which maintains its hierarchical control over the legality and appropriateness of the adopted acts. [34]

Conclusions

The Romanian constitution adopted in 1923 was a constitution with centralist tendencies, but it also had fundamental democratic principles and managed to establish the foundations of the administrative organization of Romania as a whole. The constituent legislator elaborated a balanced regulation within the framework of permissiveness offered by the social and political context of the early 1920s.

The constitution of March 29, 1923 represented in many aspects the upper limit of what could be accepted at that time. There was no provision of this constitution that would complicate the decentralization process or block the course of administrative regionalization, but the political class of that period contributed to the application of the principles regarding the administrative organization of Romania.

Decentralization really represents democracy applied in the administration of local affairs, and deconcentration shifts the place of decision-making power, because local state authorities are the territorial extensions of the central administration.

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