THE ORGANIZATION AND FUNCTIONING OF URBAN COMMUNES AS STIPULATED IN THE ADMINISTRATIVE LAW OF 1929

Professor Gheorghe CALCAN, PhD.
Petroleum – Gas University of Ploiești, Romania
calcangheorghe@yahoo.com

Abstract:
This paper aims to analyze the organization and functioning of urban communes as envisioned in the law of 1929. This law was adopted by the National Peasant Party government as a replica to the law adopted by the Liberals in 1925. The intentions were commendable, as the authors attempted to make the principle of administrative decentralization much more visible. However, this principle continued to remain only a desideratum. The Ministry of Interior, for example, played an important role, that could become decisive in the election / appointment of mayors of urban communes.
Keywords*: administrative law, urban commune, town, city.*

1. Introduction

Although in 1925 there was adopted a complex administrative law, with the valences of a real reform, the takeover of power by the National Peasant Party made that, only four years later, a new law in the field of public administration to be voted. The adoption of this new law was roughly part of the policy of criticizing and replacing the legislation of liberal political opponents. The intentions were definitely good [1], as the centralizing nature of the 1925 law was widely criticized and decentralization was pursued [2]. Nevertheless, the law of 1929 did not manage to resist the temptation to subordinate local administration, trend that even intensified after the adoption of the law.

A pertinent contemporary analysis highlighted that, although by some provisions inscribed in the text, such as those on the guardianship of administrative acts, the law "achieved administrative decentralization to the highest degree in Romanian history", by its application and practice, the law was far from being "a model of administrative decentralization". It generated "an extremely complex and cumbersome legal apparatus" that caused "several blockages and complications in practice". Until the adoption of a new

administrative law, which occurred only seven years after, this law was amended eleven times, which made “perfect theoretical structures […] to collapse like sandcastles.” [3]

Our aim is to capture the innovations brought by this law with respect to urban public administration and to present the provisions reserved for the organization and functioning of urban communes, and, therefore, we shall not insist on other already known and applied practices or stipulations.

2. Main provisions on the organization of urban communes

The law for the organization of local administration of August 3 1929 [4] divided the localities of the country into rural communes and urban communes. It was an organization that had perpetuated in the Romanian territory ever since 1864 [5]. Urban communes were divided into cities and municipalities and the limit according to which this classification was made was 50,000 inhabitants (art. 4). Municipalities were the largest and most important localities in the country. Analyst Manuel Guțan appreciated that in the organization and functioning of municipalities, the legislator would have borrowed the model existing in the older administration of Transylvania, and, as a result, municipalities were not considered subordinate parts of a county, but administrative units equal in rank with the county. Therefore, the law stipulated that “the higher hierarchical tutelary and control authorities of the county were those of the municipality as well” [6]. Climatic spas could also be integrated in the category of urban communes on condition that they met the fulfillment of certain formalities (art. 4).

The deliberative bodies of urban communes were: urban communal councils - in towns and municipal councils - in city councils. The executive bodies were: the mayor, the deputy mayor and the delegation of the communal or municipal council (art. 71).

Councilors were either elected or rightful members. Their number varied between 16 and 36, depending on the population of the locality. Among the councilors there were: the rector, one representative of the state primary and secondary schools, one representative of the largest national minority’s private secondary school, one representative of the national church and one of the largest minority’s, the presidents of the Chambers of Industry and that of Agriculture, a representative of industrialists and one of traders [7]. The term of office was 5 years and it was free (art. 73 - 82).

The communal council was very important, as they elected the mayor, the deputy mayor and the permanent delegation. Several commissions were set up among the councilors, necessarily including those on finance, on constructions and on social assistance. Councilors were required to take an oath of allegiance and were not allowed to be up to the third-degree relatives. Failure to take the oath or unmotivated absence from 5 consecutive meetings led to the loss of the quality of a councilor (art. 83 - 88).

Communal councils usually met on a monthly basis, but there could also be extraordinary sessions. The absences that would have caused the postponement of a meeting twice in a row led to the amendment of the respective councilors. The decisions that would have been made without the convening of all councilors were considered null and void. The communal doctor had to be invited to all meetings. Voting was open, unless otherwise decided or if personal issues were discussed. The president voted last. The meetings were public, unless otherwise decided and any citizen could request copies of the minutes of the meetings (art. 89 -102).

With respect to the attributions of communal councils, the law stipulated that they were to deal with all issues “concerning the interests of the commune and controlling the acts of the communal administration” (art. 103). A special article (i.e. art. 104) detailed 24 such directions, including ones non-existent in previous legislation, such as “those on environmental protection, protection of monuments and works of art, the establishment of museums”, the concern for strengthening the education of citizens and caring for the physical education of citizens. It was also introduced the right to be awarded the title of honorary citizen for special merits in support of the local community (with the approval of two thirds of councilors).

In the activity of special commissions (i.e. those of education, cult, public health, social protection etc.), specialists from outside the council were also accepted in order to give “their support to the communal administration” (art. 105)

The law included regulations meant to ensure good coexistence in the community. Compared to previous legislation [8], there was paid more attention to providing means of transport and to fixing tariffs, to sweeping and spraying sidewalks, to snow lifting, to maintaining roads that could be damaged by heavy traffic, to preventing incidents caused by “excavations and removal of soil, sand and gravel” (art. 114), to sanitation and

cultivation of vacant lots and or to setting places for the garbage to be stored. In case of sanctions, the maximum fine was fixed. Suburban communes could be associated with urban ones.

A special section of the law was reserved for urban planning and construction supervision. All the urban communes, as well as the suburban ones and the climatic spas, were obliged to make systematization plans within 10 years. The idea was not new, as *The Law for the Organization of Urban Communes* of 1894 had already drawn attention to the need for "city alignment plans" [9] and *The Law for Administrative Unification* of 1925 had introduced the duty to implement a "general systematization plan" [10] of cities, both legislative texts establishing a term of 4 years for their realization.

The law of 1929 emphasized particularly the need to harmonize these plans with "the requirements of the future, by means of reserving and delimiting places for squares, gardens, parks, for services, buildings and public monuments, for the opening of new arteries and so forth" (art. 115). Urban localities that had suffered destruction as a result of the war were obliged to carry out the respective plans within one year, with the technical and financial support of the state.

The law intended that the systematization and modernization of the localities should not remain a simple desideratum. Therefore, in the localities where the operation of drawing up the respective plans would not have started within 3 years from the promulgation of the law, the superior authorities (ministerial in case of municipalities, and county in case of other communes) were to get involved. If after another six months the operation of carrying out the plans would still not be initiated, the local technical commission that had control attributions would undertake the respective plans, "at the expense of the municipality or commune, and the expenses will be included in the budget as mandatory" (art. 121).

The terms and spirit of the law were firm and intransigent when it came to not complying with the conditions of opening streets and passages, to the authorization or alignment of buildings. The law stipulated gradual sanctions ranging from fines to the cancellation of those facilities or even to the demolition of buildings. The spirit of these ideas can be identified in the laws of 1864 and 1887 [11] and it was further materialized in the law of 1894, in the section *On urbanity and communal police* [12].

Part of the law was reserved for the Delegation of the Communal Council. It was composed of 3-5 members (depending on the population of the urban locality) and it was elected by secret vote from among the councilors. The representation of national minorities was envisaged. The mayor and the deputy mayor were full members of the Delegation. The members of the delegation received an allowance decided by the communal council. “Members of the delegation shall receive an attendance allowance […] and shall be reimbursed for any expenses they may incur in carrying out their duties” (art. 132).

The delegation met at least once a week whenever convened by the mayor or his deputy. It “replaces the communal council in the interval between sessions and decides in its place” (art. 136). The attributions of the Delegation were somewhat secondary, being “an advisory body of the mayor” (art. 138), deciding on issues such as: appointing officials without academic qualifications, setting the price of hotel rooms and pensions, transport prices, remuneration of porters, etc. The attributions of the Delegation also included some more important aspects such as: the granting of construction permits, the elaboration of electoral lists and so forth. Nevertheless, the most important decisions remained in the diligence of the Municipal Council (i.e voting the budget, setting taxes, territorial changes).

Mayors were elected by indirect vote and there could be noted the tendency to subordinate to central authorities. The law of 1929 stipulated that only mayors of villages and of rural communes made up of a single village could be elected by universal suffrage, whereas the election of mayors of the urban communes was made by the communal council, from its members, by the majority of two thirds of the councilors (art. 146). In case of not reaching this majority, the Ministry of Interior intervened and appointed as mayor one of the 3 councilors who had gathered the most numerous votes. The tendency to centralize was further accentuated by stipulating the right of the ministry to appoint any member of the communal council as mayor, if he considered that the candidates “do not correspond to the interests of the state security or social order” (art. 146). No matter how the mayor was elected, the confirmation of the ministry was mandatory. The involvement of the Ministry of Interior in the appointment of mayors contradicted the principle of administrative decentralization, practice that was obviously deplored in the surveys of that time [13].

In urban localities, there could be elected one or more deputy mayors, “as needed” (art. 148). Their election was made according to the same procedure as that of the mayors. State officials could not be elected as mayors and deputy mayors, except for the teachers, who during the exercise of the office were obliged to suspend their activity at the department. Mayors and deputy mayors were remunerated from the local budget by the decision of the communal council. They could not pursue liberal professions. Mayors were entitled to a pension after 10 years of service, and on condition they had contributed to the pension fund (art. 151).

The attributions of the mayor were the usual ones, as specified in the previous laws [14]. Alongside the Permanent Delegation, the mayor represented the executive power and he administered “all the interests of the commune” (art. 153) together with the Communal Council. He was the only one who could issue ordinances, documents that were to be “displayed at the town hall door” (art. 155) and to whom citizens could object. Mayors were also urged to take “measures to eradicate begging” (art. 154).

The mayor and the deputy mayor could resign or could be dismissed “by the motivated decision of the communal council with a two-thirds majority […], when serious and harmful deeds of the commune were proved in their charge” (art. 164). The dismissal could not be made before their hearing. Manuel Guțan claims that the dismissal of mayors by local councils, without any prior approval or notification of the guardian authorities, was a provision introduced “for the first time” in the Romanian public administration [15]. It was obviously an argument in favour of decentralization, even if it was somehow diluted by the obligation for this dismissal to be approved by the guardian forums (art. 166).

The most authorized representatives of urban communes could also be suspended in case of them being arrested, investigated, trialed or convicted. Suspension decisions were reviewed every three months in order to establish if the suspension was to be further maintained. The quality of mayor could be lost for the same reasons as those stipulated for councilors.

Depending on their material possibilities, each urban commune could draw up the scheme of the necessary services and administrative officials. It was mandatory for each commune to have “a secretary or a notary and a cashier” (art.172). Among the officials

that could be employed, there were doctors and veterinary doctors, nurses and medical midwives, firefighters, pickpockets and cantoners, postmen and telephone operators etc.

The officials employed in administration were divided into two categories: with administrative responsabilities and the specialists. They had the obligations, rights and training specified both in their professional statuses and in special laws. The law aimed at a professionalization of the administrative officials and at reaching their highest possible education. Secretaries, cashiers and accountants were appointed by the communal council. The secretaries had to have a doctor's degree or to have graduated from a law faculty, the cashiers were to be higher business schools graduates and notaries had to have graduated from a notary school with a baccalaureate degree or to have a bachelor degree in law. Notaries could be assisted by a subnotary. The auxiliary staff (registrar, copyist) had to have at least four secondary classes or a vocational secondary school. The executive staff (head of the office or his deputy) were to have graduated from high school or from specialized superior school, whereas the heads and deputy heads of services had to be higher education graduates. There were stipulated exceptions from the education requirements imposed to the officials working in administration.

All officials were to take the oath of allegiance to the king, to the constitution and to the state, and career officials had the obligation to know the Romanian language.

3. Conclusions

Our analysis highlighted the concerns of the legislator to introduce provisions related to modern urban life, provisions that sometimes even foresaw the future, approach that represented a positive fact. For example, in the law of 1929, there appeared much more tangible references in the direction of environmental protection.

Another noteworthy aspect was the strengthening of the older trends to professionalize municipal officials and to increase their level of training, so that, according to this law most of the officials of urban communes had to have higher education.

Regarding the debate on the centralization / decentralization ratio present both in the public space and among the specialists of that time, the law of 1929, although there were some fulfillments, did not succeed to visibly tilt the balance in favour of

decentralization. The way of electing mayors, for example, reflected an obvious tendency to submit the local administration to the central governmental power, submission which could lead even to the mayor being appointed by the Ministry of Interior.

The text of the law has some weaknesses in that there were introduced some cumbersome provisions which led to the bureaucratization of the administrative process.

The law of 1929 was an important law, which cannot be overlooked when analyzing the phenomenon of the Romanian public administration from the interwar period. This law remained in force until 1936.

References:

[1] See also Manuel Guțan, *The History of Local Public Administration in the Romanian Modern State (Istoria administrației publice locale în statul român modern)*, All Beck Publishing House, Bucharest, 2005, p. 264.
[2] Olimpiu Matichescu, *The History of Local Public Administration (Istoria administrației publice locale)*, Economică Publishing House, Bucharest, 2000, p. 161.
[3] Manuel Guțan, *The History of Local Public Administration in the Romanian Modern State (Istoria administrației publice locale în statul român modern)*, All Beck Publishing House, Bucharest, 2005, p. 264 - 277.
[4] *Law for the Organization of Local Administration (Lege pentru organizarea administrației locale)*, "Official Monitor", no. 170, 3 August 1929, p. 2 – 70 (6186 - 6254).
[5] Art. 1, *Commune Law (Legea comunală), decre[ed] on 31 March 1864, prom[ulgated] on 1 April 1864*, in B. Boerescu, *Supplement to Romanian Codices*, Bucharest, [1880], p. 50-61.
[6] Manuel Guțan in *The History of Local Public Administration in the Romanian Modern State (Istoria administrației publice locale în statul român modern)*, All Beck Publishing House, Bucharest, 2005, p. 266.
[7] See Manuel Guțan's interesting consideration on the „utilitity" and on the reason for the councilors to be present at commune councils - in *The History of Local Public Administration in the Romanian Modern State* (*Istoria administrației publice locale în statul român modern)*, All Beck Publishing House, Bucharest, 2005, p. 268-269.
[8] See Gheorghe Calcan, *Romanian Public Administration in the 19th and 20th centuries. Important Laws and Reforms,* Volume I*, From The Reforms of Alexandru Ioan Cuza to Those of The Great Union/ Administraţia publică românească în secolele XIX –XX. Legi şi reforme importante,* Volumul I, *De la reformele lui Alexandru Ioan Cuza la cele ale Marii Uniri, (1864 – 1925)*, Universitară Publishing House, Bucharest, 2009.
[9] Art. 94, *Law for the Organization of Urban Communes (Lege pentru organizarea comunelor urbane)*, "The Official Monitor", 31 July/ 12 August, 1894, p. 3489-3497.
[10] Art. 69*, The Law for the Adminstrative Unification (Lege pentru unificarea administrativă)*, "The Official Monitor", nr. 128, 14 June 1925, p. 6849 - 6893.
[11] Art. 71, *The Commune Law (Legea comunală), decre[ed] on 31 March. 1864, prom[ulgated] on 1 April 1864*, in B. Boerescu, *Supplement to Romanian Codices*, Bucharest, [1880], p. 50 - 61, and art. 40*, The Commune Law (Legea comunală),* "The Official Monitor", No. 28, 7 May 1887, in C. Hamangiu, *The General Code of Romania (Codul general al României)*, vol. II, *Ordinary Laws (Legi uzuale), 1860-1900*, Bucharest, 1900, p. 2239 - 2265.
[12] Art. 95 - 96, *Law for the Organization of Urban Communes (Lege pentru organizarea comunelor urbane)*, "The Official Monitor", 31 July/ 12 August, 1894, p. 3489 - 3497.
[13] Manuel Guțan, *The History of Local Public Administration in The Modern Romanian State (Istoria administrației publice locale în statul român modern)*, All Beck Publishing House, Bucharest, 2005, p. 267.
[14] See Gheorghe Calcan, *Romanian Public Administration in the 19th-20th Centuries. Important Laws and Reforms,* Volume I*, From The Reforms of Alexandru Ioan Cuza to Those of The Great Union/ Administraţia publică românească în secolele XIX –XX. Legi şi reforme importante,* Volume I, *De la*

reformele lui Alexandru Ioan Cuza la cele ale Marii Uniri, (1864 - 1925), Universitară Publishing House, Bucharest, 2009.
[15] Manuel Guțan, *The History of Local Public Administration in The Modern Romanian State (Istoria administrației publice locale în statul român modern)*, All Beck Publishing House, Bucharest, 2005, p. 269.
[16] The bureaucratic valences of this law are also captured in the Treaty on the History of Romania. (The Romanian Academy, *The History of the Romanians/ Istoria Românilor*, Volume VIII, *The United Romania/ România întregită, (1918-1940)*, coordinator Ioan Scurtu, Enciclopedică Publishing House, Bucharest, 2003, p. 274).