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ADMINISTRATIVE – TERRITORIAL DECENTRALIZATION. COMPARATIVE PRESENTATION OF ROMANIA - FRANCE – REPUBLIC OF MOLDOVA

Irina BILOUSEAC¹

Abstract

In this article we intend to study how the principle of administrative-territorial decentralization is applied in a comparative presentation of Romania - France - Moldova. This principle of organization and functioning of local government activity is the basis for the organization of its activity, underlying directly on the efficiency of the administrative apparatus of the administrative - territorial units.

We can say that regardless of the specific form in which we find applied this principle in the administration of various countries, the administrative - territorial decentralization is a reality of the present and future society, with important implications administratively, economically and socially.

Keywords:
administrative-territorial decentralization; administration; local government; local community.

JEL classification: H83.

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I. INTRODUCTION

Any state to be properly designed and managed, must divide up its territory into administrative units, to which it recognizes their legal personality while granting public law powers and duties of private law, these units being autonomous and self-governed.

Therefore, the administrative - territorial decentralization means that the territory is divided into administrative units, which have independence from central authority. In this sense of territorial decentralization most often the two concepts of decentralization and autonomy are used together, the idea of involving decentralization also implying local autonomy idea.\(^2\) We can say that the decentralization refers to the way a state is organized in terms of territorial administrative units, while autonomy refers primarily to the right and the ability of self-government the community of a territorial administrative unit. Leadership of administrative territorial units created belong to local authorities, which have unlimited jurisdiction.

Constitutional principles, decentralization and local autonomy govern and are the basis for the foundation, organization and functioning of local government, ensuring the satisfaction of local needs and interests, according to the specific individual administrative units. In such a framework, discussing the issue of administrative decentralization enables us to compare different types of organization from other countries, this principle being of special importance in shaping the organizational and functional structure of local authorities within the territorial administrative units.

II. THE LEGAL FRAMEWORK ON DECENTRALIZATION IN ROMANIA – FRANCE – REPUBLIC OF MOLDOVA

The Romanian Constitution establishes in art. 120 the basic principles of local government, ordering in par. 1 “that public administration in territorial-administrative units is based on the principles of decentralization, local autonomy and the deconcentration

\(^2\) Iorgovan, A., (2005), *Tratat de drept administrativ*, vol I, II, ediția 4, Editura All Beck, București, p. 452
of public services”. The new democratic constitution has set as core values concepts such as decentralization and local autonomy.

Along with the Constitution, Law no. 215/2001 places the local autonomy on the basis of the organization and functioning of local government. Thus, the constitutional provisions on decentralization, local autonomy and deconcentration were developed by Law no. 215 of 23 April 2001 on local government, and detail the constitutional principles, stating that local autonomy is administrative and financial, it concerns the organization and functioning of local government, representing also the right and the effective capacity of local authorities to manage in their own name and under their responsibility, an important part of public affairs in the interest of the local communities they represent.

The Framework Law no. 195/2006 on decentralization along with Methodological Norms have covered basic principles and general rules and institutional framework for the conduct of administrative and financial decentralization of public services into Romania, through the transfer of authority and administrative and financial responsibility from the central to local level.

According to the French Constitution of 28 March 2003 this is a presidential republic being a decentralized unitary state. The territorial organization in France has three levels of government: municipalities, departments and regions.

Also in Moldova, referring to local government, the Constitution establishes into Articles 109, 112 and 113, as well as the Law no. 123-

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3 Law of local public administration no. 215/2001, republished in the Official Gazette no. 123 from 20 February 2007, with the further modifications and adnotations.
7 Pascariu Liana-Teodora, Aspects regarding making public services through administrative contracts, European Journal of Law and Public Administration, 1/2015.
8 According to www.legifrance.gouv.fr the Constitution is adopted on 11 December 2002 by the Parliament, the constitutional law project referring to the decentralized organization of the Republic being presented to the Parliament reunited in congress on 17 March 2003.
XV of 18 March 2003 on local government in the Republic of Moldova and the Law no. 435 of 28.12.2006 on administrative decentralization, amended and supplemented, a number of principles on which rely the organization and functioning of local public administration, among which we can mention decentralization and local autonomy.

Thus is recognized legal personality of the administrative territorial units, as well as the transfer of certain powers from central authorities to local ones, local authorities having the right to freely adopt decisions according to the law, without interference by other public authorities.

III. COMPARATIVE ASPECTS OF ADMINISTRATIVE – TERRITORIAL DECENTRALIZATION IN ROMANIA – FRANCE – REPUBLIC OF MOLDOVA

The territorial organization of the three states comprises two (Romania and Moldova) or three (France) levels of government, that have competences of their own and autonomy in relation to central government. But in the context of public administration reform, rethinking the structure of the administrative-territorial is a much discussed issue, both in Romania and in Moldova taking into account the implementation of a policy of regional development after the French model, which could lead to an effective process of decentralization and autonomy.

Romanian territory is organized administratively into counties, cities and towns, the authorities through which is achieved the local autonomy in communes and towns are elected local councils and mayors, and the County Council has initiative and acts in the name of law in matters of county interest. Any change of their territorial limits can be performed only by law and only after consultation by referendum of the citizens of administrative-territorial units. These territorial administrative units are the legal manifestation of local autonomy within is organized and functions the local government.

The territory of Moldova is organized administratively "into administrative units namely districts, towns and villages ". And under the law, some towns may be declared municipalities.

The administrative organization of the territory of Moldova is carried out on two levels of local government - first level (villages
(communes), towns (municipalities)) and the second - intermediate (districts, Chisinau and the Gagauz Autonomous Territorial Unit).

The village is administrative-territorial unit comprising rural population united by territory, geographical conditions, economic relations, social and cultural traditions and customs. (Article 5 of the Law on administrative division of Republic of Moldova).

The city is an administrative unit, more developed than the village in terms of economic, social and cultural, having urban and household services, appropriate commercial and industrial structures, whose population works mostly in the industry, consumer service public and into various fields of intellectual, cultural and political life. (Article 6 of the Law on administrative division of Republic of Moldova).

The municipality is an urban locality with a special role in the economic, social, cultural, scientific, political and administrative development, with important industrial and commercial structures and institutions of education, health and culture. (Article 7 of the Law on Administrative division of Republic of Moldova).

The raion which bears the name of the City Residence is an administrative unit composed of second-degree villages, communes and towns, joined by territory, social economic and cultural relations. (Article 10 of the Law on Administrative division of Republic of Moldova)

The French system of administrative-territorial organization, characterized by a wide decentralization comprises 22 regions, 96 departments and 36 529 communes.

The Community Charter for Regionalization defines the region "as a territory that forms geographically speaking, a net unit or an assembly similar to territories where there is continuity, the population possess certain common elements and want to preserve the specificity resulted and develop it in order to stimulate the cultural, social and economic process." Region is an administrative level that is within the administrative hierarchy to a position immediately below the central level.

9 Zaharia, P., Bilouseac, I., (2010), Doctrinary Opinion Regarding the Autonomy of Communities in the Local Public Administration Management, The Annals of the „Stefan cel Mare” Universitatea Suceava, Volume 10, Special Number, pp. 390-395

Administrative efficiency and coordination in the course of modernization of France have been favoured by administrative decentralization and deconcentration at the regional level.\(^\text{10}\)

Regions are free territories administered by elected councils. The prefect of the region represents the state and is authorized to carry out legal actions to protect state interests. Each region has an economic advisory group and social committees composed of personalities in the fields of social, labour and economic.\(^\text{11}\)

The department, unlike the regions that have been recently created, has a much larger historical age, dating back to 1790 (still during the French Revolution). Within the department, general councillors are elected for six years on the basis of an election cycle, and the state is represented by the prefect of the district who signs contracts with executive departments, provides funds for some actions in order to develop investment and facilitate contacts with communes.\(^\text{12}\) The department has, like the region, its own budget as well as its own financial means, from taxes and fees which it levies.

The commune is the third level of local government, having a low population density. Communes are territorial collectivities freely administered by elected councillors and under conditions provided by law.

**IV. CONCLUSIONS. THE IMPORTANCE OF ADMINISTRATIVE- TERRITORIAL SYSTEM**

Administrative-territorial decentralization, which involves an administrative organization of the territory of the state, seeking, as mentioned by M. Preda\(^\text{13}\), through the administrative-territorial structures the state creates, to govern and lead more easily, and local communities, at any level would range them, to be autonomous regarding their issues


\(^{11}\) Stânciulescu, G., Androniceanu, A., (2001), Sisteme comparate de administrație publică europeană, Editura economică, București, p. 239


\(^{13}\) Preda, M., (2007), Legea administratiei publice locale nr. 215/2001 - Comentarii pe articole, Editura Wolterskluwer, București, p. 323
both from the State and in relation to administrative-territorial structures organized at a higher level.

Modernization of the state cannot be achieved without the existence of effective administrative-territorial decentralization, so that the territorial administrative units be able to satisfy the interests of their communities without interference by central authorities, have a heritage, distinct from that of the state and its own budget, to run them under the law, in order to meet local needs.

France surpassed through successive reforms the administrative-territorial division, which was unsuited to social needs, operating effectively nowadays. France has implemented regional classical model of decentralization, creating autonomous local territorial communities administratively.

In Romania there is no danger of excessive fragmentation of the national territory for the moment, but must examine whether the administrative-territorial unit has sufficient financial and material resources necessary for effective self-government.

In contrast, in Moldova the return to the old system of administrative-territorial division in 35 districts (although previously had been 10 districts) decreased their economic and social potential, these being too small to achieve effective decentralization of public services provided to citizens.

To speak of an effective territorial administrative organization there must be a clear distinction of responsibilities between local public authorities’ levels, as well as an analysis of local government activity and the existence of a parallel financial decentralization able to provide enough funding for self-government.

In the context of local public authorities reform, rethinking the structure of the administrative-territorial is a problem more and more brought up in Romania, discussing on the implementation of regionalization, not as an alternative to decentralization, but as a means to respond better regionally of some problems of local communities.

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