

UNITY AND DIVERSITY IN THE ROMANIAN LAW CONCERNING THE ADMINISTRATIVE AND TERRITORIAL ORGANIZATION IN THE INTERWAR PERIOD

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Abstract:

The evolution and development of the administrative principles that marked the interwar period were influenced by the following normative acts: the Law for administrative unification from June 24th 1924, the Law for the organization of the local administration from August 3rd 1929, the Law no. 569 from March 21st 1936, the Administrative law from August 14th 1938.

The current public administration wants to be a product of tradition, of the Romanian history. Thus the Romanian legislator showed in the exposition of the reasons in the Project of the local public administration law from 1991, that he had taken into consideration the administrative experience acquired until the end of the third decade: laws from 1952, 1929 and 1936 and the elements of comparative law in the outlining of the local public administration organization.

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“We will have to change the administrative norms of a people who lived separated politically for centuries, under different regimes and different ideas about state life. The sister provinces have come with their administrative traditions, with their customs, with their mentality and it is understandable considering all the sacrifices that are brought and all the goodwill that is used in the superior purpose of the State’s unity and consolidation”.

Arthur Vaitoianu -Exposition of Reasons, march 22nd 1925

INTRODUCTION

Until 1918, the provinces united with the country, have developed within some norms, practices and different legal systems, imposed by the foreign domination and which were different as spirit and principles from the ones of old Romania. All these legacies remained or originating from previous historical stages, from traditions and political and ideological ideas, with a series of differences in mentality, had to find a merger in the unification law, valid for the entire Romanian territory. This is why only a well grounded and right law defending the interests of all the citizens and according to the national differences of all Romanians who, for the first time in history had achieved an integral unity, could ensure the basis of the future Great Romania. It was necessary to harmonize, as soon as possible, different norms and legal principles which had to become a legal synthesis integral and integrating.

The Romanian historiography has paid and still pays attention to Romania’s unity and evolution in the interwar period. The evolution and development of the administrative principles that influenced the interwar period were influenced by the following normative acts:

- The Law for administrative unification from June 24th 1924 promulgated by the Royal Decree no. 1972 from June 13th 1925 and published in the Official Gazette no. 128 from June 14th 1925, with modifications brought by the law promulgated by the royal decree no. 3832 from December 21st 1925 and published in the Official Gazette no. 283 from December 22nd 1925;
- The Law for the organization of the local administration from August 3rd 1929 published in the Official Gazette no. 170, 1st part;
- The Law no. 569 from March 21st 1936 published in the Official Gazette, Part I, no. 73 from March 27th 1938;

- The Administrative law from august 14th 1938 published in the Official Gazette, no. 187, part I. Also a special place was occupied by the Debates of the Assembly of Deputies (1917-1937, 1939-1940).

The Debates of the National Assembly Constituent of the Senate but also *Romania's Encyclopedia vol. I and II* bring an important contribution in understanding and deciphering the application framework of the new administrative principles.

This stage is presented by some historians as an apogee of the organization and achievement capacity of the Romanian state, in its long evolution. After the fulfillment of the Great Unification-1918, the Romanian state has provinces with different traditions of the administrative and territorial organization – specific for the Habsburg Empire, Bukovina, Transylvania and Banat (the latter two with implications of the Hungarian state's politics, after the dualism from 1867) or with specific elements for the Tsarist Empire in the case of Bessarabia. For the identification of the elements specific for the administration of every province we mention reference studies as: Nistor, I., *Istoria Basarabiei*, Ed. Humanitas, Bucuresti, 1991; Iacobescu, M., *Din istoria Bucovinei*, Ed. Academiei Romane, vol.I, Bucuresti, 1993; Scurtu, I, Buzatu, Gh., *Istoria românilor în secolul XX*, Ed. Paideia, Bucuresti, 1999.

As well as the historians, the specialists in constitutional law and administrative law paid a special attention to the provisions of the law for the administrative unification in university treatises starting with the interwar period and extending to recent works in the field such as: Boilă. C., *Organizarea de stat. Organizarea statului roman în comparație cu organizația altor state*, Ed. Tipografia Cartea Românească, Cluj, 1927; Teodorescu A. , *Tratat elementar de drept administrativ*, vol. I, ed. a II-a, București, 1929; Muraru I., Stănescu, S., *Drept constituțional și instituții politice*, Ed. Lumina Lex, București 2002; Prisacariu V., *Tratat de drept administrativ român: parte generală*, Ed. Lumina Lex, București, 2002.

In the evolution and development of the public administration until 1925 we can identify *five characteristic stages*:

- Starting with the formation of the Romanian lands until the end of the 16th century, stage in which we can mention as a certitude the villages of the yeomen and of the freeholders;
- The 17th century until the Organic Regulations, stage in which the organization and operation of the administrative institutions and authorities is outlined;
- The period that influences the elaboration of the *Organic Regulations* until 1848 in which we can recognize the right to local auto-administration and the separation of the administrative power from the judicial one;
- 1848-1864 stage in which the institutions and the principles of the modern law develop and crystallize;
- 1864-1925 period in which the basis for the unification of the administrative, political, cultural and economical institutions of Great Romania are set.

Concerning the territorial and administrative organization of Romania, in the interwar period, of the local administration institutions, we may find *three different periods*:

- 1918-1925 in which the local, regional particularities maintained especially concerning the local administration institutions, until the administrative unification law from 1925. The law from June 24th 1925 that became effective on January 1st 1926 abrogated different existent administrative systems and established identical norms for the administration of the entire country;
- 1925-1938, period in which the provisions of the administrative laws created in the spirit of the Constitution from 1923 reverberate;
- 1938-1940, stage dominated by the provisions of the law from august 1938.

The consequences of the Great Unification were spectacular, creating a new framework for the country's modernization. During the interwar period a great priority was gained by the integration process of the new provinces in the national-unitary state, the consolidation of the national economic system, the acceleration of the modernization process, the protection of the

economic independence, the increase of Romania's part in international relations, -in the economic and political field and the protection of *the status quo*.

An important issue which appeared after the fulfillment of the Romanian national unitary state was that of the legislative unification between the old Romania and the provinces subjected until then to different laws and legal systems and now superseded by the needs of the new political organism. The country's territory had doubled, and the laws of the new provinces represented legal systems different from the one comprising the law of old Romania.

In the legislative unification work destined to assure social progress and judicial security the Romanians did not use the method of imposing their own institutions, and preferred that the unification laws which resulted from the sovereignty right be applied gradually. The first decree of the Ruling Council of Transylvania from 1919 mentioned, in article 1, that the old laws, prescripts, regulations and legal status previous to the Unification remain effective, temporary, until further dispositions 'in the interest of the public order and in order to ensure the rightful continuity'.

Similar measures were taken in Romania by the Decree-law no. 3475 from December 18th 1918 and in Bessarabia by the Decision of the Country's Council from March 27th 1918, point 5.

The causes that made the legislative unification process to last in time were some objective some subjective. In the category of the *objective* ones we can remind the priority that the restructuring of the unified state had: the administrative, financial, criminal, agrarian organization. Secondly, until the foundation of the Legislative council in 1926 there was no own authority to examine in all its complexity the unification in the field of private law, where there were important differences to the old Romania, especially family law, inheritance, advertising real estate rights. Concerning the *subjective causes*, the conviction of the lawyers, from different provinces, that their legal system is the best was supported by practice, firstly by the safety of the law created by the precise system of land recording existing in Transylvania and Bukovina.

There were differences concerning the spirit of the law in which the **legislative unification** had to be made. The law historians proposed a solution that would reflect "the genius of the Romanian people" (Peretz, 1922) or at least a harmonization of the mentalities in the Latin spirit (V. Roman), while most of the theorists and practitioners (G. Buzdugan, A. Gane, N. Vrabiescu, M. Eliescu) sustained the elaboration of a legal system "that would take into consideration the latest data of the law science" (Oteteseanu, 1931).

Concerning the legislative unification method, the ministerial commission formed in 1920 from judges and lawyers chose the revision of the codes, idea expressed in article 137 from the Constitution. In the legislative council organized through the Law no. 20 from February 26th 1952, two main methods were identified:

a) immediate unification by the expansion of the legislation from the old kingdom which implied implicitly a rapid elaboration of new codes, solution foreseen especially by the judges (A. Radulescu, C. Hamangiu, C. M. Sipsom) and b) maintaining the regional pluralism until the unifying codification on new basis which would take into consideration all that was superior and valid in the law of the new provinces and the conquests of the comparative law, opinion sustained by the theorists of the law and by lawyers (A. Oteteseanu, A. Gane, St. Laday, M. Eliescu, I. Mircescu, C. Rarincescu, G. Plastara).

Finally, giving priority to the constitutional dispositions, the revision idea triumphed in criminal matter, while in the other fields the expansion method was used (Law no. 36 from 1928 for Bessarabia, Law no. 478 from 1938 for Bukovina and Law no. 389 from 1943 for Transylvania).

THE UNIFICATION BY THE TACIT OR EXPRESS EXPANSION

By the Decree-law from April 10th and December 13th and 19th 1918, the organization of the state has operated tacitly according to the Constitution from 1866, certain exceptions being stipulated in these Decrees until a new Constitution (P. Negulescu) came into force. In fact, *the unification by express expansion of some laws* continued after the apparition of a new Constitution in 1923. Thus, the Forest Code from April 8th 1910 with the subsequent modifications, was

expanded on the entire territory of the country on June 17th 1923; the Law from April 11th 1928 for the expansion of chapter VII, articles 56-69 from the Law on commercial exchanges on the entire territory of the country and the modification of some dispositions concerning the application of this chapter made the same thing with the legislation in the matter from June 14th 1913 with the subsequent modifications from 1918 and 1921. As a consequence of the unification of the juridical organization (law from June 26th 1924) part of the dispositions of the Romanian Criminal Procedure Code extended in the new provinces.

The unification of the education's organization was achieved by extending in the new territories part of the dispositions from old Romania concerning the organization of secondary and higher education.

In other cases, especially those concerning the *organization of the state*, the new unification laws were mainly those from old Romania, extended on the entire territory of the country, with certain temporary dispositions for the new provinces, being established a jurisprudence unity which was essential for achieving a juridical unification (A. Radulescu); the Law from February 12th 1923 unified the organization norms of the body of lawyers, and the administrative organization of the country was made through the Law from June 14th 1923, entitled "For administrative unification".

THE LAW FROM JUNE 24TH 1925-THE LAW FOR ADMINISTRATIVE UNIFICATION

The project of **the law for administrative unification** entered the Debate of the Senate with Message no. 3789 from November 14th 1924.

On the basis of article 380 from the law for administrative unification promulgated by the royal decree no. 1972 from June 13th 1925 and published in the Official Gazette no. 128 from June 14th 1925, the territory of Romania was divided in 71 counties, comprising 498 small rural districts and 8879 communes, respectively: 71 urban communes county residence (of which 17 towns); 94 communes non-residence; 10 suburban communes; 8704 rural communes.

In the Exposition of Reasons presented in the meeting from March 25th 1925 it is explained the need to adopt a law for the administrative unification having as basis a wide decentralization, a deconcentration of the State's service, a reorganization of all the departments. Also, it is underlined that at the elaboration of this project the opinions of a high number of parliamentarians and specialists, data, information and findings gathered from the entire territory of the country were taken into consideration. The project of the law comprised the organization of communes and counties concerning the duties and the importance of the local institutions and the control of the central authority.

Regarding the contents of the law, it is structured on six titles, comprising 400 articles thus: Title I comprises references concerning the division of the kingdom's territory; Title II regulates the status of the commune; Title III refers to the organization and the operation of the county's institutions; Title IV synthesizes a series of common dispositions concerning the administrative elections; the validity of the deliberations of the communal and county councils and of the permanent delegations, the assets and works regime, local finances; Title V frames from a legal point of view the activity of the central authority's representatives; Title VI comprises the final and temporary dispositions.

The administrative unification was achieved by the Law from June 24th 1925 by which we ensured a unitary development of all the country's provinces which until then had know only different regimes. The law for the administrative unification from 1924 was adopted by the liberals, criticized for a long time by the opposition, remaining effective until the instauration of the authoritarian regime of Carol II.

The senator T.T. Lupu considered that "the administrative unification, the union in politics must bring also the union of the soul, so necessary for the consolidation of a country. This union of the soul cannot be made by laws, no matter how good they are, but by the strict compliance with the laws, by a good and fair administration."

The new law comprised all the progress of the Romanian society's experience, establishing administration institutions that were going to be chosen in a democratic manner, like county or communal councils in order to prevent the selection of some foreign elements, in these key organizations of the administration. (Still, the areas where the majority of the population was represented by foreigners, they had the important positions in the structures of the public administration.)

A series of elements from the current administrative legislation are found in this law, as for example the manner of organization and operation of the county and communal councils, the selection, operation and the duties of the mayor and culminating with the fierce debates concerning the status of the prefect-high public officer or representative of the government in the country.

There were regulations that did not find viability in the new European organization context as: institutions like the praetor, the small rural district, but also the status of the notary public which had probably the most radical evolution.

Along with the Constitution from 1923, this law has represented a corollary of the interwar legislation.

LAW FROM AUGUST 3RD 1929

The law from June 24th 1925 was mostly an expansion of the old Kingdom's legislation in the united provinces. It could not answer to all the needs of the new Romanian administrative life. As a consequence, a new reform of the local public administration will be produced in august 1929. The Law from August 3rd 1929 was elaborated during the national-peasant government lead by Iuliu Maniu.

The law for the organization of the local administration from August 3rd 1929 was published in the Official Gazette no. 170 part 1. The content of the law is structured on VIII Titles and 572 articles:

- Title I "Administrative division of the territory"
- Title II "The Commune"
- Title III "The County"
- Title IV "The local ministerial directorships"
- Title V "The general county associations"
- Title VI "Trusteeship and the control of the local administration"
- Title VII "Common dispositions"
- Title VIII "General and temporary dispositions"

The law from august 1929 will suffer 11 successive modifications until March 27th 1936 when a new law of administrative organization will be voted.

The law from 1929 achieved the administrative decentralization in the highest degree known in the history of modern Romania. The selection of all the organs of the local public administration, the elaboration of the administrative prefect, the modification of the administrative trusteeship from arbitrary to jurisdictional by creating the Revision committees as special jurisdictional courts, granting legal person not only to the commune but also to every village prove the fact that the statements of the legislator did not represent simple intentions, but reflected a real political will for change and progress.

Still the law created an administrative device extremely slow which determined in practice blockages and complications due, mostly, to the incapacity of the local authorities to handle their attributions. As a consequence, the system of the administrative organization was completed by a series of laws concerning the creation of the Legislative Council, of the Superior Administrative Council, of the House of Pensions, the creation of the of the Agricultural Chambers, of the Work Chambers, the reorganization of the Chambers of Commerce and Industry.

THE LAW OF ADMINISTRATIVE ORGANIZATION FROM MARCH 27TH 1936

The numerous modifications of the Law of administrative organization from 1929, the failure of the reformation attempts from 1931, the chaos that was created concerning the legal regime to be applied in certain institutions, made necessary the elaboration of a new law of the local public administration.

After 7 years of modifications and remodeling of the law of the local administration's organization from 1929 the need of a new synthesis was felt. The task to elaborate it was given to the liberals, the authors of the administrative unification law from 1925. The law from March 27th 1936 was elaborated during the government lead by Gheorghe Tatarascu. On December 16th 1935 the government filed in the Parliament the project of the administrative law which had to replace the law adopted by the national-peasants. Basically, the law from 1936 maintained the administrative centralism of the unification law with a special importance given to the political prefect, but tried to protect the local autonomy by maintaining the jurisdictional trusteeship exerted a posteriori of the Revision courts from 1929, now transformed in Administrative courts.

The administrative law from 1936 is structured in five parts, each having different titles and chapters. The first part includes aspects concerning the territory and the inhabitants, the administrative elections, the organization of the communes, the county, the conditions required to the administrative personnel chosen and appointed, the common dispositions of the county and commune councils, the administrative associations.

The first title of the *Administrative law from 1936* includes chapters concerning the administrative division of the territory and the members of the commune.

The second part aims the issues of the local finances, the following aspects being discussed: the county and communal expenses, the classification of the communal and county income, the budgets of the local administrations.

The third part regulates the petitioning procedure thus according to article 233: "Beside all the local administrations, as well as at the headquarters of the Ministry of the Interior, will operate a special service for the reception of the requests made by the inhabitants, under the care of which the petitioner will receive, at his residence, the solution of the respective authority, in 30 days at most from the registration of the request".

In rural communes this service was fulfilled by the notary public who was obligated to receive and to draw up, at request, the complaints of the villagers.

The Notary Public received the petitions addressed by the villagers and other public administrations, with the duty to send them urgently.

In the fourth part entitled "Professional training" it is mentioned the fact that technical professional training and the refresher courses are organized by the Ministry of Interior by the Romanian Royal Institute of administrative sciences with the help of the superior school of State sciences and documentation and administrative sciences schools. Thus that in article 237 "nobody can be appointed administrative public officer if he does not have the professional technical training".

Part V – Final and temporary dispositions mentioned in article 252 that "The law for the organization of the local administration from August 3rd 1929, the law for the organization of local finances from September 20th 1893, concerning the levy of a tax for the aqueduct (published in the Sheet of provincial laws No. 30 from September 3rd 1893), as well as the law from Bukovina from November 11th 1893 concerning the sewerage system of Chernivtsi Town and the levy of a sewerage tax published by Sheet of provincial laws No. 34 from November 23rd 1893, and the law concerning the granting of chimney sweeping as well as any dispositions from the laws and regulations in force, from all the regions contrary to the present law are and remain abrogated.

There are also abrogated all the laws, regulations and decisions with administrative character from the united territories and are annulled from the promulgation of the present law all the commissions and administrative forums which operate on the basis of those laws, because they are not mentioned by the present law.

The expropriation law for reason of public utility from October 20th 1864, with all its subsequent modifications expands on the entire territory of Romania, thus abrogating the laws or dispositions in this matter from the united territories.”

The administrative law from August 14th 1938 was elaborated during the government lead by the patriarch Miron Cristea. The end of the year 1938 marked a significant return to the totalitarianism of the royal dictatorship. Concerning the local public administration, not only did it return to the politicizing of its operation, but a strict political control was instituted. On December 16th 1938 the National Renaissance Front was created as the sole political organization in Romania. All the public officers had to be members of this political organism. The era of a single state administration lead by a sole state party was instituted. The entire local public administration, deconcentrated and decentralized was under the Front’s control.

The law was published in the Official Gazette no. 187, part I. The law is structured on 9 titles and 197 articles:

- Title I “General dispositions”
- Title II “The Commune”
- Title III “The Region”
- Title IV “Administrative and control constituencies”
- Title VI “Disciplinary measures against the authorities of the local administration”
- Title VII “Mandatory works”
- Title VIII “Local finances”
- Title IX “The control and trusteeship of local administrations”
- Title X “The petitioning procedure”
- Title XI “Temporary dispositions”

In the new administrative reform within the existing territorial-administrative units appears the region which comprised several counties. In the project of the law it was mentioned that the mayors were appointed by the prefect for a commission of six years.

In opposition, Demostene Botez, the manager of the newspaper “Dreptatea”, demanded that the citizen’s right to choose the mayor be recognized, action in which he sees embodied the notion of freedom and civic dignity.

CONCLUSIONS

The attempts of administrative unification reflected by the laws from 1925, 1929, 1936, 1938 unfortunately had a series of shortcomings which represented the limits of the development and progress of the entire interwar society.

In the conclusion of the study of diversity units and elements brought to the Romanian public administration we have to take into account a series of reasons: “the local administration was according to the variations of political life’ and ‘the diversity of the administrative organizations from different regions of the state, hardly fit in a unitary law, which tried to promote rules that did not exits before in those regions” (Lupu, 1925).

In the Report concerning the law from 1938 it was recommended the compliance with some principles for the efficiency of the administration’s organization and operation: administrative decentralization, administrative deconcentration, administration becoming more technical, based on competence and hierarchy, a special preoccupation for municipal administration and urbanism, a control and an administrative trusteeship seriously organized.

The current public administration wants to be a product of tradition, of the Romanian history. Thus the Romanian legislator showed in the exposition of the reasons in the Project of the local public administration Law from 1991 that he had taken into consideration, the administrative experience acquired until the end of the third decade: laws from 1952, 1929 and 1936 and the elements of comparative law in the outlining of the local public administration organization.

REFERENCES

1. Boilă, C. (1927), *Organizarea de stat. Organizarea statului român în comparație cu organizația altor state*, Ed. Tipografia Cartea Românească, Cluj.
2. Guțan, M. (2005), *Istoria administrației publice locale în statul român modern*, Ed. ALL Beck, București.
3. Panaitescu, I.D., Ionescu-Darzeu, V, Panaitescu, A. (1927) - *Codul administrativ*, Institutul de Arte Grafice "Graiul Românesc", București.
4. Petrescu, R. N. (2009) *Drept administrativ*, Ed. Hamangiu, București.
5. Pop, D.I. (1939) *Instituția regiunii în proiectele și legile administrative românești*, Tipografia Alba-Iulia, București.
6. Prisacriu, V. (2002), *Tratat de drept administrativ român: parte generală*, Ed. Lumina Lex, București.
7. Rădulescu, A. (1925), *Unificarea administrativă*, Academia Română. Memoriile Secțiunii Istorice, Seria III, Tomul VII, Mem.12, Ed. Cultura Națională, București.
8. Scurtu, I, Buzatu, Gh. (1999) *Istoria românilor în secolul XX*, Ed. Paideia, București.
9. Teodorescu, A. (1929), *Tratat elementar de drept administrativ*, vol. I, ed. a II-a București.
10. Vedinaș, V. (2009), *Drept administrativ*, ediția a-IV-a, revizuită și actualizată, Ed. Universul Juridic, București.
11. Văraru, M. (1928), *Tratat de drept administrativ român*, Ed. Librăriei Socesc&Co, București.