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Public Administration and the Current Socio-Political Environment in Romania

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Abstract: Before talking about the structure of the public administration in Romania, we must consider the social and political environment of our country. Romania is a country with a democratic regime for more than 30 years, but which has been under the umbrella of communism for several decades. Communism meant a centralized, closed administrative and economic system.

Keywords: *public administration, democratic state, administrative law.*

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1. Introduction

Communism arose from the evolution of modern societies, " in their full process of building systemic coherence, defining their own reproductive processes, as the capitalist society generates visions, theories or reflections about its own contradictions, crises or failures. Socialist doctrine was coagulated by reading the capitalist economy and civilization from a specific perspective. It was not a reply to liberalism, but configured its own identity through the key to reading historical reality, by deciphering the contradictions and through the solutions it formulated, over time, to the problems it highlighted" (Florian, 2006, p. 103).

The main characteristic of man is that he is a "social animal". Man cannot live alone, and for this reason he associates with his fellows. Man, in his natural state, was free, but he gave up a number of rights to acquire others (Rousseau, 2007). Jean Jacques Rousseau states: "the better the State is constituted, the more public affairs are more important than private ones in the minds of the citizens. [...] In a well-governed city everyone hurries to the public assembly. [...] Good laws lead to others, better ones, but bad laws lead to terrible ones. As soon as the man gets to say what interests him, we can be sure that the state is lost. The weakening of the love for the country, the activities of private interest, the immensity of the state, the conquests and the abuses of the governors led to the imagining of a solution by establishing deputies or representatives of the people" (Rousseau, 2007, p. 156).

Nowadays, "society presupposes a relational community existence of human individuals articulated in organized ensembles, such as systems, structures, organizations and social institutions, communities, and the family", the social system being considered "a plurality of individual actors who interact with each other in a given situation" (Hetsevi, 1982, p. 233; Apostu, 2018). Public administration is a component of a macrosystem and acts in a given social environment. As it is emphasized in the specialized literature, the relationship between the public administration and the social environment determines what we call "a social personality of the public administration", characterized by the following:

- "the duration of an administrative structure is conditioned by the continuity or modification of social structures" (Scutariu, 2017);
- "the social rhythm imposes a different rhythm on the public administration, which either endures successive reforms, or adapts itself through measures imposed as a result of social pressures" (Scutariu, 2017);

- "mobility and dispersion in space - the territorial implantation of the administration is determined by the social environment. The principles of organization and operation of the public administration, of spatial concentration and dispersion are well known" (Scutariu, 2017).

Regarding the political environment, we can say that the structures of the public administration are determined by the political regimes, they condition the way the organization and operation of the public administration is made. What wes want to emphasize is that "the public administration that implements the political values, is in an imminent connection with the party (parties) in government, whose political program it carries out (Huidu, 2019; Sandu et al., 2019). In single-party political regimes and, to some extent, in those with multi-partyism, we are witnessing the phenomenon of the "politicization" of public administration, both through its subordination to the party and through the recruitment of civil servants occupying management positions in the administration" (Scutariu, 2017, p. 106).

One of the important aspects worth mentioning is related to the rule of law (Barbu, 2015; 2016), considered to be an aspiration, but also an ideal - being supported by organizations and governments around the world (Raoul Wallenberg Institute for Human Rights and Humanitarian Law and The Hague Institute for the Internationalization of Law, 2012).

In the next subchapter, the structure of the public administration in Romania will be analyzed and the emphasis will be placed on the institutions that form the public administration and the relationship between them and the citizen.

2. The structure of public administration in Romania

The term *administration* comes from the Latin *ad* – meaning *to* and *minister*, which translates as *servant*. The term administration appears, therefore, with a double meaning, "helper", on the one hand, and "tool", on the other hand. So, the concept of public administration can be translated as "service provided for the needs of the many". In the Romanian language, the term administration or the verb to administrate means to rule, but if we are to strictly refer to the term administration, we understand the totality of the administrative institutions of a state.

During communism, in Romania, the administrative system was a centralized one, specific to the totalitarian systems of both the right and the left political regimes. The post-communist transition determined a transformation of institutions, the evolution starting from a closed society and reaching a democratic society, with premises for acquiring prosperity.

The transformations that occurred after the fall of the communist regime (in 1989) can be classified into two categories: on the one hand, political democratization, and on the other hand, economic-administrative reforms.

From the perspective of the public administration system in our country and in accordance with the Constitution, the public administration is made up of the central administration, i.e. the President, the Government, Ministries and other bodies belonging to the Government, autonomous authorities, budgetary institutions. On the other hand, there is the territorial public administration, which consists of the representatives of the Government in the counties, public services of the ministries and other central authorities, county councils and public institutions, autonomous companies. Third, when we talk about public administration, we also refer to the one functioning at a local level, which is made up of mayors and local councils, but also of public institutions and services subordinated to local councils.

The administration is pat of the executive power and is carried out through the administrative institutions that are subordinated to the legislative power, also collaborating with it. As for the activity of the public administration, it consists in the implementation of the normative acts that were previously adopted by the legislative power.

Administration - as an activity - can be considered a rational action that uses human and material resources, with the aim of obtaining high yield with minimal efforts. What we want is to emphasize the concept of rational action in parallel with the concept of rational organization. The state, as described in political philosophy, is a rational construction, and "the rule of law refers to a series of images and representations aimed at the exercise of power, postulating an idealized conception of law", optimistically implying the idea that the rulers, as well as ordinary citizens, are "bound by the legal norms in force; they are not placed above the laws, but exercise a function completely framed and governed by the law" (Goudenhooft, 2016). On the other hand, a special importance is given to the symbolic dimension of what the rule of law represents, given the fact that it contains a vector of authority legitimization: on the one hand, it is about the ideological dimension, and on the other about the mythical dimension (Goudenhooft, 2016). The latter presupposes the fact that the trust in law transcends its rational character, by acquiring a different aura (mystical. in this instance, and which is invested with a sacred dimension), i.e. "the possibility of law to surpass the dominance of legitimacy, by making offering it rational justification, enough for its reason of being" (Goudenhooft, 2016).

However, we must specify the fact that the activity of the administration is to satisfy the requirements of general interests, using the prerogatives of public power. From the legal perspective, "the administration is defined as the set of human and material resources, which, under the authority of the Government, have the mission of ensuring the execution of laws and their application to concrete cases and to the requirements of social life. This last definition confirms the subordinate position of the administration before the law, at the same time holding the prerogatives of public power that allow it to impose itself on the will of the individual (individuals)" (Onofrei, n. d., p. 9).

In the Administrative Code of Romania, a series of concepts are defined, as follows (Romanian Parliament, 2018):

a) "administrative act" represents "the unilateral act, of an individual or normative nature, issued or adopted by a public authority or institution, in a regime of public power, on the basis of or in order to apply the law, which gives rise to, modifies or extinguishes legal relations";

b) "normative administrative act" means an "administrative act that includes general rules of conduct, impersonal and of repeated applicability, for an indefinite number of subjects";

c) "individual administrative act" means an "administrative act that creates, modifies or extinguishes rights and obligations for the benefit or burden of a certain person";

d) "public administration" represents "all the activities carried out, under the regime of public power, for organizing the appliance and concrete appliance of the law and for providing public services, in order to satisfy the public interest";

e) "central public administration" represents "all the activities carried out, under the regime of public power, to organize the appliance and concrete appliance of the law and to provide public services, in order to satisfy the national/general public interest";

f) "local public administration" represents "all the activities carried out, under the regime of public power, to organize the appliance and concrete appliance of the law and to provide public services, in order to satisfy the local public interest".

Regarding the basic principles of public administration, we can ennumerate (Madescu, n. d.):

- the principle of legality;
- the principle of hierarchy;
- the principle of continuity.

In addition to these, we also talk about (Madescu, n. d.):

- the principle of operativeness;
- trinciple of opportunity;
- the principle of revocability;
- the principle of eligibility;
- the principle of local autonomy applied to public administration;
- the principle of decentralization;
- the principle of a deconcerted administration;
- the principle of deconcentration of public services;
- the principle of citizen consultation (Madescu, n. d.).

The organization and operation of public administration is a serious problem that raises many questions for researchers in the field of political science. The controversy arises when we talk about decentralization, given the fact that "decentralization is a long-term effort, which requires systematic actions to get to know the institutions, public policies and the perception of local and regional actors on the overall phenomenon of decentralization" (Bantuş, 2014). Regarding this aspect, the next subchapter will analyze the concept of decentralization and related legislation.

3. Decentralization

Decentralization in public administration refers to solving problems by the local public administration, the latter benefiting from autonomy in terms of decision-making and budget management; the "legal existence of local communities" is recognized (Bilouseac, 2019, p. 13). It is important to specify in this context the fact that decentralization "does not represent an end in itself, but only a means by which citizens are allowed to participate directly in solving the problems that concern them" (Bilouseac, 2019, p. 14). What must be mentioned is the fact that through decentralization, the "task" of the administration does not belong entirely to the state, but also to the local communities, i.e., it is based on the recognition of the local interests specific to the geographical areas by the "central powers", more concretely "it is entrusted to the territorial public bodies established specifically for this purpose"(Bilouseac, 2019, p. 14).

"Decentralization represents the principle that gives the local public administration the possibility of manifesting a degree of originality in carrying out its activities" (Voinea & Rusu, 2005/2006). In Romanian law, more specifically, in the Romanian Constitution of 1991 (revised), article 120, para. (1) states that: "Public administration in administrative-territorial units is based on the principles of decentralization, local autonomy and deconcentration of public services". By Law no. 215/2001 of the Local Public Administration and the Framework (Romanian Parliament, 2007)

Law no. 195 of 2006 (Romanian Parliament, 2016) regarding decentralization, and Law no. 199/1997 regarding the ratification of the "European Charter of Local Self-Government" adopted in October 1995 in Strasbourg (Romanian Parliament, 1997), the two principles announced above from the Romanian Constitution are regulated.

Therefore, the legislator must emphasize local autonomy, and from the point of view of the legal regime of decentralization, the Framework Law no. 195/2006 (Romanian Parliament, 2016) states, in art. 2 lit. i, that by decentralization, the law means "the transfer of administrative and financial competence from the level of the central public administration to the level of the local public administration or to the private sector". The transfer of competence represents "the set of attributions established by the Constitution and the laws that give administrative authorities rights and obligations to carry out in their own name, in the exercise of public power and under their own responsibility, an activity of an administrative nature", and according to art. 2 letter c (Gîrleşteanu & Smarandache, 2009), finding its "limits in the unitary and indivisible nature of state sovereignty" (Gîrleşteanu & Smarandache, 2009).

In Article 3, decentralization is described as a process "that takes place continuously and which must be based on a series of principles such as: the principle of subsidiarity, the principle of ensuring the resources corresponding to the transferred competences, the principle of the responsibility of local public administration authorities in relation to their competences, the principle of ensuring a stable, predictable decentralization process, based on objective criteria and rules, the principle of equity, and the principle of budget constraint" (Gîrleşteanu & Smarandache, 2009). In this context, it is considered that there is a transfer of competences that should be carried out "simultaneously with the provision of the resources necessary for their exercise" (Gîrleşteanu & Smarandache, 2009).

Regarding the legal regime of local autonomy, it is considered that the local public administration structures are governed by two principles, rendered as follows: on the one hand, in terms of "the relations between the local public administration authorities in communes, cities and municipalities and the national public administration authorities, which is based on the principles of autonomy, legality, responsibility, cooperation and solidarity in solving the problems of the entire county" (para. 1) (Romanian Parliament, 2007), and respectively, in the relations between "local public administration authorities and the county council, on the one hand, as well as between the local council and the mayor, on the other hand, there are no subordination relationships" (para. 2) (Romanian Parliament, 2007).

Considering the above mentioned legal dispositions, it is considered that public affairs have the purpose of transferring decision-making power from central to local authorities, with the aim of solving a series of problems such as those related to poverty, for example, or those related to to the "sustained increase in the standard of living" and the quality of life, but also those related to "social equity" (Bilouseac, 2019, p. 15).

What is important to note is that there are several forms of decentralization, including: territorial decentralization and technical decentralization (i.e. for services) (Bilouseac, 2019, p. 17).

We considered the evolution of public administration starting from the fact that after 1989, Romania had to change its legislation. What interested us was how the transition from a totalitarian system to a democratic one was made.

4. Conclusions

In this paper we analyzed how Romania passed from the communist system to the democratic one and what this process entailed. Of course, the process was a long one, which is considered to be still ongoing today, if we refer to decentralization, but in this paper we were only interested in a number of principles in public administration and how they are emphasized.

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