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State Structure and Political Regime Structure

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Abstract: The political regime is the concrete form of organization and functioning of political system and therefore, the regime means the concrete way of organize, institutionalize and function a political system and of the exercise of political power by a social-political force in a social community or global social istem. The political regime is not limited to institutions and state bodies, but it covers the entire political system. Form of expression in social practice plan is the result of balance of forces between classes of citizens, organizations, between them and civil society and politics. Designates the concrete form of government formation and organization, of state bodies, in aspect of their characteristics and principles, the relations between them and other state bodies, and also as the relationship between them and other institutionalized forms of political systems. Instead, the political regime is an explicit realization of axiological operations, a specific hierarchy of values, in general and political values, in particular. Even if some elements of the political regime overlap to some extent and in some respects, those of form or structure of guvernamt state, thus they dissolve his identity, distinct quality of being specific traits of the political regime.

Keywords: public administration; ministries; government; authorities of public administration

1. Introduction

The State, whose birth is determined by historical circumstances, is, first of all, an idea, a product of human intelligence.

Regulator of the political struggle, the State has to ensure a homogenous base which situates it above all divergent social interests. The liberal state, the state of the unique party or the pluralist state have tried, each in its manner, to answer to this requirement.

The fundamental elements inherent to the existence of a state are: the territory, the population, the power of the sovereign policy.

Constitutionally, the territory is interesting first of all as structure of state, component of the form of state, alongside with the form of government and political regime.

The state structure is object of study both for international law and for the constitutional law. This fact is explained through the complexity of the problematic and, of course, through its political, juridical and scientific involvements.

The state structure has been defined in the doctrine as being the organization of the state power in certain spatial limits, meaning on a certain territory, designing the specific relations established among the elements which compose the state assembly, as well as the specific relations between "whole" and "components" (Ioan & Ivanoff, & Gilia. 2008, p.38-58.). From the state structure point of view, the states can be divided into unitary states and federal states.

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2. Organizational Structures in Public Administration

As consequence of those showed previously, it must be emphasized the fact that, from the judicial point of view, the public administration is an activity or group of bodies endowed with certain competency which carry out a certain activity.

As it has also been shown in the specialty literature (Negoiță, 1993. p.60:), by system of public administration is understood the totality of bodies which carry out public administration, understood as activity of organization of execution and the concrete execution of law, bodies among which exist relations through which is assured the functioning of the system. We consider that, within the context of the social-political reality in a contemporary democratic state where acts the principle of local autonomy, graded by the principle of administrative control, the principle of administrative decentralization, as compared to the principle of legality and the principle of supremacy of Constitution, there is not indicated to use the expression "the system" of public administration, the happiest expression being the ensemble of organizational structures or the ensemble of administrative bodies.

The bodies of public administration are those bodies of the state or bodies existent at the level of administrative – territorial units (commune, town/municipality, county) which carry out an activity of organizing the execution and the concrete execution of laws and other judicial acts having a regulatory character.

The bodies of public administration act whether directly based on law, through individual judicial acts and material facts, whether through regulatory acts which they are competent to issue based on and executing the law.

Moreover, the bodies of public administration materialize their activity in several categories of judicial acts, appreciated by the majority of authors from a dichotomous perspective. Thus, some authors consider that judicial documents adopted by public administration may be administrative documents and contractual documents.

Other authors consider that administrative authorities may adopt: actual administrative documents, unilateral administrative documents which do not carry out the state power and contractual judicial documents.

Regarding the judicial regime of administrative law, two interpretations delineated: a dichotomous interpretation and a trichotomous interpretation. Regardless the manner in which is seen the activity of public administration bodies, to this is applied the judicial regime of administrative law as component of public law, because only in this way can be assured the coherence of the activity and the functionality of the ensemble of public administration bodies.

Among the public administration bodies there are relations of hierarchic subordination or relation of collaboration.

In compliance with the constitutional provisions, the system of public administration comprises:

I. Central administration: *Supreme bodies of public administration: President of Romania and Government; Specialty central bodies: ministries and bodies subordinated to the Government, autonomous authorities, respectively; Central institutions subordinated to ministries or autonomous authorities.*

II. State administration in the territory: *The Prefect; The administrative commission (or directors' board); The services of ministries and other central bodies.*

III. Local administration: The local Council and the mayor, The County Council

Practically, it can be asserted that one of the means through which the public administration effectively carry out the functions is the improvement of the administrative – territorial structure.

As for the functional criterion also named the criterion of material competency, this allows the division of the authorities of public administration in authorities with general competences and authorities of public administration with specialty competency.

Based on this criterion is carried out the functional structure of public administration.

On the other hand, based on the provisions of Constitution, in compliance with the principle of separation of powers, the system of public administration is in fact a subsystem of the system of public authorities.

In the doctrine (Ioan, 2008, p.238) has also been proposed a detailed organizational chart of the system of public administration, seen as a subsystem of the system of public authorities in Romania.

Regardless of the scheme which would be analyzed, it may be noticed that, depending on the territorial criterion, there exist central authorities (Government, ministries and other central bodies of public administration), whose competency extends to the whole territory of the country, territorial authorities (decentralised public services of ministries and other central bodies) whose competency extends to one part of the national authorities and local authorities, whose competency refers to a single administrative – territorial unit (communal, town, municipal, county local councils), and from the point of view of functional criterion there can be delimited authorities with general competency, which exercise the executive power in any fields of activity (Government, local councils and town halls) and authorities of specialty public administration, which carry out the executive power in a certain branch or field of activity (it is the case of ministries and other specialty central bodies of public administration as well as their decentralised public services).

There is essential to make some considerations regarding concrete components of the system of administration bodies in our country.

The Government is the central body of executive power which organizes the carrying out of public administration on the whole territory of the country and in all fields of activity. The Government is formed of: the Prime Minister, State ministers, ministers and State secretaries. The Prime Minister is appointed by the President of Romania, and the composition of the Government is approved at the proposal of the Prime Minister by the Chamber of Deputies and Senate. The Government carries out its competences through the deliberative activity, adopting decisions and regulations.

In order to adopt the decisions and regulations, the law requires the consent of the Prime Minister and open vote of simple majority of Government's members. The regulations are issued only under the conditions in which the special law stipulates this and only relating to the application of this law. In order to solve emergency problems, the Government establishes an executive body formed of the Prime Minister, the Minister of Interior, ministers of State, the Minister of National Defence, the Minister of Finance and the Minister of Justice.

Near the Prime Minister functions a Council of reform, public relations and information, a Cabinet of the Prime Minister and his/her counsellors. In order to carry out the tasks which go to the Government operates a General Secretariat administered by the General Secretary of the Government, General Secretary who is nominated by the Prime Minister.

The General Secretariat is formed of officers who carry out legal activities of training and implementation of the Government's decisions.

The Prime Minister represents the Government in the relations with the Parliament, the President, the Supreme Court of Justice, the General Public Prosecutor, the parties and political formations and other organizations of national interest and in international relations. The ministries are central bodies of the executive power which manage and coordinate public administration in different fields of activity.

Ministries carry out the service of management and organization under the conditions stipulated by law according to each fields. They are managed by ministers, who are helped by State secretaries and sub-secretaries nominated by the Government, appointed by the Prime Minister and approved by the Parliament.

In the specialty literature, from the point of view of forms of government, we talk about monarchies and republics.

The monarchy is that form of reign where the body which functions as head of the state is transmitted, usually, hereditary, and exceptionally the occupant is chosen for life.

Within the form of government as republic, the function of head of the State is fulfilled by an authority which can have either an impersonal or collegial character. As the head of State is chosen for a determinate period, we will be in the presence of a republican form of government, regardless the composition of this authority.

In the specialty judicial literature some authors, when defining the notions of monarchy and republic, are guiding after the meaning which is given to them in the people's political practice and do not proceed in compliance with subjective reasons.

Thus, Léon Duguit asserts that election is in all cases a criterion of the republic form of government. Therefore, in his opinion, even if the head of the State is chosen for life, there should be considered as form of the State the Republic. Instead, Jean Dabin, starting from the idea that when forms of government are researched, the problem is not in finding historical forms, which are always changing, but in finding logical forms, he thinks that anytime a single person governs, regardless the way in which is designated, we talk about monarchy, while during governors are a few, we have an aristocracy, and when the majority governs we have a democracy.

In conclusion, we may say that the concept of form of government designates the way of using and organizing the State's bodies, as well as the principles which lay as fundamentals in the relations between them, especially between the legislative body and the executive bodies, including the head of the State. The form of government is determined in the manner in which are appointed the agents of this power and the way in which they exercise it (Burdeau. 1988. p. 165 – 166. At the same time, must be taken into account the economical and social structure of that State, the principles which are at the bases of organization and functioning of the power, its objectives and forces, the manner in which the society reflects in the power and the style the governors impress)

3. Bibliography

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