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The Legal Framework for Regionalization of Romania

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Abstract: Deepening relationships and interdependencies today between states and other participants in international relations, globalization issues and solutions, acceleration of socio-political phenomena bring new problems to the people. Among the issues at the heart of contemporary research interest is public law and relative to new forms of international cooperation, development cooperation and regional integration at the state and sovereignty, the need for democratic values, the development of local autonomy, the rights human. In Romania, regional experiences, in different forms, dating back to the interwar period. Currently, the institutional framework, objectives, powers and instruments of regional development policy in Romania was established by Law no. 315/2004 on regional development in Romania, but not developing regions and municipalities have no legal personality and therefore be a reform aimed at regionalization of Romania. Under the provisions of article 3, 1 of the Constitution, republished, Romanian territory is organized administratively into communes, towns and counties. It is therefore necessary to amend the Constitution in order to create the legal framework for regionalization constitutional Romania and then passing bills related to regionalization and administrative decentralization to properly delineate the respective responsibilities of administrative units in Romania.

Keywords: region; regionalism; local community

Deepening relationships and interdependencies today between states and other participants in international relations, globalization issues and solutions, acceleration of socio-political phenomena bring new problems to the people.

Among the issues at the heart of contemporary research interest is public law and relative to new forms of international cooperation, the development of international cooperation and regional integration, at the state and sovereignty, the need for democratic values, the development of local autonomy, respect human rights.

There are two main directions in which the sovereign state, classically understood, has to face a new way of putting the issue and turns and will continue to change. One is the international dimension, consisting of moving from mere international cooperation to integration, both international regional and universal international. The second is the internal dimension, with the objective of strengthening the autonomy of local and regional public decision to downgrade baseline levels and judicious sizing municipalities.

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It was felt that the term region means space - a certain space limitations more or less flexible and a human group, a human community with specific characteristics, especially with a certain unity or identity. Thus, space and human group, the first basic elements of regional definition positions the region as an intermediary between the local community (with a clearly defined territory) and state (defined territorially by other states, the nation lives). But these two concepts of space and group can be immediately “re” in two different directions leading one towards regionalization, other towards regionalism, the first focusing on space (and organizing therein), the second of the group, community - identity and action (Alexandru, Popescu, Cărauşan, Enescu & Dincă, 2003, p. 458).

According to the Nomenclature of Territorial Units for Statistics (NUTS)¹ identifying administrative units depending on the size of the territory there are: the village, the department / county and regional level.

In this regard, the regionalization of the Community Charter² states in article 1 that the region means an area forming in geographically, net drive, or a similar set of territories where there is continuity, the population has some elements common and who wants to keep the resulting specificity and develop in order to foster progress culturally, socially and economically.

The common elements of a population mean a specific policy on language, culture, tradition and historical interests of economy and transport. It is essential that these items be collected in all cases.

Various legal and policy title and that these entities can receive the various states autonomous communities, provinces, nations and so on - are not excluded.

Also, art. 2 of the Charter expressly states that the Member States of the European Community are invited, given the will of the people, historical tradition and the need for efficient and proper administration of their functions, in particular the planning of economic development, to institutionalize regions their territories or to keep them where they exist. NUTS classification is hierarchical in the sense that each member state divided into three levels: NUTS 1, NUTS 2 and NUTS 3. The second and third levels are subdivisions of the respective first and second level. A Member State may decide to extend the hierarchical levels of detail, subdivision NUTS 3 level.

The appropriate level of NUTS must register a class of administrative units in a Member State shall be determined on the basis of demographic thresholds referred to as, where stands the average size of this class of administrative units in the member state:

- NUTS 1 - 3 million minimum, maximum 7 million;
- NUTS 2 - 800 000 minimum, and maximum 3 million;
- NUTS 3 - at least 150 000 maximum 800 000.

The population of a territorial unit consists of persons residing in the area concerned. Where, in a Member State for a certain level of NUTS no administrative units of sufficient size specified criteria, this level of NUTS is constituted by aggregating an appropriate number of existing administrative units joined sizes small. Aggregation is based on appropriate criteria, such as geographical location, socio-economic, historical, cultural or environmental.

¹ Regulation (EC) no. 1059/2003 of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) published in the Official Journal no. L 154/2003, p 1-41. That regulation was amended by Regulation (EC) no. 1888/2005 of the European Parliament and of the Council of 26 October 2005, published in Official Journal no. L 309 1 25.11.2005, by Regulation (EC) no. 105/2007 of 1 February 2007 the Commission published in the Official Journal no. L 39 1 10.2.2007 and Commission Regulation (EC) no. 176/2008 of the European Parliament and of the Council of 20 February 2008 published in the Official Journal no. L 61 1 5.3.2008.

² Document prepared by Parliament and adopted as an official document of the European Union of 19 December 1988.

Legal doctrine established genuine classification of different types of regions (Tanasescu, 2002, p. 5):

- political regions components of a state which is the boundary between federal and unitary states with powers in the legislative and executive matters, but still retains a court only in the central state (Spain, Italy);
- built region - a result of the creation of a unitary state by joining several states that still retain some individuality (UK, which today tends toward federalization);
- diversified regions with regional frameworks established not only the criterion of territorial and political, but also other criteria such as language and culture (Belgium, before its transformation into a federal state);
- classical administrative regions created by decentralization as local authorities administratively autonomous.

Regionalism, in turn, is a movement that comes from below and is aware of common interests (the region being perceived as a homogeneous territory by people who live it) and at the same time, their aspiration to participate in the management of these interests. Regional consciousness is very close, on a larger scale, of conscience “local businesses” that exists at the local level. Hence the notion of community evolves naturally aspiring to manage affairs for the estimates to be able to know them, understand them, and direct them to defend such local interest. In particular, the regional community is considered better able to deal with these things in comparison with the state, regarded as too remote and too big, accused of wanting to impose a single model, and in any case not having a suitable size for solve in an effective manner their problems.

Regionalism corresponds to the collectivities deep desires to be responsible for resolving issues that concern them directly (Trailescu, 2005, p. 92).

Examples of regionalism are concerning South Tyrol in Italy, Corsica in France, Bavaria in Germany, Catalonia in Spain, Scotland in Britain.

Regionalization, unlike regionalism has a downward trajectory, has other purposes and aims other means of implementing the goals than those used for regionalism. This is the fundamental difference that recurs in every phase of “regional process”.

It can be said that regionalization is usually important to get care for a country or to Europe at a better balance in the distribution of wealth by trying to raise the less developed areas. In turn, regionalism has the golden rule to reach the region to the power of decision in all its components as aspects assertion of identity, memory and identity-action (Alexandru&Badescu, 1997, p 31).

In Romania, regional experiences, in different forms extremely shy but are old, still in the interwar period.

Draft form, promote administrative reform in 1921 (project Argetoianu), but has not been completed, setting target regions administered by regional council (composed of representatives from the county council) President - representative of the executive power, exerting guardianship the administrative districts and communes (Negulescu, 1925, p. 562)

Constitution¹ of March 29, 1923, provided in art. 4, the division of the country into districts and counties in common. “The number, extent and territorial subdivisions will be determined by the type of administrative organization under the laws”.

¹ Published in Official Monitor no. 282 of 29 March 1923.

Administrative unification Law¹ of 14 June 1925 represented a milestone in the administrative life of Romania since, on the one hand was available and to some extent has used the findings, analyzes and projects the time, and on the another part were based on the provisions of the new Constitution.

The country was divided (art. 480) in 71 counties, 498 net, 8879 of the 71 urban communes of the county seats including 17 cities, 94 urban communes, 10 suburban communities and 8704 rural municipalities.

Under the empire the same Constitution of 1923, but under a new regime, with different views on the administrative life of the country, Romania has experienced a new and exciting model of administrative organization of the territory established by Law on organization of local administration 3 August 1929.

Basic Law provides that municipalities and county joint so organization based administrative regions would have been unconstitutional. Therefore, the legislature has resorted to an innovation by creating local Ministerial Directorates, the number 7, as centers of local administration and inspection. They were actually decentralized organs of central authority. Local Ministerial Directorate was composed of local ministerial director and the heads of local executive bodies Ministerial Government².

The 7 Local Ministerial Directorate were held in major provincial centers: Bucharest, Cernauti, Chisinau, Cluj, Craiova, Iasi, Timisoara, from January 1, 1930.

In the administrative-territorial organization established by law in 1929, including Ministerial Directorates Local renounced July 15, 1931, after coming to power the Government Iorga.

Through successive amending laws (11 laws change to 1936) returned to the Act of 1925.

Concern to give the administration an active role in the life of the state, justified voting the new administrative law.

Administrative Law³ of 27 March 1936 provided for a division of the territory, according to art. 4 of the Constitution of 1923, the counties and municipalities invested with legal personality and its own patrimony and with its own management. It was also maintained place as a mere administrative district of the county, the role of control of the activity of rural communities.

A second regional organization type, very different from the legal one between 1929 and 1938-1940, the provinces, 10 in number, which were distinct territorial collectivities, with legal personality. The system comprises but one intermediate level of local territorial communities, the provinces, and not two, as counties were only administrative-territorial districts, unincorporated. Obviously, under the royal dictatorship of the time, nor can there be local autonomy (Popescu, 1999, p. 146).

A third regional experience was between 1950-1968. The system was designed with two intermediate links, region and district (Sageata, 2004, p. 79).

Thus, on September 6, 1950, were abolished by Law No. 5 of the 58 counties (and the 424 common place and 6276 rural and urban), being replaced by 28 regions (composed of 177 districts, 148 cities and 4052 communes).

On September 19, 1952, amended by Decree Law No. 331. 5/1950 so that by merging, the number of regions was reduced to 18: Arad, Bacau, Baia Mare, Barlad, Bucharest, Cluj, Constanta, Craiova,

¹ Published in Official Monitor no. 128 of 14 June 1925.

² Law on organization of local administration of 3 August 1929, published in Official Monitor no. 170 of 3 August 1929.

³ Published in the Official Monitor of Romania, Part I, no. 73 of 27 March 1936.

Galati, Hunedoara, Iasi, Oradea, Pitesti, Ploiesti, Stalin, Suceava , Timisoara and, for the first time after the union, an administrative entity created on ethnic Hungarian Autonomous Region.

Decree 12 of January 10, 1956, again amended Law. 5/1950 repealing the Arad and Barlad the regions.

Then, by Law no. 3 of 24 December 1960 have been redistribution of territories and rename regions. Hungarian administrative entity was renamed Mures-Hungarian Autonomous Region by putting the same time and territory. Finally, the number of areas has been reduced to 16¹.

The Law no. 2 of 16 February 1968 on the administrative organization of the territory of the Socialist Republic of Romania², in effect today, Romania is organized into the following administrative units: counties, cities and communities.

The drafting committee of the draft Constitution, the idea of regional, historical provinces return to form (with the possible retention of the counties, but only as administrative-territorial districts, and not as local regional authority) has not been accepted (Iorgovan, 1998, pp. 39-42).

The transient, Department of Local Government had the power provided by the Government Decision no. 761/1997³, to fulfill the tasks of promoting regional development policy, pending the adoption of the Law on regional development in Romania, which was to determine both the institutional framework and the principles, objectives and instruments of regional development policy in Romania.

The need for administrative-territorial organization of regional type was demonstrated by the Green Paper highlighted "regional development policy in Romania"⁴.

Green Paper represented a synthesis document aims to establish regional development principles for achieving integration of Romania into the European Union.

Regional development policy objectives proposed in this study are the following:

- preparation for integration into the European and Romanian insurance eligibility for access to EU structural funds for development;
- reducing disparities between different "regions" of Romania;
- integration of public sector activities in a broader concept of regional development.

The study attempted to substantiate the idea that the current administrative-territorial structure of the country, characterized by the existence of the 42 counties can not provide an effective basis for regional development. It is therefore proposed that based on the experience of EU countries to use a smaller number of macro development, obtained by combination of several counties, determined as part of these structures on the basis of assessment development indices and the elements their common or complementary.

The project aimed to introduce a system of statistical data collection methodology adapted European and structured development highlighting macro-regions.

Paper does not contain, however, changes in the administrative-territorial structure of the Romanian state, as macro-economic development regions are structures and not administrative. The question arises whether the widespread application of this system will lead gradually to diminish the role of

¹ For data on the evolution of the legislation see http://ro.wikipedia.org/wiki/Regiunile_Republicii_Populare_Române.

² Republished in the Official Monitor, Part I, no. 3 of 23 January 1981.

³ Published in the Official Monitor of Romania, Part I, no. 338 of 2 December 1997.

⁴ Green Paper-regional development policy in Romania, published by the Romanian Government and the European Commission, PHARE, Bucharest, 1997.

counties as administrative - territorial units in the design and implementation of development policies. On the other hand, the experience of regional development in Romania, has caused some counties are now aggregated in the same macro-regions, have different degrees of development to counties who at that time were focused regional centers and funds the region for their own development.

This explains the current competition between capital cities counties to become the capital of the region. For example, the desire to become the capital of the region of the city of Pitesti, it considers that it meets the requirements to become the capital of a future that will be incorporated regions Arges, given some arguments such as:

- is one of the most important railway junctions in the country and being linked to the capital city and a highway. It is also positioned on the Pan European Transport Corridor IV (also has one of the most spectacular roads in the world, Transfagarasanul, which is ranked 8th in the world in the Top10 of spectacular roads).
- there is the possibility of extending to aerodrome twin Bradu common neighbor Pitesti and turning it into the airport.
- the economic, Pitesti is one of the largest centers of industrial development, especially by car industry, becoming a major exporter and one of the largest contributors to GDP (second contributor after Petrom).
- health and education stands are classified county hospital emergency Pitesti and two universities;
- is the seat of the Court is to Pitesti, among the 15 in the country, which allows organizing this instance at regional level;
- from historically was the capital of Romanian First Campulung Arges, Curtea de Arges belonging to both municipalities.

Currently, the institutional framework, objectives, powers and instruments of regional development policy in Romania was established by Law no. 315/2004 on regional development in Romania¹, but not developing regions and municipalities have no legal personality and therefore be a reform aimed at regionalization of Romania.

Under the provisions of article 3, 1 of the Constitution, republished Romanian territory is organized administratively into communes, towns and counties.

It is therefore necessary to amend the Constitution in order to create the legal framework for regionalization constitutional Romania and then passing bills related to regionalization and administrative decentralization to properly delineate the respective responsibilities of administrative units in Romania.

To achieve the basic objectives of regional development policy, Law no. 315/2004 allowed for the creation of the 8 regions through voluntary association of counties, as follows:

North-Eastern Region - which groups Bacau, Botosani, Iasi, Neamt, Suceava and Vaslui.

South East Development Region - which groups Braila, Buzau, Constanta, Galati, Tulcea and Vrancea.

South-Muntenia Development Region - which groups Arges, Calarasi, Dambovița, Giurgiu, Ialomita, Prahova and Teleorman.

Development Region South West - which groups Dolj, Gorj, Mehedinti, Olt and Valcea.

¹ Law no. 315/2004 was published in the Official Monitor of Romania, Part I no. 577 of 29 June 2004.

Western Region - which groups Arad, Caras-Severin, Hunedoara and Timis.

North-West region - which groups Bihor, Bistrita-Nasaud, Cluj, Salaj, Satu Mare and Maramures.

Central Development Region - which groups Alba, Brasov, Covasna, Harghita, Mures and Sibiu.

Bucharest-Ilfov region - which groups Bucharest and Ilfov county.

Development Region is neither a local distinctive local or decentralized an administrative organs of the central government. Development region is formed on a county level through their association. It constitutes neither by associating basic local territorial communities or by attending only part of a county (Popescu, 1999, p. 150).

Former communist states has an obvious heterogeneity of the organization of the territory. You can still distinguish two major cases:

State organized by departmental system, generally small areas, the size of NUTS 1 regions in the EU, which renders their transition to the regional system.

State organized by the regional system through administrative reforms generally recent (Hungary, Slovakia, Poland) as a measure of administrative systems to connect with those of the European Union countries.

Romania has a distinct event is organized by departmental system, dating, without modification, for 45 years, one of the oldest, characterized by fragmentation on both levels, county and municipal. At the same time, it is the only country that since 1989 has not corrected the failure by administrative reforms.

Administrative reform in Hungary (1990) was to create a higher administrative level, regional, grafted on existing counties, according to the administrative systems of the European Union. Each region included between 2 and 3 counties, with an average size around 13,300 square kilometers, with the exception of the month of the administrative area of the capital.

Administrative reform in Slovakia (1996) was directed towards fragmentation by increasing the number of districts from 38 to 79, in conjunction with the nearly 3,000 existing units locally. It is a typical bottom-up regionalization, new districts responding to the desire of local self-determination.

Although the surface Slovakia can be a single European region, to avoid fragmentation at higher level, districts were aggregated into seven regional units, very different both in size and number of administrative units included.

Administrative reform in Poland (1999) resulted in the reduction of principalities, the senior administrative structures, from 49-16, accounting is, with some exceptions, the existing administrative cutout between 1950 and 1975. Administrative reform of 1950 divided Polish territory, comparable in size to that of Romania, in 17 voivodships, the regional administrative units, 280 units of lower level and 2985 communes as local administrative structures. Subsequent reshuffling of local administration remained regional system, abolished in 1975 when it was suppressed intermediate level into the upper fragment.

Today, more than two decades of revolutionary change in 1989, place increasingly often question whether administrative structures established in 1968, based on political and economic reasons of time, longer correspond to the current state. Some argue whether increasing the number of administrative units, the reestablishment counties "abusive abolished" others either support them to

create fewer administrative structures “European” capable of turning into “strong local territorial communities” with all current administrative-territorial disputes.

Not in terms of the number of regions not reached a consensus and proposed several solutions, some opting for a number of 8 regions, 16 others for a number of regions.

Therefore, it requires an analysis to clarify issues and to provide an alternative solution, a viable model for optimization of the administrative-territorial map of Romania in accordance with regionalization criteria used in EU countries. Romania is one of the largest ex-communist countries that have a large fragmented administrative structures both at the top level and at the local level (42 counties - in fact, 41 counties and in Bucharest, 104 municipalities, 216 cities and 2859 communes)¹.

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¹ <http://ro.wikipedia.org/wiki>.