AREAS WITH SPECIAL STATUS IN EUROPEAN UNION COUNTRIES

Maria-Cristiana IEREMIE[*]

Abstract

In a unitary state, as a rule, the administrative-territorial organization is unitary to the same extent, at least from the perspective of the legal regime. However, every rule has an exception, which is why we can observe the same situation with regard to certain areas whose situation is expressly provided by the fundamental law of each state. It is also the case of several countries that we will study in the content of this article where we will exemplify the legal regime of areas with special status.

Keywords: *public law, European Union, administrative-territorial organization.*

1. Introduction

Areas with special status are specific geographical areas that benefit from a different legal and fiscal treatment than that applied in the rest of the country. These zones are usually established to encourage economic development in areas considered less developed or to attract foreign investment. The autonomy of special status areas in Europe is an important aspect of government decentralization and the promotion of cultural and linguistic diversity. These areas have a certain level of independence and control over their internal affairs and are recognized nationally through specific legislation. The autonomy of special status areas can vary by country and region, but generally refers to the power to make decisions in certain areas such as education, culture, local government, justice and the economy. These areas may have some level of control over local taxes and finances and may be funded by the national government or the European Union through special funding programs.

An important aspect of the autonomy of special status areas is the promotion of cultural and linguistic diversity. These areas can promote and protect the language and culture of local minorities and can be places where local traditions and customs are preserved and promoted. This can contribute to the enrichment of European culture and identity as a whole.

Autonomy of special status areas can also contribute to economic development and innovation. These areas can have a unique economic agenda and can promote tourism and local business through their special policies. Examples of special status zones include free zones, special economic zones, industrial development zones, tourist zones and rural areas. In some parts of the world, these areas have been criticized for failing to genuinely improve economic conditions and for their impact on the environment and local communities.

However, it is important to mention that no confusion should be created between free zones and zones with special status, the latter belonging to the regulations regarding the administrative-territorial organization of a state. Thus, we will analyze the administrative and territorial organization of some member states of the European Union in which we will find situations specially regulated by administrative law regarding territories or their subdivisions that enjoy a separate organization and special laws.

2. Territories with special status belonging to France

France has a very complex territorial-administrative organization, being made up of the metropolitan French territory, being the territory located in Europe and hierarchically divided into regions, departments, arrondissements, cantons and communes, overseas regions and overseas collectivities[1]. There are four overseas regions that enjoy a territorial and administrative organization similar to metropolitan France and are divided into arrondissements, cantons and communes.

These regions are Guadeloupe, French Guiana, Martinique and Réunion and they obtained the status similar to metropolitan regions in 2003. However, the overseas communities are the areas with special status

[*] PhD Candidate, Faculty of Law, „Nicolae Titulescu” University of Bucharest (e-mail: maria.ieremie@univnt.ro).

[1] C.L. Popescu, *Local autonomy and European integration*, All Beck Publishing House, Bucharest, 1999, p. 157.

both from the point of view of administrative organization and from the point of view of the legal regime, respectively of the different regulations in the fiscal, customs and administrative fields[2].

Thus, there are three overseas collectivities namely French Polynesia, Wallis and Futuna located in the Pacific Ocean and Saint Pierre and Miquelon located in the Atlantic Ocean. It is important to mention that until 2011 there was also a fourth overseas community, namely the island of Mayotte, located in the Indian Ocean. As of March 31, 2011, Mayotte became the 101st French department[3]. French Polynesia is organized according to the model of a parliamentary democracy, having a separate government and parliament and is led by the President of French Polynesia[4]. Since 2004, this territory has obtained the status of an overseas collectivity, thus granting it’s autonomy. From the point of view of institutional organization, the Parliament is unicameral and consists of 57 members for a 5-year mandate. The French government is represented in French Polynesia by a high commissioner of the republic. What we can consider unusual is the fact that, despite a fairly vast autonomy, public order and social security is maintained by the French army, which has numerous bases on the territory of this local community.

The next community that we will analyze is represented by the Wallis and Furtuna Islands, located in the Indian Ocean. Similar to French Polynesia, the political system is representative parliamentary democracy, but the head of the territorial parliament is also the head of government. However, what distinguishes the Wallis and Furtuna Islands from the rest of France's overseas collectivities is the fact that they are divided into three kingdoms, having a territorial parliament made up of 20 members elected for a 5-year term[5]. The representative of France at the territorial level is called a superior administrator whose main objective is to approve decisions in the field of civil and financial law. This, together with the three kings who govern each kingdom form an institution called the Territorial Council which has an advisory role.

In the islands of Wallis and Furtuna, justice is carried out through the court located in the capital Mata-Utu and the Court of Appeal located in New Caledonia, according to the rules of French law. At the local level, the situation is different. Thus, in the island of Furtuna there are two kingdoms that coexist and regroup villages, while in the island of Wallis we find three districts that manage the territory with the help of a municipality[6]. We observe special regulations regarding the common property, in the manner in which there is no private property, being only the right of use of a land obtained by the head of the family from the leader of the village to which he belongs. Each kingdom is a legal entity under public law, with its own budget and is administered by a council presided over by the king, which has the obligation to negotiate with the representative of France in order to obtain funding, in addition to the annual donation granted for the salary of village heads as well as administrative workers. We thus note a decentralization of powers on the territory of this community, in order to optimize the administration of the territories as well as the maintenance of public order.

Saint Pierre and Miquelon is the third overseas collectivity that belongs to France and is located in the Atlantic. The administrative organization is similar to the other collectivities, the political system being in the form of a representative parliamentary democracy. The executive power of France sends to the islands of Saint Pierre and Miquelon a prefect, representative of the Government, and the latter have representatives in the French Parliament, respectively a deputy and a senator. The local authority is represented by a General Council and is made up of 19 members elected for a three-year term[7]. This public institution exercises prerogatives in matters of taxation, customs control and urban planning. This French collectivity was noticed in 1992 through a rather heated dispute with Canada regarding the delimitation of the Exclusive Economic Zone, in which France demanded rights over the marine territory for 200 nautical miles citing the United Nations Convention as a legal basis.

This conflict was ended by the Decision of the International Court of Arbitration[8] which ordered France to be granted a continuous zone of 12 nautical miles around the islands, plus a zone of 24 nautical miles towards west and a lane 10.5 nautical miles wide and 200 nautical miles long to the south, representing 18% of French claims.

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[2] C. Debbasch, *Institutions et droit administratif*, vol. I, PUF, Paris, 1976, p. 326.

[3] „Mayotte devient le 101e département français le 31 mars 2011” on the Ministère de l'Outre-Mer website.

[4] J. Moreau, *Administration regionale, departamentale et municipale*, Dalloz, Paris, 2004, p. 199.

[5] *Idem*, p. 204.

[6] J.C. Douence, *Le statut constitutionnel des collectivites territoriales d'outre mer*, in Revue Française de Droit Administratif no. 3/1992, p. 462.

[7] P. Georges, *Organization constitutionnelle et administrative de la France*, Sirey, Paris, 1988, p. 142.

[8] EU Regulation 2020/123 of the Council of 27.01.2020.

3. The legal regime of Mount Athos, a self-governing region on the territory of Greece

In Greece we find a territory with a special status well known globally, which benefits from a unique legal regime, enshrined in history since the time of the Roman Empire. We will therefore analyze, in the content of this article, the administrative organization and the legal regime that this symbol of religion, spirituality and history benefits from. The first manifestation of legal protection on Mount Athos was realized by the Treaty of San Stefano in 1878 and which had effects exclusively on the Russian monks[9]. In addition to this treaty, during the same year the Treaty of Berlin was adopted, it recognized the state of this region equally, but the legal effects were effective this time, on all the monks, regardless of their origin. From the point of view of organization, Mount Athos is a region based on self-government, on certain degrees to be analyzed.

Therefore, self-government of the first degree is exercised by independent monasteries[10], these being 20, a number that cannot be changed by any nature alongside hierarchical order or dependent domains such as cells, hermitages and so on. It is interesting to note that these monasteries are divided into cenobitic monasteries and idiorhythmic monasteries, depending on the way in which its members live together. For example, in cenobitic monasteries there is no personal property, life with all its necessities being lived in common among all its members. Totally anti-theistic is the organization of idiorhythmic monasteries within which monks are allowed to own and manage their own fortunes, as well as support their private lives from their own resources. It is important to note that idiorhythmic monasteries can change into cenobitic monasteries, but the reciprocal is not valid. Currently there are 19 cenobitic monasteries and only one idiorhythmic monastery.

Regarding the regulations in each monastery, they operate on the basis of a regulation in which aspects regarding the management of the monastery, the election of the representative, the rules of coexistence and the management of assets are provided[11]. The second step in the governance hierarchy at Mount Athos is represented by second-degree self-government whose regulations have effects on all persons located on that territory, monks, priests or laymen. The members of the self-governing bodies of this level are elected by the monasteries, independent of the will or preference of the state, and are the only authorities that can resolve any matter in this region[12]. The main body is represented by the Holy Council and is based in Karie, the capital of Mount Athos, and is made up of 20 members for a one-year term, each representing the monastery to which they belong[13]. However, the Greek state is represented by a governor who can participate in the meetings organized by the Council, having the capacity of consultant. The Holy Council itself represents the executive power, being a permanent supreme body, also having the role of a tribunal. He exercises his power through the Holy Epitropia made up of four monks, who by rotation ensure the representation of each monastery once every 5 years[14].

An interesting and worth mentioning aspect is represented by the fact that the Holy Council exercises police and public order prerogatives ensuring the maintenance of the Karie capital in optimal conditions in terms of sanitation, public lighting, food prices as well as the operating hours of shops in accordance with feasts and fast days, monitor the behavior of monks and laymen and watch over the observance of prohibitions on gambling, smoking on the main streets, the prohibition of the sale and consumption of meat on Wednesdays and Fridays, and the like[15].

At the same time, Saint Epitropia has the power to command the police forces and, in case of emergency, can invoke the help of the state police, according to art. 37 of the Charter of Mount Athos. From the point of view of the judicial power, the courts are represented by the monastic tribunals, the Holy Council, the Holy Epitropia and the Ecumenical Patriarchate and the Extraordinary Biennial Assembly of the Twenty. As a rule, disputes regarding the property of monasteries as well as non-compliance with agreements between monasteries and their dependent domains are judged by the Athonite courts. We note that the Holy Council has the ability to fulfill the role of both a court of first instance and a court of appeal.

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[9] G. Noradounghian, *Recueil d'actes internationaux de l'Empire Ottoman*, vol. III, Paris, 1902, p. 192.

[10] N. Antonopoulos, *La condition internationale du Mont Athos*, Venice, 1963, p. 381.

[11] Ch. Papastathis, *The Status of Mount Athos in Hellenic Public Law*, Institute for Balkan Studies, no. 241, Thessaloniki, 1993, p. 55.

[12] Ch. Papastathis, *The Nationality of the Mount Athos Monks of non- Greek origin*, Balkan Studies, 1967, p. 8.

[13] N. Antonopoulos, *op. cit.*, p. 402.

[14] Ch. Papastathis, *op. cit.*, p. 56.

[15] N. Antonopoulos, *La condition internationale du Mont Athos*, Venice, 1963, p. 385.

4. The legal regime of Sicily, a region with special status that belongs to Italy

In Italy there are five regions with special status that benefit from a form of autonomy provided for by the Constitution of 1948, namely Sicily, Sardinia, Friuli-Venezia Giulia, Trentino-South Tyrol and Valle d'Aosta. In this subchapter we will analyze the situation of Sicily from the point of view of administrative, economic and judicial organization[16]. Thus, Sicily is a region that benefits from legislative, fiscal and administrative autonomy provided for by constitutional regulations whose special status is stipulated in art. 116[17] from the fundamental law. This region has exclusive jurisdiction over cultural matters, aspects related to fisheries, agriculture, tourism, local authorities, environment or forest police, the consequence being that employees in these work sectors are subordinate to the region.

With regard to taxation, all taxes collected in Sicily are intended exclusively for this island according to art. 36 *et seq.* of its statute, respectively Constitutional Law no. 2 of February 26, 1948, which grants the Sicilian region full financial and fiscal autonomy. Each year, the Italian state will be required to provide an amount determined by a plan that is reviewed every 15 years from the public funds of other regions, according to article 38 of the statute of the Sicilian region, to finance Sicily. The State will pay annually to the Region, as an act of national solidarity, an amount intended to be used, based on an economic plan, for public works[18]. This amount will be adjusted to balance the difference between labor income in the region and the national average. A 15-year review of this mission will be carried out based on the data previously taken to calculate the amount.

According to the statute, the legislative power in Sicily belongs to the Sicilian Regional Assembly, while the executive power belongs to the president of the Sicilian region and the regional council made up of 12 regional councilors, who cannot be elected to the Sicilian Regional Assembly since 2001. As of May 25, 1947, fifteen legislatures were elected, initially lasting four years and then five years from 1971[19]. The Regional Assembly of Sicily was first elected in May 1947. As of 2017, it is composed of 70 deputies elected by direct universal suffrage, compared to the previous 90. The Regional Assembly is located in Palermo, in the Norman Palace. The Sicilian Parliament, founded in 1130, is considered the oldest in Europe.

Since 2001, the president of the Sicilian region is elected directly by the citizens, not by the regional assembly. The current president, Nello Musumeci, took office on November 18, 2017 and has the seat of the region's presidency in the Orleans Palace in Palermo.

Initially, the statute also provided for the existence of a High Court with judicial powers to judge the constitutionality of regional and national laws under the statute, but in 1957 the Constitutional Court declared it obsolete and its abilities were absorbed by other institutions. Before 2014, the State Commission for the Sicilian Region exercised preventive control over the constitutional legality of the laws of the Regional Assembly, but in 2014, by decision no. 2553, this function was abolished due to the extension of the *a posteriori* control provided by article 127 of the Constitution, for regions with ordinary status[20]. In Sicily, there is also the Council for Administrative Justice (CAJ), which performs at the local level the functions of the Council of State, as well as the autonomous sections of the Court of Accounts, with powers in the jurisdiction and appeal of administrative justice.

To date, some statutory prerogatives have not been implemented due to the lack of appropriate regulations implementing the statute, which must be issued by the Joint State-Regional Commission, according to Article 43 of the statute. This body consists of two members appointed by the Council of Ministers and two by the Regional Council and is responsible for issuing decrees for the application of statutory provisions[21].

5. Conclusions

Special status areas in Europe are a form of regional autonomy that gives local and regional communities a certain level of independence and control over their affairs. These areas are nationally recognized and governed by specific legislation that gives them unique powers and responsibilities. In general, these areas are created to protect the rights and interests of local and regional communities, as well as to promote cultural and linguistic

[16] C.L. Popescu, *Local Autonomy and European Integration*, All Beck Publishing House, Bucharest, 1999, p. 158.

[17] Constitution of the Italian Republic, approved by the Constituent Assembly on 22.12.1947 and entered into force on 01.01.1948.

[18] A. Cuva, *The financial autonomy of the Sicilian Region*, Palermo, 1999, p. 42.

[19] P. Viola, G. Fiume, A. Mastropaolo, L. Azzolina, *Two Centuries of Politics in Sicily*, in Annals of Brittany and Western Countries, Touraine, 2004, p. 117.

[20] J.-Y. Frétigné, *History of Sicily: from the origins to the present*, Paris, Fayard / Pluriel, 2018, p. 58.

[21] R. Cultrera, *Autonomia siciliana*, Studii Economia. Palermo, Industrie reunite Editoriali Siciliane, 1947.

diversity. These areas can be found in many European countries such as Spain, Italy, France, Belgium and the UK. Legislation governing Special Status Areas varies from country to country, but there are some commonalities. In this regard it is important to note that these areas have a certain level of autonomy regarding decisions related to their internal affairs, such as education, culture, local administration and sometimes justice. These areas also usually have some degree of control over their local economy and the taxes collected. In many cases, these areas are financed and supported by the national government or the European Union, through special funding programs.

Moreover, special status areas in Europe play an important role in promoting cultural and linguistic diversity, as well as protecting the rights and interests of minorities. They also provide a platform for innovation and economic development, particularly by promoting tourism and local businesses.

In conclusion, Special Status Areas legislation in Europe is an important way for local and regional communities to protect their rights and interests and promote cultural and linguistic diversity.

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