

THE ADMINISTRATIVE SYSTEM IN FRANCE

DOINA POPESCU¹

Abstract

According to the Constitution promulgated on the 6th of October 1958, with the latest amendments made in 1999, France is a presidential republic. The three authority branches are broadly represented in the French administration: the judicial branch – French courts of law are divided into: judicial courts and administrative courts. Judicial courts are under the supreme authority of the Court of Cassation with jurisdiction to cancel judgments passed courts on inferior hierarchy levels and plays a central role in the appropriate performance of the activity.

The legislative body - normally, the legislation is voted by Parliament. French Parliament is comprised of two chambers: the National Assembly and the Senate. The National Assembly is elected for five years by way of direct universal voting. The Senate is elected by way of indirect universal voting by the electoral group. The election system is based on rules contained in the Election Code. The executive authority is divided between the President of the Republic and the Prime Minister. The President of the Republic makes the appointments for civil and military positions located at the highest state level. The Council of Ministers is responsible for appointing the positions of state councillors, prefect and public administration director. The central government is headed by the Prime Minister. Regional authorities – the regions are free territories administered by elected Councils. As far as the metropolitan part of France is concerned, there are 22 such territories, to which are added other four districts / counties which are located out of borders. The region's Prefect represents the state and is empowered to deploy legal actions in order to protect the state's best interest. County authorities – there are currently 96 de districts, to which four other territories located out of borders are added, as well as the territorial communities of Mayotte and St-Pierre et Miquelon. There are also elected territorial entities, such as the Elected Assembly and the General council.

Keywords: Administration, President, Prime Minister, Regional authorities, County authorities

Introduction

The topic brought to discussion concentrates around two essential elements: on one hand, the significant influence of the French administrative system over the European administrations, but mainly over the administrative structures in Romania, and on the other hand, the controversial character that defines it, especially in the case of a nation with a rich history, discrepant and often violent.

Except for the English people, who became aware of the absurdity of absolute power with a remarkable precociousness, the French people enjoy the primacy in Europe for the courage proved against the obstacles imposed by the state as an independent system/organism, willing to develop a beneficial existence for itself, regardless of the impact that this could have on the individuals that are part of it.

The appearance, the more or less ample development, and the evolution up to the remarkable present, of the French administrative law is strongly connected to the geographical limits (or benefits) specific to this nation, but moreover especially to the socio-political events that took place through centuries, convulsions that are, more often than not, useful in the general scheme for the advanced stage of modernity specific to the present-day administrative organization of the French state.

In order to reach my goals I divided my paper into three sections, the first one dealing with general aspects belonging to the structures of the public administration in European Union countries,

¹ Associate Professor Ph. D., Faculty of Law and Administrative Sciences, Pitesti University, (email: dpopescu@yahoo.com).

including short presentations of certain important European countries systems, emphasizing also various aspects found both in the European administrative structures and French ones, a fact issued either from an imported phenomenon or from simply common evolution.

The second section describes in a more extensive way the French administration, starting from the central level, with the well-known institutions, continuing with the regional level, with traditional, but also recent organisms, up until the local level, regardless the limited range in which it is included. Subsequently, there follows a foray into the decentralization and regionalizing administrative process of the French state, and the events that determined themore and more strong extension of these processes. Of course,I am presenting, negative or problematic aspects as well, but the general perspective is a positive one, according to, for example, the Romanian state, would benefit from such an initiative, tending to reproduce, in conformity with the specific necessities in this area, the French administrative system.

Content

Public Administration Structures in the European Union Member Countries

E.U is not competent neither to bring under regulation nor to reform or reorganize in any way the public administrations and administrative structures of the member states, but the administrative and judicial systems of the member states are bound to adapt themselves to transposing and applying the exigencies of the community law.

The administrative politics of each state of the E.U is a determinant factor of the unitary practice regarding administration at its union level, and the great variety of the great variety of static structures represent one of the characteristic aspects of the European public administration.

Each state has a unique static structure, but we can distinguish common structural elements. In each of the member states there is at least one, but most of the time two or three administrative systems, under central government. In all member states there are many administrative levels, usually known as municipalities or villages. Regarding administrative levels situated between the central level and local level, there can be done a distinction between a regional governing level that exerts in certain states legislative competence, a provincial governing level (or *department, county*) and an inter-municipal governing form.

The European Union has as members federal or quasi-federal states, decentralized unitary states, but also unitary states. The EU's federal states are Belgium, Germany and Austria. In Belgium and Austria the laws issued by regions, communities and lands is not secondary in regard to the laws issued by the federal government. In Germany, there is the notion of hierarchy between the laws issued by the land and the federal laws. Spain can be described as being a quasi-federal state, although it remains a unitary state according to Spanish Constitution. The Spanish Constitution recognizes and warrants the right to auto-government of the nationalities and regions that constitute the kingdom. In practice, autonomous communities have a high level of independency. In case of conflict between the laws of the state and the laws of the local communities, the former prevail against the others always. The decentralized unitary states of the E.U are: France, Scandinavian countries and Holland. Between these states, France has four administrative levels besides the central Government, namely the regions, departments and villages. Holland, Denmark and Sweden have three administrative levels, and Finland only two.

Denmark and Sweden have two systems of counties which constitute the intermediary administrative and municipalities' system. In these two countries, the counties have responsibilities in the health care public sector. In Finland, the municipalities constitute the second level and the most important one. Holland is subdivided in provinces and municipalities. The unitary states of the E.U are Greece, Luxemburg and Portugal. In these countries, the central administration is far away from the strongest government level. There are only two levels of government in Ireland, Luxemburg and Portugal (except for the two autonomous regions Azore and Madère). In Portugal, a referendum organized in 1998 in order to establish administrative regions with executive competence did not

receive the people's approval. In Greece, there are three administrative levels. In 1994, the prefectures were transformed into "prefectorial autonomous governments" based on the democratic principle.

Great Britain represents a special case. For a long time it is a unitary state in which legislative competence belong to Westminster. Nevertheless, a radical change took place recently. The process of delegating responsibilities to Wales and Scotland lead to the creation of a Welsh Assembly and to a Scottish Parliament that exert legislative competence. This process, together with creating The Northern Ireland Assembly and its executive Committee of ministers, modified the unitary character of the United Kingdom of Great Britain.²

Consequently, public administrations have the form ministers placed under the authority of a minister. There can be done the distinction between state members, a case in which ministries are very vast and integrated and the member states where ministries are entities with relatively small, specialized in issuing policies, while the agencies are created in order to put into effect these policies. The majority of European countries sit in the first category. Denmark, Finland, Sweden and Great Britain sit in the second category, although in Denmark and Great Britain we find quite large ministries/departments.

The administration of Swedish government is divided in very small *ministrials* (or ministries) and in central administrative authorities (or executive agencies). The 270 agencies are independent of the government in areas regarding the law enforcement and exerting the authority on private sectors or on local authorities. Administrative authorities have an independent position, different from the ones that the government and the Parliament have (*Riksdag*), which, to a certain extent, it is similar to with the role of the courts in certain member states. When the administrative authorities enforce the law in each case, they have the right to do it without the interference of the political authorities of the state.

Great Britain, by all account, doesn't have a written constitution in the form of a single document, but it comprises three Acts, namely: Magna Carta, Habeas Corpus and Bill of Rights. The most important trait of the British Constitution is the so-called "Parliament's supremacy". This means that the parliament can adopt or reject any law that it wants and that its decisions prevail against those taken by the courts. This aspect provides the British minister and his Cabinet a lot of power because as long as they control the majority in the House of Commons, they can issue any law they want. There are states where the regional authorities of the state depend on two or more ministries from the central level, like the regional offices of the Government of Great Britain. In some member states, the political leader are assisted by their own "Cabinet", which keep the contact with the public administration. Such Cabinets can be found in Belgium, France, Italy, Spain and Portugal. The Cabinet's staff is usually very bound to their minister or to their vice-minister according to their political choice.

2.The French public administration

According to the Constitution which was promulgated on 06.10.1958, and which was last amended in 1999, France is a presidential republic. The legislative power consists of a bicameral parliament consisting of: Senate (321 members, of which 296 represent the metropolitan France, 13 the overseas territories and 12 the French from abroad) and the National Assembly (577 members, 555 in France and 22 in the overseas territories; the deputies are directly elected for a term of 5 years). The executive power is exercised by the president, who appoints the Council of Ministers, headed by a prime minister.

The Council of Ministers is accountable to the Parliament. The head of state, the president, is elected by direct vote for maximum two terms of seven years each.

² Filipescu, Ioan, Fuerea Augustin, *European Institutional Law*, page 21, Compertex SRL Publishing House, Bucharest, 1994

For the last 10 years the modalities of the division of tasks and responsibilities have changed in France. A considerable autonomy was granted to territorial authorities (regions, districts, municipalities). In parallel, the central government delegates its responsibilities gradually, through the prefect, the representative of each district and the head of all state decentralized services. French courts are of two types: judicial courts and administrative courts. Legal courts are under the supreme authority of the Court of Cassation (*Cour de Cassation*), which has the power to annul decisions of the lower levels Courts, and play a key role in the proper course of work. For civil cases, there are Law Courts (*Jurisdiction d'Instance*), the Supreme Court (*Tribunaux de Grande Instance*) and the Court of Appeals (*Cours d'Appel*), which are 22. For criminal cases, there are police courts for committing crimes, and for other types of punishments the Courts of Correction work. Administrative courts are subordinated to the State Council. It includes simple administrative courts, and according to recent reforms, there are Administrative Courts of Appeal and Specialized Courts, especially in the financial sector: Regional Court and Court of Auditors

The executive authority is divided between the President of the Republic and the Prime Minister. Nominations for the jobs concerning civil and military activities on the highest level of the state are up to the President of the Republic³. The Head of the Government is the prime minister. The Government consists of a Prime Minister, a large number of ministers and state secretaries.

The Government's structure may vary. Some ministers are called ministers state secretaries and have an important role in the government team. They may be seconded by other ministers. No member of the Government can be member of the Parliament. There are about 20 ministerial departments with administrative structures quasi-permanent. Ministers and state secretaries have their own cabinets run by assistants. The Prime Minister, who is appointed by the President of the Republic, is responsible for the actions of the Government. It organizes the activity of the government and is helped by assistants and by the General Secretariat of Government. The general Secretariat of Government has a central role in carrying out many administrative proceedings involving the government. The Structures that are under the authority of the Prime Minister are: General Directorate for Administration and Public Services, Inter-Informatics Center of Administration, Information and Broadcasting Service, the General Secretariat for National Defense, the General Secretariat for International Cooperation which correlate the work of the ministries with the European legislation and ensure the implementation of decisions of the European Union. The department-ministries can be created or dissolved by a decree and the responsibility of each ministry is established by orders of the Council of Ministers after consultation with the State Council. Each ministry is under the leadership of his own ministry, which may be assisted by ministers, delegations or state secretaries. The ministry may issue orders to implement the content of laws, but also special instructions for the administration staff. Regions are free territories administered by elected Councils. For the metropolitan territory of France there are 22 plus four districts/departments from abroad. They are regions by law: Martinique, Guadeloupe, Guyana Reunion. The government applied in Corsica has several features. In these communities outside the country, deliberative assemblies and regional councils were formed, whose members are elected by universal suffrage for six years. The prefect of the region represents the state and is empowered to take action to protect the legal interests of the latter⁴. These regions have benefited from the principle of free administration of local authorities, which was first established for villages according to the Constitution, departments and oversea territories. The principle of free administration is not in itself a source of regulatory power, unless there is express legislative provision to that effect. The normative power of the region is indeed, in view of its powers, lower than that of the villages or departments and particularly than

³ Datar, *Les contrats de plan État-Région*, page. 94, *La Documentation française*, Paris, 2002

⁴ *Les collectivités décentralisées de l'UE* (sous la dir. d'A. Delcamp), page 57, *Les études de la Documentation française*, Paris, 1994

the mayor's. The regions can neither carry out nor arrogate a trusteeship to any other local authority on their territory.

Unlike the regions that have been created recently, there are still districts ever since the French Revolution. Currently there are 96 districts, plus other four from abroad and the territorial communities in Mayotte and St-Pierre et Miquelon. There are also territorial entities such as the elected Assembly and the General Council. General Councillors are elected for six years based on an election ballot known as "Elections régionales" organized within each district. Elections are held every three years for half of the members of the General Council. Public services are developed and provided within the districts.

3. The Institutional Decentralization

The French administrative structure is formed of 3 platforms of decentralized territorial communities: the regions, the departments and the commons(the municipalities). These divisions are governed by elected territorial authorities⁵. France has 22 (plus 4 overseas) regions: 21 metropolitan regions and a special statute for Corsica, a region with its own Assembly and its own Government. Each region (the app. surface: 24.700 km², the app population: 2. 470.000) is formed of several departments (counties, part of NUTS 2 classification). The four territories overseas (Réunion, Martinique, Guadeloupe, Guyane) derive benefit from some facilities specific to the regions. Every region is managed by a Regional Council. Its members are chosen directly through universal suffrage every six years through a mixed list of votes (majority for half of the positions, proportionality for the other half). Its President, chosen from the members of the Council, is the chief of the region's executive and the manager of the regional administrative team. Every region has, starting with 1964, a Prefect of the Region named by the Government. As representative of the state, his authority extends above all the external services of different governmental department's existent in the region. At the same time, he is also the county prefect of the region's capital. He has authority over the prefects of the region's counties, which seem to exist since 1789. France is divided in 96 metropolitan departments and four territories over the sea. A special status has the French capital, Paris, which is both a village and a department. The departments are led by a County Council, and its members are chosen half through direct universal suffrage, at every 3 years. The President is elected by the members of the County Council and he represents the executive of the department and the chief of the county's administrative team.

Villages, departments and regions collect, each for its own income, different taxes. For example, the regions collect taxes for the driving license or for the registration certificates of the vehicles, the tax for every type of vehicle (tailpiece) being collected by the departments. The actual territorial administrative organization in France (villages, departments, regions) jelled gradually after the 2nd World War, as an answer to the necessity of the constitution of the geographic field, whose dimensions could allow a real planning and politic to set up the territory and the economic development.

Conclusions

By aproaching this subject I tried to accentuate the features of the Frech administrative system, for each level, as well as the aspects that bears the institutional descentralization also on each level. Romania, although it looked for borrowing French system elements , hasn't gone on to institutionalze an administrative system yet, which, as well as the French one, to put it in the center of the European systems.

Therefore in Romania, in a future review of the Constitution, it should have in view the absolutely positive aspects of the French administrative system and in the same time it has to take

⁵ Ionescu, Cristian, Op. Cit., „Sisteme constituționale contemporane”, Casa de editură și presă șansa” - S.R.L. Bucuresti, 1994. page 142

into account tradition and our appropriateness when they would set measures the new country territorially administrative organisation. For that purpose the new decentralization has to update the present system and to simplify the territorially administration by disappearing counties and setting up regions in the future years. It should allow a greater budgetary independence to the cities and villages so as the poll could better control local collectivity expenses; introducing some performance indicators of municipality, cities and villages public services The regions have to produce developing projects for the whole region in a coherent and predictable way. Regions have to coordinate in between them to assure projects coherence at a national scale among the developing regions, Not lately, regions have to take part together with the gouvern to elaborate and implement cohesion policy.

References

- **John Loughlin**, *La vision européenne du rôle des régions et de l'autonomie régionale*, Pouvoirs locaux, Le cahiers de la décentralisation, no. 70/2006
- **Ionescu Cristian** „Sisteme constituționale contemporane”, Casa de editură și presă șansa” - S.R.L. Bucuresti, 1994
- **Ioan Alexandru**, - „Dreptul administrativ și Uniunea Europeană”, Editura Lumina Lex, București, 2007
- **Ioan Filipescu.; Augustin Fuerea**, - „Drept instituțional european”, Ed. Compertex S R L, București, 1994
- **Gérard-François Dumont**, *Les régions et la régionalisation en France*, Ellipses, collection „Transversale Débats”, 2004.