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Central Administration Specialized in States of the European Union

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Abstract. The way of administrative organization in a state is one of the elements that give it identity. The national peculiarities considerably influence this aspect together with the long historical evolution of each state. It is interesting to analyze the legislative discrepancy in terms of regulations on central public administration institutions in different states of the European Union in order to ascertain the historical and customary imprint on the laws in force.

Keywords: state organization; central public administration; European Union

1. Introduction

Public administration reflects the institutional foundations of how countries are governed (Holmberg & Rothstein, 2012). Analyzing this aspect, we find that public administration responds to the needs of society and operates on the basis of organizational structures, processes, roles, relationships, policies and programs. As we well know, it influences sustainable economic prosperity (Kaufmann & Zoido-Lobatón, 2013), social cohesion and the well-being of people (Hallerod, Rothstein, Nandy & Daoud, 2013, pp. 19-31). Along with social trust, thus determining the conditions for creating public value. Institutions have a key role to play in setting the right incentives, reducing uncertainty and ensuring long-term prosperity. Weaknesses in public administration can create significant obstacles to the

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functioning of the single market, regional and local investment[1], as well as innovation.

Some European Union countries have consistently made conscious efforts to boost the performance of their administrations, while other countries have needed to reconsider the foundations of their administrative system. The current pace of social, technological and economic change requires that all public administrations adapt to new realities. The European Union supports efforts in this regard through funding, technical standards and tools, analysis, peer exchange, guidance and technical assistance.

The last two decades of reforms in the Member States have improved to some extent the cost-effectiveness of public administration. We note, therefore, that institutions have become more open and transparent, access to services has increased, and their quality has improved. Looking at the perspective of the administrative organization, the wording belongs to the legislator. Thus, the Romanian model is not unique in the European space, in many fundamental laws there are many similarities regarding the public administration as well as the regulations on executive power as is the case of some states such as Greece, Ireland, the Netherlands. Next, we will analyze the constitutional models of some states of the European Union in order to create a perspective on the model of organization in administration at European level.

2. Administrative Organization in Portugal

In this chapter we will analyze the organizational model from an administrative point of view in Portugal. It is very important to mention that the Portuguese Constitution is one of the most developed constitutions in the European Union, comprising a total of no less than 296 articles. What draws our attention, however, is the fact that there are no express and clear regulations on the specialized central administration, not even regulations that mention issues that may create a legislative framework in this area. We thus find that it is up to the legislator to ensure a complex legislative framework on the relevant stipulations.

Further analysis of the Portuguese Constitution we will find in Title IV regulations on central government bodies, entitled Government. Thus, in the content of articles

[1] Committee of the Regions, "Results of the CoR's online consultation on barriers to local and regional investment", Secretariat of the Committee on economic policy (ECON), Brussels, September 2016.

182 and 183 respectively, the Government is defined and subsequently mentioned its composition as follows: "1. *The Government shall consist of the Prime Minister, Ministers, Secretaries and Undersecretaries of State. 2. The Government may include one or more Deputy Prime Ministers. 3. The number, names and responsibilities of ministers and the offices of secretaries of state, as well as the means of coordinating them, shall be determined in each case by the decree appointing the officials or by an executive law* "[1]. Moreover, the Council of Ministers is regulated as well as the manner of its composition as Prime Minister, Deputy Prime Ministers and Ministers. Thus, the content of article 184 stipulates that: "*1. The Council of Ministers is composed of the Prime Minister, Deputy Prime Ministers, if applicable, and Ministers. 2. The law may provide for the establishment of specialized councils of ministers, responsible for certain areas of activity or topics. 3. The secretaries and undersecretaries of state may be requested to participate in the meetings of the Council of Ministers*". We note that the legislative text also mentions the possibility of setting up councils of ministers that specialize in various matters. Mention is also made of stipulations regarding the political and criminal liability of members of the Government.

Advancing in our analysis, in art.199 of the Portuguese Constitution we find norms regarding the authorities of the central administration as well as regarding the administrative competence of the Government as stipulated as follows: *"In exercising its administrative duties, the Government has the following attributions: elaboration of National Plans based on the respective major options and ordering their implementation; b. ordering the execution of the state budget; c. developing the necessary regulations to ensure that the laws are properly implemented; d. guiding the departments and civil and military services of the state and all activities under its direct administration, supervision, indirect administration and control of such activities of indirect administration or autonomous administration; e. execution of all acts required by law in relation to the staff and agents of the state and other public corporate entities; f. defense of the democratic rule of law; g. the execution of all acts and the issuance of all necessary provisions in order to promote social and economic development and to respond to collective needs* ". An interesting thing to note is that in recent decades we have seen a trend of transferring the prerogatives of ministries to agencies that have been created and operate independently of the Government. Their main role is the execution of

[1] Constitution of the Portuguese Republic.

administrative decisions without the interference of the state (Bossaert, 2002, pp. 31-32).

3. Administrative Organization in Finland

The Constitution of Finland contains in Chapter IV, under the title "Government and Administration", a series of provisions related to the presidential institution, the Government and the central and local administration. Thus, the President of the Republic is elected for a term of six years, by 301 voters, fulfilling the obligation to be a Finnish citizen by birth. According to Law no. 738 of February 13, 1982, the conditions for voting and electing voters are the same as for the appointment of members of the House of Representatives.

An interesting thing about the organizational model of the administration in Finland is that this state does not know the institution of the vice president. If the president is prevented from exercising his duties, his prerogatives are fulfilled by the prime minister, and if he is also in a situation that does not allow him to fulfill these duties, by the minister who takes the place of the prime minister.

The main duties of the President, according to the Finnish Constitution, are as follows: convene in extraordinary sessions the House of Representatives, order elections, open and close parliamentary proceedings, have the right to issue decrees on administrative matters not within the competence of the Government, provided that they do not include changes in the laws, may pardon or reduce the sentences, with the opinion of the Supreme Court, be the supreme commander of the armed forces, may grant Finnish nationalization to a foreign national or approve the withdrawal of Finnish nationality, oversee the state administration, conduct foreign relations and the like.

The decisions of the President must be taken during the meetings of the Council of Ministers, at the proposal of the ministers, they being signed by the president and countersigned by the relevant minister.

As for the members of the Council of Ministers, they must enjoy the confidence of the House of Representatives. They are elected by the President from among Finnish nationals, known for their honorability and ability. An important provision that we signal is the one inscribed in art.36 par.2, which stipulates that *"the Minister to whom the problems regarding the administration of justice belong and at least one of the other ministers must have a legal formation"*. We also mention

the provisions of art.37, which stipulates the following: *"The Council of Ministers will have to include a Chancellor of Justice, who must have a thorough knowledge of the law. The Chancellor will be assisted by a Deputy Chancellor of Justice, who will replace if necessary*"[1].

Analyzing also the attributions of the Council of Ministers, the following provisions inscribed in art.40 The Council of Ministers is ran by the Prime Minister, and in his absence by a designated minister, moreover the problems of the Council are debated in the plenary sessions of the Government, except for those which by decree were conferred on a certain minister, in his capacity as head of the ministry in question.

It is also important to note that the members of the Council of Ministers are responsible for their management before the House of Representatives and at the same time there is the joint responsibility of ministers for the decisions adopted, unless they have expressed differing views on the issues in question.

Moreover, if a decision of the President of the Republic, transmitted to the Council for execution, is considered illegal by the Government, it may, after consulting the Chancellor of Justice, request the President to withdraw or amend it. In the same note, if the Government or one of its members acts illegally in the exercise of its functions, the Chancellor of Justice has the right to see and, if this is not considered, to enter it in the minutes of the Council meeting or to inform the President of the Republic. If the President decides to impeach ministers, the accusation before the High Court will be upheld by the Chancellor. The Chancellor has the right, in case of committing acts of high treason, by the President of the Republic himself, to notify the Chamber of Representatives. For the acts performed in the exercise of his function - except for the mentioned situations - the President cannot be imputed.

Following the brief analysis of the Finnish Constitution, we notice numerous similarities with the constitutional regulations in Romania. A fact that attracts our attention, however, is an element of particularity of this state. Therefore, specific to Finland is the fact that two ministers can work together in the same ministry, at the same time, one minister can perform tasks belonging to two ministries. We can thus exemplify the case of the Minister of Commerce, who belongs both by the Ministry of Foreign Affairs and by the Ministry of Trade and Industry (Vedinaș, 2020).

[1] Constitution of the Republic of Finland.

Such situations are the consequence of negotiations between political parties before the creation of a coalition government. This creates the possibility for two parties to have one representative for each ministry.

4. Administrative Organization in Austria

According to the 1955 Constitutional Law, Austria is a democratic republic, the right of which emanates from the people (art. 1). Austria is also a federal state composed of the following autonomous Länder: Burgenland, Karnten, Niederosterreich, Oberosterreich, Salzburg, Styria, Tyrol, Voralberg, Vienna.

Particularly important provisions are set out in Article 9, which reads as follows: "*(1) The generally recognized rules of public international law are considered to be an integral part of federal law. (2) The Federation may transfer by law, or approve by virtue of a treaty, pursuant to paragraph 1 of Article 50, certain rights of sovereignty of international institutions and their bodies and to subject to the provisions of public international law the activity of foreign state bodies in the federal territory as well as the activity of Austrian bodies abroad*"[1].

We note, regarding the military service, the provisions of art. 9 paragraph (3), which enshrine the possibility of performing alternative services. The division of responsibilities between the legislative and executive bodies of the Federation and the Landers is regulated in Article 10. Issues relating to: the federal constitution, foreign affairs, regulation of control of entry and exit are considered to belong to the legislative and executive powers of the Federation, federal territory, federation finances, currency, credit, civil law, security and public order, railways and air traffic, mines, forests, labor law, public health, federal police and gendarmerie, and so on.

In certain areas specified by art.11, the legislative power belongs to the Federation, but the executive power belongs to the Landers. Such areas are, for example: nationality, traffic police, inland navigation, projects that may have an impact on the environment. In other areas referred to in Article 12, the legislative power belongs to the Federation but only in terms of "fundamental principles", the Länder having the promulgation of the implementing laws and the executive power. Such problems refer, for example, to: assistance to the poor, public institutions for extrajudicial mediation of disputes, agricultural operations and repopulation, plant

[1] Constitution of the Republic Austria.

protection, electricity. The Länder belong, both from a legislative point of view and from an executive point of view, to a series of fields such as agricultural and forestry education, the status of teachers and educators in these forms of education.

A provision that we consider to be as important as possible is the one from art. 15 para. 1 which provides that *"Insofar as the federal Constitution does not expressly assign a matter to the legislative or executive power of the Federation, this matter belongs to the field of autonomous action of the Landers".*

In matters within the competence of the Länder, they may conclude treaties with the neighboring states of Austria, or with their federal states (art. 16 para. 1), but the Federation has a right of control (art. 16 para. 5). As regards the European Union, the Constitution of Austria provides in Article 23 lit. (a) that Members of the European Parliament, representing the Republic of Austria, shall be elected in accordance with the principle of proportional representation by equal, direct, secret and personal suffrage of all men and women. Who have reached the age of 18 on 1 January of the election year and who have Austrian nationality and are not deprived of the right to vote under the provisions in force for the European Union. According to the provisions of art. 23 a) paragraph 2, for the elections in the European Parliament the federal territory of Austria constitutes a single constituency.

Further analyzing the Legislative Power of the Federation, it is exercised jointly by the National Council and the Federal Council according to art.24. The National Council (Nationalrat) is elected in accordance with the principles of proportional representation, by equal, direct, secret and individual voting. The Federal Council (Bundesrat) represents the nine Federal Lands.

The National Council comprises 183 deputies and the Federal Council 58 representatives; the legislature of the National Council has a duration of four years, and the Federal Council is partially renewed like the French Senate, after the provincial elections.

In the Austrian bicameral system, the National Council occupies a preponderant position. The Federal Council has only a suspensive veto. However, it only becomes effective if the Lander's interests are affected. The National Council is the only one that can dismiss the Government through a motion of censure; in fact, the composition of the Government also depends on the majority of the first Chamber.

In legislative matters, the initiative belongs to the members of the National Council, the Federal Council or one third of the members as well as the federal

government in the form of bills. Constitutional laws or constitutional provisions contained in ordinary laws may not be adopted by the National Council unless at least half of its members are present and if they meet by a two-thirds majority of the votes cast. Any amendment to the Federal Constitution must be submitted to a referendum, in which all citizens with the right to vote will participate.

The members of the National Council and of the Federal Council have a legal status similar to the parliamentarians from all democratic countries: immunities, inviolability, incompatibilities, etc.

5. Conclusion

The complete and complex approach of the different systems of public administration in contemporary Europe raises many issues of public comparative law, both constitutional and administrative, because the approach to executive issues must be made in the context of the fundamental laws governing those companies, including their status and prism existing political regimes, of course democratic, older or relatively new, which exercise their prerogatives of power in harmony with fundamental civil rights and freedoms. On the other hand, it is imperative to know the evolution of European administrative law, starting with its genesis from the Middle Ages to the present day, when we witness an obvious process of its constitutionalization, but also of uniformity in the context of European community integration. Analyzing the principle of separation of powers in the state according to which in a state operate three fundamental systems of authorities, namely the legislative power, creator of laws, executive power, called to apply them, and the judiciary, invested with the attribute of sanctioning their violation, we arrive at the conclusion of the existence of an own and intermediate position of the administration between the other two systems.

Therefore, the creation of the first regimes and democratic states led to the establishment of the principle of separation of powers in the state, but with nuances, especially practical, very varied from state to state, hence a different evolution of the concept of executive power or public administration, which is highlighted in the analysis on the model of administrative organization of the states presented above.

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