DOCTORAL THESIS

DECENTRALIZATION: COMPARATIVE STUDY

SUMMARY

Scientific coordinator:

Dan Claudiu Dănișor, PhD Professor

PhD Student

Nedelcu Paul-Iulian

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Doctoral thesis' scheme

Thesis Subject

The theme of this thesis is the decentralization in the Romanian governing system and the evolution modality in the European Concert, where the European Union is a social experiment, put under the pressure of economic, cultural globalization and where the modality of reaction of member states is the main observation object. Along with related subjects, we deemed as necessary and convenient the critical analysis of the consequences of the regulation by this normative instrument, all the more that the Constitutional Court of Romania declared it as non-constitutional.

The aforementioned thesis constitutes a challenge, both for theoreticians, and for practitioners within the science of public administration but also of those working within the administrative system. At the same time, the theme shows interest for lawyers too, as explaining notions constitutes points of interest for those still practicing. Subsequently, account should be taken of the fact that good administration is at the same time a concept, a principle, but also a right. Starting from these realities, our scientific approach is meant to be a starting point in defining the good administration concept at the level of local communities and providing a behavior pattern of local public administration in the relation to the citizen.

In **"Introduction"** I have treated the concept of "decentralization" which is determined by the practical need to balance by the concept of "centralization" of a new concept and of the mechanism relating to it,

expressing by ”decentralization” an opposite tendency, namely the tendency to transfer the decision and execution from one decision pole to several, from the center to the periphery or, otherwise put, from the central office to the territory.

In current thinking, decentralization is an instrumental attribute for democracy and implies the idea of autonomy. The analysis of public administration in our country with regard to decentralization requires the detailed presentation of the aspects of this phenomenon, taking account of the current reform process of the public administration in Romania, going from a strongly centralized structure of local administration to a decentralized one.

Decentralization of the public administration should represent a phenomenon proper to an administrative organization system, which allows human communities to govern themselves under state’s control, which would give them legal personality, allows them to constitute own authorities and equips them with the necessary means. By decentralization, public administration becomes more effective and more operational, issues of interest to the population are no longer filed in ministerial offices, but are now resolved locally, under maximum efficiency.

Also, I have carried out a critical analysis of the regulation by the ”Law on the establishment of measures for decentralization of central public administration and public servants”.

The first part of the work is concerned with administrative regimes, evolution of the legal framework of the idea concerning local autonomy and state sovereignty.

To this effect, the analysis focused in the first chapter ”State sovereignty”, on the concept of state and concepts related to it, which are

determined by historical circumstances, the state concept being first and foremost an idea, a product of human intelligence. As a regulator of the political battle, it has to ensure a homogenous basis to put it above divergent social interests. The liberal state, single party state or pluralistic party have all tried, each in its manner, to respond to this requirement.

Basically, I think that state is a human society on a set territory and subjected to a politically and juridically organized power with a sovereign feature. The state comprises elements such as territory, population, an organized power leading the group, a social, economic, political and juridical order that power aims as a goal. In other words, the state is a human group, fixed on a determined territory and in which social, political and juridical order, oriented toward a common good, is set and maintained by an authority equipped with compelling power.

The main feature of organized power leading the group or otherwise put, state power, is sovereignty. The issue with sovereignty is one of the most important and as a consequence, one of the most researched themes in juridical literature in general, in public law- be it internal or international – especially. Opinions expressed in relation to the importance of sovereignty for the existence of the state and for the definition of its standing in international relations have been and still are diverse; the extreme opinions are: generalization of the idea that sovereignty is necessary and useful, namely denial of sovereignty's necessity.

Although the scenery of the theoretical concepts covers a wide range by the convergence of opinions of most authors of works in the field of the science of law has allowed the finding of real constants in the matter, with an almost axiomatic value, generally shared and acknowledged by the scientific community.

As shown in the specialized literature, the notion of sovereignty is a fairly recent one. The systematizing of the idea belongs to J. Bodin. In accordance with the classic theory of sovereignty, a potential definition of sovereignty – as formulated by J. Laferrière- is:"rightful power originary and supreme". According to this theory, sovereignty has three features: 1) is a rightful power; 2) is an originary power; 3) is a supreme power.

Also, I have shown that with regard to the political organization of power, the public right doctrine operates with three large notions: unitary state, federal state and union of states. There are authors who analyze each of the three notions distinctly and on the same design, authors who group research on the one hand, in the analysis of the two forms of the state (unitary and compound) and, on the other hand, in the analysis of the unions of states and authors who research on the one side, unitary state, and on the other side, together, federation and unions of states. As far as we are concerned, we think that scientific analysis should consider differently the state (*with its two forms*) and differently the union of states; between the two notions and realities there is a crucial difference.

Analyzing the notion of state, we are obliged to include the two fundamental forms of organization, more exactly the *unitary or simple state* – in which there is one normative power regulating the entire territory, one juridical order and one political power – *and the federal or compound state* – pattern in which there are several centers of power simultaneously, the state being divided both in terms of political organization, and in terms of juridical order -, classification having as criteria the degree of juridical unification of society.

In the analysis of the unitary state we showed the fact that it is indivisible in terms of legal order, and the territorial division can be

performed only administratively. In the case of the federal state the division operates equally on the level of political organization and on the level of legal order, and of a territorial point of view, on the same territory there are two states superimposed and two complete normative systems. As showed in the specialty literature, this method of classification has as criterion the "vertical division of power", division that refers to the methods of relations arrangement between different territorial echelons of power, when dividing it between „Center and Periphery", more precisely, this refers to distribution of state normative power between the central power of the state and the intrastate communities.

In the second chapter I analyzed the issue of local autonomy, I took into consideration the notion of administrative-territorial unit where the territory of the unitary state (the discussion is valid, *mutatis mutandis*, also for the federal state territory) is divided, from an administrative point of view, into administrative-territorial units.

The phrase of administrative-territorial unit has two distinct meanings, of local territorial collectivity and administrative-territorial circumscription, which are used according to the nature of the state administrative regime, as we will further see, namely either a decentralization regime or a deconcentration one.

In other words, on the one hand, by administrative-territorial units we understand the ranked administrative-territorial circumscriptions, where the state deconcentrated authorities exercise their territorial competence. For example, in Romania we have county administrative circumscription in the case of the prefect, of the County Direction for work and social welfare or of the General County direction for public finances and state financial

control and, respectively, communal or city circumscription, in the case of the communal or city police station.

It is to be mentioned, nevertheless, that there are territorial circumscriptions not only for the public administration authorities, but also for the law courts, thus existing in Romania circumscriptions of courts, tribunals and courts of appeal. Obviously, however, in the case of the Parliament, we cannot speak of territorial circumscriptions. The territorial-administrative units represent, on the other hand, the local territorial collectivities, respectively the inhabitants, the population inhabiting on a certain area of the state territory, existing an administrative legal organization and distinct proper local public interests. The local territorial collectivities define the regime of administrative decentralization or of local autonomy. We should underline the fact that, as showed in the specialty literature, the territorial-administrative unit becomes a law subject only when it receives the acknowledgement of local territorial collectivity and not when it represents a territorial–administrative circumscription. Therefore, the territory animation with inhabitants transforms the territory administrative division in a definition operation for certain law subjects.

We prefer the term of local territorial collectivity, and not those – also used – of territorial collectivity or of local collectivity. These last two phrases are incomplete, the first referring also to the state (national territorial collectivity), and the second omitting to underline the territorial criterion, essential for their definition[1]. Certainly, the phrase of local territorial community is synonymous, even though it can suggest an increased degree of cohesion.

[1] For example, in France, the Constitution uses in art. 34 the phrase *local colectivity* and in art. 72 that of territorial colectivity.

We showed that the unitary state is a state centralized from a political point of view. However, from an administrative point of view, we can speak of several legal regimes in the relations between the center and the territory. More precisely, in the specialty literature a distinction is made between the administrative centralization regime, the administrative deconcentration regime and the administrative decentralization regime (of local autonomy). The German doctrine uses the terminology of direct state administration and indirect state administration in order to designate the administrative activity exercise by the state itself, respectively by delegation by the local territorial collectivities. Any of these legal regimes is a territorial administrative regime, and therefore it concerns only the public administration, without taking into consideration state's political unity. Consequently, the administrative regimes exist within the unitary state, and not outside of it or against it. Obviously, the administrative regimes exist also within the member states of a federation, representing an internal issue of the federate states, and not one of the federal states.

It is an axiomatic truth the fact that there cannot be only public administration central organs within a state. According to a famous formula, the government can be remotely performed, but the administration can be executed only from close range. With the singular exceptions of the micro-states, it is unconceivable to find a state that does not have, besides a central administration, territorial administrative structures. Therefore, except for the states with an extremely reduced territory, a state cannot be administrated exclusively from the state legal center, from the capital, where the central authorities have their headquarters (in principle), the central services being insufficient, but resulting from social practice as being necessary exterior administrative services, implanted in the territorial–administrative units.

The third chapter „International and internal regulations concerning the principle of local autonomy". As provided in the specialty literature, the socio-historical realities in Europe at the end of the 20th century determined the European Council to initiate the elaboration of a local autonomy Chart. Starting from the project presented by the Local and Regional European Powers Conference, a commission of governmental specialists under the authority of the Steering Board for Local and Regional Problems elaborated the text of the Chart. After the project was examined and improved by the Consultative Assembly and by the Conference of the European ministers responsible for the local collectivities, from Rome in 1984, the project was adopted by the Committee of Ministers of the European Council, under the form of a convention on October 15, 1985. Romania signed the European Convention for local autonomy on October 4, 1994 and it was ratified by the Parliament by means of Law 199/1997.

This document governed by covering the lack of common European standards in the matter, being the first multilateral juridical instrument defining and protecting local autonomy, having the adhesion and the recognition of those whose actions are essential in the protection of local autonomy, of democratic states and governments in Europe.

As consented through the provisions of the European Chart of local autonomy, the principle of local autonomy was governed as fundamental principle for the organization and function of the public administration in Romania in art. 119 of the Romanian Constitution from 1991 and in Law 69 from 1991, being taken over in art. 120 paragraph (1) of the Constitution republished in 2003 and in Law 215 from 2001. This measure of the Romanian legislator contributed to the consolidation of democracy in

Romania, to the decentralization of Romanian public administration and to the public services quality increase.

Concerning the constitutional regulation of the local autonomy principle, I analyzed and made certain specifications on the following articles of the Romanian Constitution:

- art.121, paragraph (1) stipulates the local public administration authorities that perform the local autonomy within cities and communes;

- art.121, paragraph (2) stipulates the legal nature of authorities, demonstrating that they have functional autonomy at their disposal in solving the local interest issues;

- art.122, paragraph (1) stipulates the legal nature of the county council, this being an authority of the public administration for the coordination of communal and city councils' activity, in order to perform the public services of county interest;

- art.121, paragraph (1) and art.122, paragraph (2) establish the election by direct, equal, secret and freely expressed vote, as swearing method for the mayor, for the local communal, city, municipal, county council;

- art.123 regulates the legal regime for nomination, the main attributions and the administrative tutelage.

As indicated in the specialty literature, we can speak of a first form of government during the period of monarchic absolutism, in the so-called curia regis, which could be found in many European countries, and in the Romanian Countries in the Ruling Council. In the Romanian Countries the ministries as specialty authorities of the central public administration were created by the Organic Rules, but the Government appeared only after the Unification of the Principalities. The Government, as freestanding authority,

is a creation of modern times; it appeared with the first constitutions, implicitly with the proper administrative law. The basic regulation of the governmental institution, either it is named Cabinet, Council of ministers, State Council, Executive Council etc. resides in the fundamental state law. These regulations refer to the Government role, to its attributions, principles of organization and operation, relations with the Parliament.

Part II of the thesis "Government and central administration – comparative analysis" is dedicated to the interpretation of Government attributions (first chapter), according to the provisions of art.11 of Law 90/2001:

„a) performs the general control of public administration;

b) initiates bills and submits them to the Parliament for approval;

b^1) issues points of view on the legislative proposals, initiated in compliance with the Constitution, and transmits them to the Parliament, within 60 days from the date of application. The failure to comply with this deadline equals with the implicit support of the initiator's form;

c) issues decisions for the organization of laws execution, ordinances on the grounds of a special law for empowerment and emergency ordinances according to the Constitution;

d) provides the execution by the public administration authorities of the laws and of the other normative dispositions given in their enforcement ;

e) elaborates bills for the state budget and for the state social insurance budget and submits them to Parliament approval;

f) approves the strategies and programs for state economical development, on branches and fields of activity;

g) provides the performance of the policy in the social field according to the Government Program;

h) provides the protection of rightful order, of public order and citizen's safety, as well as of citizens' rights and liberties, in the conditions stipulated by law;

i) carries out the adopted measures, according to law, for the state protection, purpose for which it organizes and endows the armed forces ;

j) provides the performance of the state external policy and, in this framework, Romania's integration to the European and international structures;

k) negotiates the treaties, the international agreements and conventions that engage the Romanian state; negotiates and concludes, in the conditions of the law, conventions and other international settlements on a governmental level;

l) administrates and controls ministries activity and the other subordinated central specialty authorities;

m) provides the administration of state's public and private property;

o) establishes, with the approval of the Court of Auditors, subordinated specialty authorities;

p) cooperates with the social organisms interested in the fulfillment of its attributions;

r) accomplishes any other attributions provided by law or that result from Government's role and functions."

The second chapter deals with the „Ministries and specialty central authorities". The ministries are specialty authorities of the central public administration that perform the governmental policy in their respective fields of activity.

The ministries are organized and function only in Government's subordination. The ministries or other specialty authorities organized in the subordination of the Government are controlled by ministers, after winning

their confidence vote in the Parliament. The ministers are responsible with the entire ministry activity before the Government, as well as before the Parliament as members of Government. The ministries and the ministers are approved by the Parliament, by winning their confidence vote on the Program of government and on the entire Government list, when invested.

The Prime Minister can solicit to the Parliament to modify the Government structure by setting up, disbanding or, as the case may be, dividing or consolidating certain ministries, and he can solicit the Parliament that certain ministers receive the quality of state minister for the coordination of certain ministries' activity. The ministries that are coordinated by each state minister are determined by the Prime Minister in case of governmental reshuffle. In case of governmental reshuffle or of position vacation, the Romanian President, at Prime Minister's proposal, revokes and nominates the ministers. The ministries are legal entities and they have their headquarters in Bucharest.

The third chapter, „The prefect –Government's representative in the territory" takes into account the fact that the Prefect is a traditional component of the Romanian public administration. In Muntenia and Moldova the prefect existed since before the Unification of the principalities fro January 24, 1859. Thus, in 1746 Constantin Mavrocordat established the county sub-prefects, and, at the proposal of Barbu Dimitrie Ştirbei, the secretary of the commission constituted for the elaboration of Wallachia Organic Regulations, they were designated rulers, being nominated by the lord for three years, having only administrative attributions and a county office made up of a chancellor, a deputy chancellor and two writers or copyists.

The unification of the Romanian Principalities imposed as an objective necessity the reformation of the administration structures in order to perform the consolidation of state unity and, due to the fact that a modern state can exist only with an administration organized on principles corresponding to the state level of modernism. The entry into force of the Law for county councils establishment from April 2/14, 1864 in corroboration with the communal Law voted on March 10, 1864 and sanctioned by the lord on March 31, 1864 marked the demarcation between the stage from the administration history settled in the feudal patterns" and the stage homologated by the modern historical movement based on the events from 1789 in France, on Tudor Vladimirescu's revolution, on the Revolution from 1848 and on the Unification from January 24, 1859. The communal law attributed to the urban and rural communes the quality of legal entity, fact that entitles them to represent and to defend inhabitants' interests and the position of mayor was established. The law for the county councils establishment created a new institution on each county level, institution that received the role of representing the collective and economical interests on a local level: each county council included a permanent committee. From the ancient laws it comes out that the counties management required cooperation between deliberative authorities and executive bodies. Thus, the prefect and the sub-prefect were the representatives of central power in the county and also administrators of local interests.

The county council had the role of deliberative body, and the permanent committee was an administrative authority with executive and deliberative attributions whose president was the prefect. The Law from 1864 was modified by the Law from March 1872 and then

by the Law from March 1, 1883, normative document by which the defining attributions for the prefect competence were restricted. According to this normative document, the prefect was only an agent executing the council's and committee's decisions that he entrusts to the permanent committee president. The prefect had to offer him his necessary cooperation. By the Law from November 1, 1892 concerning the organization of exterior administrative authorities, depending on the Ministry of Internal Affairs and the establishment of administrative circumscriptions, it was settled that: the prefect nominated by royal decree is in the leadership position of each county, at the recommendation of the Ministry of Internal Affairs and represents its executive power within the entire circumscription submitted to his administration.

The legislation before the Unification from December 1, 1918 and the laws from 1925, 1936 and 1940, starting from the organizational model of the department in France, attributed to the prefect the quality of head of the decentralized county administration and the quality of government representative in the county. As shown in the specialty literature, as compared to the mayor – who also had a double quality: head of decentralized communal administration and governmental representative in the commune – the prefect is first of all the local representative of the central power and only second of all the head of the decentralized county administration. The prefect was part of the hierarchy in the Ministry of Internal Affairs, being named by decree, at the proposal of the minister of Internal Affairs. It comes out that the county administration at the respective time was characterized by an inferior decentralization degree than the communal administration.

Concerning the prefect's two qualities certain observations are imposed. Being the Government's representative, the prefect had the quality of body of control and supervision, being able to inspect ministries' exterior services, except for those of the Ministry of National Defense and of those of the Ministry of Foreign Affairs. The prefect also had the right and obligation to supervise and control the rural and urban communes, the activity of the charity and social welfare institutions in the county. The prefect had the attributions of preventing crime augmentation, taking care of maintaining the order and public security, of ordering the police and gendarmerie structures, of giving dispositions in case of natural calamities, of exercising the administrative trusteeship. Being the head of the county administration, the prefect also had the quality of hierarchic head of all county clerks. He had the prerogative of nominating, promoting and authorizing county clerks, having also competence in the engagement of their disciplinary responsibility. Still as head of the county administration, the prefect had the competence for administrating county interests, for taking care of all county public services, for administrating the county patrimony, for ordering the amounts, for signing all documents on behalf of the county, for representing the county at court, etc.

The legislation concerning the public administration in force before 1918, the Law for administrative unification from 1925, the administrative Law from March 27, 1936 regulated the function of prefect as a political function, the prefect being nominated from the citizens who were not clerks of career, but who benefited from the trust of the government and, implicitly, of the ministry of internal affairs and who complied with certain legal terms. For example, the Law for administrative unification from 1925 stipulated that a person, in order to be able to become a prefect, should have been 30

years old and hold a graduation diploma from a higher institution of education acknowledged by the state, except for those who worked in the respective position for at least a year. Being a public clerk, prefect's revocation from the position could have been performed at any time.

By the Law for administration organization from 1929 the prefect became only Government's representative in the county, exercising the attributions of head of county police, governmental body of control and supervision in the county, bringing his contribution to the execution of the county council decisions and to those of council delegation. We can state that by the Law from July 15, 1931 for the modification of certain dispositions of the Law for local administration organization from 1929, in Romania there were two prefects on a county level: the political prefect whose main attributions have already been presented and an administrative prefect.

Chapter IV „Autonomous administrative authorities" takes into consideration the local autonomy which is intimately related to the question of local territorial collectivities dimensions, therefore to an issue of territorial-administrative organization. To an equal extent, the local autonomy, through the strength of local territorial collectivities, also depends on the number of types of local territorial collectivities, namely on the number of intermediate levels between the basic collectivities and the national collectivity.

Moreover, it presumes wide competences for the local territorial collectivities, by the proper administrative authorities, in order to satisfy inhabitants' most various public interests, in relation to the increase of their needs and complexity. To an equal extent, the increased competences claim adequate human, material and financial means, a corresponding economical

force. It is an axiomatic certainty that only local territorial collectivities that are sufficiently big and by this, sufficiently strong, can really be the financial resource of a true decisional autonomy, in the conditions of amplifying the range of material competences.

A comparative analysis on a European level demonstrates conspicuously that the quasi-general trend is towards size augmentation and by this, the increase of the local territorial collectivities strength, in the absence of this evolution the local autonomy remaining propagandistic. Small, poor local territorial collectivities will never be really autonomous, remaining always dependent on the support given by the state or by the local territorial collectivities organized on a higher level, in order to be able to survive. Nevertheless, this dependency, irrespectively of how much the text would formally claim the existence and guarantee of local autonomy, buries the idea of local autonomy itself.

In the Western Europe, the decentralization policy manifested significantly starting the '60 - '70, aiming at rationalizing the decentralization, with two fundamental objectives: administrative reorganization and competences distribution. The reforms of the administrative map aimed at two important directions: the reorganization of the basic local territorial collectivities, by reducing their number and by increasing their dimension, and the regionalization. In parallel, it was aimed at the non-multiplication of the number of inferior echelons.

Part III of the thesis „A comparative analysis of politico-administrative systems” takes into account the analysis of various politico-administrative systems in Europe and North America.

In the analysis of the regionalization concept and of the notion of region extremely different political and administrative realities are covered in

the European states. Thus, regionalization can be a political regionalization (Spain, Italy); an incorporations regionalization, as a result of the creation of a unitary state by joining several states, and that maintains a certain individuality (United Kingdom); a diversified regionalization, with regional frameworks determined not only according to the territorial and political criterion, but also to other criteria , such as language and culture (Belgium, before being turned into a federal state); a classical administrative regionalization, by decentralization, creating the regions as local territorial collectivities autonomous from and administrative point of view (France); a functional regionalization, by deconcentration, creating the regions only as mere circumscriptions of state administration (Greece); a regionalization by cooperation, creating the regions as institutionalized forms of cooperation between local territorial collectivities (Romania).

The political regionalism manifests in Spain and Italy, which are regional states (states of autonomies, autonomous states), a form at the limit between the national and the federative states.

According to Spain's Constitution, the surrounding provinces (provinces that are local territorial collectivities, a superior level as compared to the basic one, represented by the communes) having common historical, cultural and economic characteristics, the insular territories and the provinces with historical regional entity can be governed by themselves and can constitute themselves into autonomous communities. Consequently, the creation of autonomous communities is not compulsory and it must not cover the entire territory either. They dispose of statutory autonomy, and competences distribution between them and the state is performed by the Constitution. There are 27 autonomous communities that benefit from the

legislative power as well as from institutional structures comparable to those of a state.

The general rule, within a unitary state, the territorial administrative organization is, also, unitary, in terms of the state territory legal equality. Exceptions can also exist to this rule, but only if they are expressly recognized by the Constitution or if the fundamental Law allows the ordinary legislator to determine them.

Thus, the French Constitution regulates the departments oversea and the territories oversea. Concerning the departments oversea, the legislative regime and their administrative organization can be subject to certain adaptation measures claimed by their special situation. The territories oversea have a special organization, taking into consideration their own interests, in the ensemble of Republic's interests. The Law also determines special norms for big cities administration (Paris, Lion and Marseille), for the Parisian region (Ile de France), for Corsica and for the regions oversea.

France, Italy, Spain, Romania. In all the states of the European Union, the executive is subject to Law (Law, loi, wet, statut, lov) or whatever the specific notion designated for parliament legislation. Concerning the different bodies of the European Union, these are authorized to act only in specifically designated ranges, which are established in formal and precisely defined provisions. Moreover, they have at their disposal a complete system for rights protection, system in which the European Court of Justice represents the central element.

Therefore, there is a unity of visions for the member states up to there where the concept of state governed by law in the most general terms was performed, in the sense that any exercise of the executive power should be discrete and limited according to law.

The French administrative law system is marked by the principle of lawfulness. Lawfulness should be understood in a wide sense, according to the classical notion of legal provision, as being any legal/juridical constraint to which the executive submits: The principle of lawfulness applied to the administration expresses therefore the rule according to which the administration should act according to law. This means that the executive should act according to the written law (Constitution, statutes, regulations). The Constitution of the 5th Republic has a central significance in the basic division of powers between the state bodies, but it has a more reduced importance as measure of administrative control lawfulness. The administration can be also empowered by the statute to make rules in the issues governed by Parliament's authority. The discretionary powers from which the executive benefits are nevertheless limited by the general written law principles, and the customary law does not play an important role. The administration must also submit to international treaties. According to art. 55 of the present Constitution, the treaties and the agreements ratified on time/correctly, have the priority as compared to the national laws. Finally, the administration must obey the European Union Law, which is now acknowledged by the State Council after a certain hesitation in the beginning, in the sense that its direct effect and superiority are acknowledged. In France, the lawfulness guarantee for the administrative activity is exercised first of all by the administrative tribunals and at the top by the State Council, that historically speaking played a decisive role in limiting the executive's powers.

Germany, Switzerland, Belgium, USA, CANADA. Amongst the 27 member states of the EU seven states are hereditary monarchies: Belgium, Denmark, Spain, Luxemburg, Great Britain, Holland and Sweden. The

advantage of this election method for the state leader is given by the unprecedented stability of the institution that is totally depoliticized. This does not mean that monarch's personality and the political parties cannot impress a certain political character on the institution, but only that the mandate, the succession to the throne is not the result of a political game, in normal conditions.

Indirect election is performed through an electoral body or by the Parliament; this mechanism is used in eight EU member states: Czech Republic, Estonia, Federal Republic of Germany, Greece, Italy, Latvia, Malta and Hungary.

Direct election, through universal vote, has the highest use percentage. Thus, twelve EU member states are republics where the Chief of the state is chosen directly by the people: Austria, Bulgaria, Cyprus, Finland, France, Ireland, Lithuania, Poland, Portugal, Romania, Slovakia and Slovenia. Through this last mechanism for designating the chief of the state the sovereign character of the respective state's people is emphasized. In the EU member states we can observe that most of them adopted five years-mandates for the Chief of the state, irrespectively whether elected directly or indirectly. After France, that had a mandate of 7 year, adopted the instauration starting from September 24, 2000 of a 5 years mandate, only two other states having the 7 year mandate remained at the level of the EU: Ireland and Italy , one with 6-years mandate – Austria but also a 4-years one – Latvia. Also, in most of the cases, the European states established the same mandate limitations for the chief of the state as Romania, exceptions being Italy and France where the presidential mandate can be renewed without limitations and without being interrupted.

The constitutions, in their majority, provide the immunity of the chief of the state. Thus, the monarchic constitutions clearly stipulate the inviolability of king's person, art. 88 Belgium's Constitution and art. 56, paragraph 3 Spain Constitution, and sometimes even his sacredness, § 13 Denmark's constitution.

Administration in Great Britain. The United Kingdom of Great Britain and Northern Ireland represents a unitary state (an incorporated union) where the legislative regime is not uniform for all regions (England, Wales, Scotland, and Northern Ireland). We can therefore state that at the basis of the incorporated unions formations there are, mainly, historical factors: England conquered Wales in 1536, Scotland in 1707, Northern Ireland in-between 1800-1921. Great Britain is a unitary state where four nations coexist. The British administrative tradition has as distinctive element the heterogeneity. England, Wales, Scotland, they have each specific local organizations. The local authorities divided on two levels, the county and the district, hold important powers putting into practice the governmental policies. The autonomy of these authorities is nevertheless delegate by the legislator being able to be withdrawn at any moment. In England it is interesting to observe that the legal representative of the central administration is not the state, but the Crown. Its executive powers are derived from documents of parliament and from royal prerogatives (from the customary law) and are exercised by ministers in the name of the Crown.

Normally, the ministers are empowered directly by the parliament, but even then they function as servants of the Crown. Starting with the seventies, an increasing number of quasi-governmental and quasi-nongovernmental organizations („*quagos*" and „*quangos*") were detached from the ministerial departmental structure. Great Britain is a hereditary

constitutional monarchy. Where the chief of the state rules, but does not govern.

In conclusion, although criticizable, the bill concerning the establishment of certain decentralization measures for certain competences exercised by certain ministries and specialty bodies of central public administration as well as of certain reform measures concerning the local public administration authorities and the public clerks, we appreciate that it is extremely useful and extremely necessary at this historical moment, and this is why the Decision of the Constitutional Court must be enforced at once and the non-constitutionality reasons removed.

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