REFLECTIONS ON THE 1923 CONSTITUTION. ON THE PRINCIPLE OF DECENTRALIZATION

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ABSTRACT

This paper explores the principle of decentralization within the context of the 1923 Romanian Constitution and the subsequent challenges posed by the 1925 Administrative Unification Law. It examines the tension between centralization and decentralization, highlighting the evolving roles of prefects, sub-prefects, and notaries as representatives of central authority in local administration. The study argues that despite the constitutional emphasis on decentralization, the 1925 law reinforced centralization, leading to significant political and administrative controversies. Key debates from the period reveal how historical, cultural, and political factors influenced legislative decisions, particularly the preservation of Romania's unitary state character. The article also discusses the implications of these administrative reforms on local governance, autonomy, and the efficiency of public administration. By analyzing parliamentary debates and legislative texts, the paper sheds light on the interplay between political power and administrative organization, emphasizing the need for a balanced approach to decentralization that accommodates local needs while maintaining national coherence.

KEYWORDS: *administrative reform, decentralization, local governance, Romanian Constitution (1923)*

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1. INTRODUCTION

The principle of decentralization has been a pivotal theme in public administration, serving as a mechanism for balancing local autonomy with national cohesion. The 1923 Romanian Constitution marked a significant step in embedding decentralization within the legal framework, emphasizing the need for administrative organization laws at county and communal levels to uphold this principle. However, the implementation of the 1925 Administrative Unification Law posed considerable challenges, as it leaned heavily towards centralization, undermining the spirit of decentralization envisioned in the Constitution.

This paper delves into the historical and political context of these reforms, analyzing the roles of key administrative actors such as prefects, sub-prefects, and notaries. It explores the legislative debates and societal implications of these changes, highlighting the centralist tendencies that dominated the period. By examining the intersection of political power and administrative organization, this study provides insights into the complexities of governance in interwar Romania, raising questions about the efficacy and sustainability of centralization as a model for state administration.

2. THE PRINCIPLE OF DECENTRALIZATION IN THE 1923 CONSTITUTION

Decentralization was perceived by the legislator "not as an autonomous administrative body like in the Middle Ages, disconnected from other administrative bodies, but in close and continuous collaboration."

The 1923 Constitution stipulated in Article 108, paragraph (2), that the administrative organization laws of county and communal institutions would be "based on administrative decentralization," as opposed to centralization (1923 Constitution of Romania).

A decentralized administrative organization can be identified when "… administrative organizations are recognized as having legal personality and assets (the commune and the county had legal personality), when these organizations have authorities that are not part of the central hierarchy, when they are subject to a specific form of control called administrative supervision, and when certain public services are detached from the competence of central authorities (Tarangul, 1944).

Administrative decentralization can be broader or narrower depending on how its defining components are regulated by law. The degree of administrative decentralization essentially depends on the number of public services entrusted to decentralized authorities (territorial decentralization) and the manner of organizing and exercising administrative supervision." (*ibidem*)

Under the new Constitution, which was based on "preserving the national and unitary character of the country in the application of administrative decentralization," the draft law and subsequently the law established the county and the commune as administrative units, endowed with legal personality (Articles 1 and 2), while the territorial subdivision, without legal personality (Article 7), included several communes "to facilitate supervision, ensure the enforcement of laws, and provide proper administrative guidance." (*ibidem*)

Decentralization was not easy to achieve politically, as it had to be implemented without altering Romania's national and unitary state character, while also accounting for the fact that, at the time of Unification, various forms of decentralization coexisted within the four administrative regimes of the united provinces. (Monitorul Oficial, 1925)

Regarding this "cultural mosaic," during the Parliamentary Debates in the Romanian Senate on March 31, 1925, opinions were fiercely contested:

"For instance, adopting laws from Finland, where the cultural level of the population is almost uniform, and where there are no differences in mentality, customs, or traditions, is not a difficult task. But it is challenging in our case, where the gap between the primitive shepherd in the mountain depths and the highly educated intellectual is so vast, perhaps even greater than the gap between a toddler just learning to walk and speak and a fully grown adult. It is difficult to create laws because they must apply to everyone, and even more challenging is to introduce an administrative law designed to organize numerous issues concerning individuals and society."

Political opinions were outright irreconcilable, especially when considering the administrative-territorial architecture proposed by the Liberals on one side and the National Peasants' Party on the other.

3. CENTRALIZATION AND THE 1925 ADMINISTRATIVE UNIFICATION LAW

The draft law, developed by C. Stere in 1929, envisioned broad local autonomy, limiting the central government's right to intervene in the internal affairs of communes and counties. It also proposed the establishment of a new administrative unit—the province (Scurtu, 1983). During the debates on the Liberal government's draft law, Ion Vescan, speaking on behalf of the National Party in the Senate on March 22, 1925, stated that the current government lacked the political and moral authority to present the country with an organic reform proposal for its administrative organization. He argued that the current legislative bodies were unfit to enact laws that concerned the very existence of the State and its permanent interests.

The National Party opposed the administrative reform proposed by the Liberal government, deeming it flagrantly at odds with the principles of a modern administration rooted in the democratic idea of local autonomy, which was, in their view, "the only means to mobilize all healthy and honest forces across Greater Romania." (Monitorul Oficial, P. III, 1925)

A Transylvanian senator criticized the substance of the Liberal draft law: *"An administrative organization based on the old centralist framework, which for over half a century has stifled the development of county and communal institutions and the growth of civic awareness—the sole foundation of a conscious democracy—can only serve the interests of party absolutism and culminate in the despotism inaugurated by the current government and prepared by all its present legislation." (ibidem)*

Analyzing the parliamentary debates on the draft law, it can be stated that few laws voted by the Romanian Parliament sparked as much uproar and unleashed such political passions as the Law on Local Administration Organization. The reasons for this interest were manifold, most stemming from the relations and rivalries between the major political parties. Each party, considering its historical contributions to the Great Union, felt obliged to promote such an important law, foundational to the organization of the State's administrative life, rightly called the country's second Constitution.

The democratic behavior of opposition parties was not met with understanding by the ruling National Liberal Party. The Liberals rejected any argument referring to realities in the historical provinces, where aspects of administrative organization were recognized by experts as being even more advanced than those outlined in the new administrative organization law.

The lack of political compromise between the majority and the minority was evident in statements such as:
"First, they have not yet become accustomed to the purpose, role, and power of majorities; they fail to understand that a country where the minority does not recognize the majority, does not recognize the laws and actions of the majority, is a country—or rather becomes a country—that forfeits its right to exist."

The 1925 law sparked numerous controversies and even harmed the State by repealing partially better provisions, motivated purely by unjustified pride or the opportunism of unification. Enormous difficulties arose due to the lack of continuity in legal norms, the population's overt distrust in the authorities tasked with enforcing the law, and, not least, the negative atmosphere created by the provisional nature of the system, including the constant threat of abolishing the institutions established under this law. Even C.D. Dimitriu, as the Rapporteur, paraphrased his party leader, I.I.C. Brătianu, during parliamentary debates, acknowledging the project's shortcomings but refrained from amending any article or paragraph in line with the opposition's views, stating:
"The law is not perfect; it is perfectible. Who could ever imagine, who could ever claim, that I would come forward with a perfect law?" (Monitorul Oficial, P.III, 1935)

The 1925 Administrative Unification Law also conflicted with the provisions of the 1923 Constitution. The principle of decentralization, stipulated in the fundamental law, was not realized because the county prefect, as a representative of the central authority and simultaneously the head of the county administration, restricted the activities of local administrative bodies and even dissolved them with little procedural formality and even less scruple. In its effort to enshrine the unitary character of the State, the law largely continued the centralizing tradition of the Old Kingdom of Romania.

Centralization became the administrative system throughout the country, representing a significant regression compared to the existing organization in the historical provinces. Local and county interests were governed according to regulations and financed by resources provided by the central authority, administered by officials directly appointed by the central government. It was well known that this outdated system, already contested in the Old Kingdom before 1918, was being adopted. *"Centralism implies the necessity for the State to hold in its hands not only interests of a general nature but also those of a local character, whereas autonomy means that the management and administration of local interests are entirely entrusted to the locals, to those primarily concerned with these interests."* (*ibidem*)

The Rapporteur, aware of the advantages of local autonomy, emphasized that it *"can yield admirable results when used wisely,"* but *"not when it enables various territorial divisions of a State or various parts or cells of its political organism to develop at the expense of the State's general interests."* (*ibidem*)

4. POLITICAL DEBATES AND LESSONS LEARNED

C.D. Dimitriu insisted that it was appropriate for the State, *"always vigilant,"* to ensure the timely oversight of *"the proper and correct fulfillment of the functions of the various bodies called to work for the benefit of the entire organism." (ibidem)*

He agreed that *"every commune and county should have as vibrant and prosperous a life as possible,"* but stressed, *"let us always remember that the primary goal is the life and prosperity of the entire organism, the life of the State."* This, he argued, must be ensured through effective control over the functioning of the State's components—communes and counties—a task that must be carried out by the central authority (*ibidem*).

In the liberal legislator's vision, the transfer of authority and administrative and financial responsibility from the central level to local public administrations had to be carried out "within the limits of general interests." (*ibidem*)

Under the spirit of the 1925 Law, three actors represented central authority within local administrations: prefects, sub-prefects, and notaries.

The prefect—a Napoleonic creation originating from the eighth year of the Great French Revolution—was maintained in the exact form outlined in the Civil Code until the modification of the French Constitution in 1958. Before 1958, the prefect was the government's representative and the head of the administration in the department where they served. After 1958, in France, the prefect became primarily the representative of the State and national interests, followed by their role as the government's representative and head of the department.

In Romania, according to the Law on County Councils, No. 396 of April 2/14, 1864, Article 91, the prefect was the "head of county administration, directing all works of this administration and executing the decisions of the County Council."

The 1925 Law, Article 3, paragraph 2, described the prefect as the government's commissioner attached to the County Council. In this role, the prefect oversaw the legality of acts adopted by the County Council and the Permanent Delegation. If the prefect identified any illegality, they had the right and duty to appeal to the government within ten days of the act's adoption (if they were present at the meeting) or from the date they were informed. The appeal was suspensive of execution.

In both the draft law and the 1925 Law on Legislative Unification, the prefect became a political official rather than an administrative one. During parliamentary debates, it was suggested that the prefect should "have a career background" or be accompanied by a second prefect elected to lead the County Council. Representatives of the National Party supported and argued for the proposal of having two prefects, "one administrative and one political." (Monitorul Oficial, P. III, 1925). The idea was rejected on the grounds that coexistence between the two prefects "would be absolutely impossible—detrimental to good administration." (The 1929 Law, discussed below, later regulated the institutions of the political prefect and the administrative prefect.)

Regarding the career prefect, concerns were raised about the irresponsibility of recruiting such a public official. (This position would later be introduced in the 1938 Administrative Law, Article 97, paragraph 2). From the pool of county administrators in the Old Kingdom and the annexed territories, out of 351 prefects, 129 held university degrees, 35 were officers, 51 were former notaries, and 46 were appointed based on exceptional laws without any educational qualifications. In Bessarabia, out of 54 prefects, only 7 held academic titles, 24 had no formal education, and 23 were former active-duty officers.

Considering the method of appointing prefects, it is evident that they were designated politically and represented the government in the county through the Ministry of Internal Affairs.

The distinction between political, administrative, or career prefects is highly significant, as their legally conferred powers allowed them to politically influence local administration.

In the 1925 legislator's vision, the prefect "represents the entire government, corresponds with other ministers, and may inform various departments of the issues they identify and the improvements that need to be made." At the same time, the prefect was the head of the police in urban communes and the head of the gendarmerie in the county (Anuarul pentru toți, 1929).

The legal instrument through which the prefect imposed the will of the central authority on local interests was established by the provisions of Articles 78 and 333 of the law.

According to Article 78:

"The mayor and members of the Permanent Delegation may be removed by a motivated decision of the communal council, adopted with a two-thirds majority of the total number of councilors. The council may only pronounce removal for reasons of 'poor administration, evident acts of incompetence, bad faith, or culpable negligence that compromise the commune's interests, acts against the order and security of the state, or criminal acts.'"

The council was notified by a motivated proposal from the Minister of Internal Affairs for urban communes serving as county capitals and by the prefect for other communes, or by at least one-third of the councilors. Decisions of the communal councils concerning the removal of mayors and members of communal delegations were immediately communicated to the prefect for rural and non-county-seat urban communes, and to the Minister of Internal Affairs for other urban communes. These decisions became final if, within ten days of their communication, they were not overturned by the central authority. Those removed had the right to defend themselves within

the same timeframe. Overturning a decision could only be pronounced based on the advice of the County Delegation or the Superior Administrative Council.

When the mayor or members of the Permanent Delegation committed acts against the security and unity of the State or failed to implement general-interest measures ordered by the central authority, they were removed even if the council was not notified by the proper authorities. If there was disagreement with this measure, "removal is enacted by Royal Decree, issued based on the motivated report of the Minister of Internal Affairs with the advice of the Superior Administrative Council."

Article 333 of the law granted the prefect a dual role—as both a representative of the central authority and as the head of county administration.

As the head of county administration, the prefect was the hierarchical superior of all officials, whom they appointed and dismissed in conjunction with the Permanent Delegation of the County Council (Article 334). The prefect also held disciplinary authority over these officials.

The sub-prefect was likewise a representative of the central authority and bore a "significant obligation, namely, to hold monthly conferences with all subordinates to establish contact with key collaborators and simultaneously to become familiar with the needs of various localities." (Monitorul Oficial, P. III, 1925)

Unlike the prefect, the sub-prefect was a career civil servant. Notaries could also be appointed as sub-prefects if they had five years of experience and held an academic degree or a diploma from a lower administrative school.

The notary served as the representative of the central authority in rural communes. Until the early 20th century, notaries were recruited in the Kingdom without requiring special training. However, the 1908 law established four schools for notaries, followed by two higher schools by 1925. The law granted notaries job stability after two years of service and the possibility, under certain conditions, to become sub-prefects. Consequently, the notary was also regarded as being "within the administrative hierarchy among the representatives of the central authority" (Article 366).

Administrative decentralization required the elimination of the "*plasă*" as an institution with legal personality. The reasoning was to grant communal administration independence, freedom, and initiative in its decision-making processes (*ibidem*).

In a logical administrative system, the "*plasă*" was in clear contradiction to the principle of decentralization. Interestingly, it was retained as a territorial subdivision without legal personality—Article 355—managed by a *plasă* pretor.

The *plasă* pretor reported directly to the prefect and carried out the decisions of the Council, the County Delegation, and any other tasks assigned through laws and regulations. The prefect could delegate part of their responsibilities through written decisions, but not on a permanent basis.

The principle of administrative decentralization, widely invoked in the draft law and parliamentary debates, remained only on paper. Under the 1925 Law, centralization became the

administrative system, whereby county or local interests were governed according to the norms and regulations established at the central level, by institutions set up by the central authority, administered by officials appointed by the central government, and funded through financial resources allocated from the Center.

Even one of the project's supporters acknowledged the lack of genuine decentralization, noting:

"A time will come when administrative decentralization can be properly debated in a future Senate and Chamber, just as we discussed it in our Study Circle." (*ibidem*)

5. CONCLUSIONS

The 1923 Constitution marked a pivotal moment in Romania's administrative evolution, laying the groundwork for a governance model that prioritized decentralization. It highlighted the importance of empowering local administrations with legal personality, autonomy, and the capacity to manage their own resources. However, the subsequent adoption of the 1925 Administrative Unification Law demonstrated the inherent difficulties of translating constitutional ideals into practice. Instead of fostering decentralization, the law reinforced a centralized administrative framework that limited the independence of local governments, often prioritizing the central authority's control over regional and communal interests.

The implementation of the 1925 law was influenced by a combination of historical, political, and cultural factors. At its core was the desire to maintain the unitary character of the Romanian state, particularly in the context of unifying diverse territories with varying administrative traditions. This objective often clashed with the principle of decentralization, resulting in a governance model that leaned heavily on centralization. Prefects, sub-prefects, and notaries, as representatives of the central authority, were instrumental in enforcing this model, frequently undermining local autonomy in favor of centralized oversight.

Parliamentary debates during this period revealed profound political divisions regarding the appropriate balance between centralization and decentralization. While the Liberal Party championed centralization as a means of ensuring national unity and administrative efficiency, the National Peasants' Party and other opposition voices advocated for greater local autonomy, rooted in democratic principles. These tensions often translated into legislative deadlock and a lack of meaningful compromise, further complicating the implementation of decentralization.

The legacy of the 1925 Administrative Unification Law is one of missed opportunities for balanced governance. By subordinating local interests to central authority, the law hindered the development of robust local institutions capable of addressing the unique needs of their communities. It also perpetuated a reliance on central oversight, which stifled innovation and local initiative, ultimately weakening the administrative fabric of the state.

Reflecting on this historical period provides valuable insights for contemporary governance. The challenges faced in the interwar period underscore the complexity of implementing decentralization in a manner that respects local autonomy while safeguarding national cohesion.

For modern policymakers, this serves as a reminder of the need to design administrative frameworks that empower local authorities without compromising the integrity of the state. The principle of decentralization, if properly implemented, can foster more responsive, efficient, and equitable governance.

As Romania continues to navigate the demands of modern governance, the lessons of the interwar period remain highly relevant. The balance between central oversight and local autonomy remains a delicate yet critical element of effective administration. Revisiting the struggles and debates of the 1923-1925 period offers a rich historical perspective on how best to achieve this balance, ensuring that governance structures are not only legally sound but also practically viable and attuned to the needs of diverse communities.

REFERENCES

Constituția României din 1923. Adnotată cu dezbateri parlamentare si jurisprudențe, de A. Lascarov Moldovanu si Sergiu D. Ionescu, Bucuresti, 1925.

Esar Diti Tarangul, Tratat de drept administrativ român, Cernăuți, 1944

Hamangiu, C., Constituțiunea nouă din 23 martie 1923, Bucuresti, 1923.

Ioan Scurtu, Din viața politică a României (1926-1947). Studiu critic privind Istoria Partidului Național Țărănesc, Ed. Științifică și Enciclopedică, București, 1983

Legea pentru unificare administrativă, Anuarul pentru toți, 1928-1929, Tipografia Cultura Poporului, București, 1929

Monitorul Oficial, Partea a III-a, Dezbaterile Adunării Naționale Constituante a Senatului, din 31 martie 1925

Monitorul Oficial, Partea a III-a, Dezbaterile Adunării Naționale Constituante a Senatului din 10 aprilie.

Monitorul Oficial, 1925, Partea a III-a, Dezbaterile Parlamentare din 10 aprilie.

Monitorul Oficial, Partea a III-a, Dezbaterile Adunării Naționale Constituante a Senatului, din 7 aprilie 1925

Monitorul Oficial, Partea a III-a, Dezbaterile Adunării Naționale Constituante a Senatului, din 22 aprilie 1925