Considerations about administrative decentralization and local autonomy in Romania

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Abstract

Decentralization is not the opposite of centralization, but its diminution, diminishing the concentration of powers. By means of decentralization certain public services of local interest are transferred from the competence of the center to that of some local public administration authorities, which have independence from the central power, are autonomous and are not subordinated to it. The idea of decentralization implies the idea of local autonomy. Local autonomy means the right and effective capacity of local public administration authorities to solve and manage public affairs in the name of and in the interest of the local communities they represent, under the law. In this article we analyzed the legal means of achieving administrative decentralization and local autonomy in Romania. At the end of the article we made some de lege ferenda proposals, considering that the European principle of subsidiarity and the French model of the decentralization contract should also be a reference point for the Romanian legislator.

Keywords: *administrative decentralization, local autonomy, administrative decentralization contract, subsidiarity principle, administrative law.*

JEL Classification: K23, K33

1. General considerations

The local public administration bodies have limited territorial competence at the administrative-territorial unit in which they operate, unlike the central public administration bodies, have a country-wide territorial competence.

In a democratic state, local government bodies have decision-making autonomy and have their own resources. They cooperate with the central public administration bodies and implement their regulations in full respect of the principles of unity and indivisibility of the Romanian state provided by article 1(1) of the Constitution.

The Constitution of Romania, in art. 120 regulates the basic principles of local government. Thus, the public administration in the administrative-territorial units is based on the principles of decentralization, local autonomy and the deconcentration of public services. In administrative-territorial units where citizens belonging to a national minority have a significant share, it is ensured the use of the language of the respective national minority in writing and orally in the relations

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with the local public administration authorities and the deconcentrated public services under the conditions provided by the organic law.

According to the provisions of art. 2 of the Law no. 215/2001 *of the local public administration*, the public administration in the territorial-administrative units is organized and functions according to the principles of decentralization, local autonomy, deconcentration of public services, the eligibility of local public administration authorities, legality and citizen consultation in solving local issues of particular interest. The application of these principles can not affect the national, unitary and indivisible character of Romania.

2. Administrative decentralization and local autonomy

In France, in the explanatory memorandum of the Decree of 25 March 1852 on Administrative Decentralization, it was stressed that "*it can be governed by far, but can only be administered in close proximity*"[2] so that the question of the centralization of the governmental action, along with the decentralization of the administrative action.

In the comparative law, one American author describes four major types of decentralization: administrative decentralization, functional decentralization, political decentralization, structural decentralization[3].

Administrative decentralization presupposes the existence of local public bodies, designated by the community of the territory, who have their own attributions, intervening directly in the management and administration of the "business" of the community[4]. In other words, administrative decentralization is the system based on the recognition of the local interest, distinct from the national one, the localities having organizational, functional structures and own patrimony, affected by the local interest[5].

In the Romanian doctrine there is a distinction within the administrative decentralization between the territorial decentralization and the technical decentralization[6]. **Territorial decentralization** implies the existence of common interests of the inhabitants of a "geographic fraction", which is a part of the territory

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[2] « […] On *peut gouverner* de *loin*, mais on *administre* bien que de *près* ; en conséquence, autant il importe de centraliser l'action gouvernementale de l'Etat, autant il est nécessaire de décentraliser l'action purement administrative ». Décret du 25 mars 1852 sur la décentralisation administrative, Bull. des Lois, 10e S., B. 508, n° 3855**).**

[3] Dennis A. Rondinelli, *Development administration and U.S. foreign aid policy*, Boulder: L. Rienner Publishers, 1987, p. 103.

[4] Antonie Iorgovan, *Tratat de drept administrativ)*, vol. I, All Beck Publishing House, Bucharest, 2005, p. 451.

[5] Eugen Popa, *Autonomia locală în România*, All Beck Publishing House, Bucharest, 1999, p. 121.

[6] See Antonie Iorgovan, *op. cit.* (*Tratat de drept administrativ)*, vol. I, 2005, p. 453; Verginia Vedinaş, *Drept administrativ*, the 9th edition revised and updated, Universul Juridic Publishing House, Bucharest, 2015, p. 436; Ioan Alexandru, *Tratat de administraţie publică*, Universul Juridic Publishing House, Bucharest, 2008, p. 361; Rodica Narcisa Petrescu, *Drept administrativ*, Hamangiu Publishing House, Bucharest, 2009, p. 55, 56; Corneliu-Liviu Popescu, *Autonomia locală şi integrarea europeană*, All Beck Publishing House, Bucharest, 1999, p. 58, 59.

of a state, interests that lead to local business in the most diverse fields of activity, distinct from national affairs (problems)[7]. The **technical decentralization** presupposes the existence of moral persons of public law, traditionally called local public establishments, which provide certain public services, detached from the mass of the services provided by the state authorities[8].

The phrase "administrative decentralization" is established for us for the first time at constitutional level by the 1866 Constitution (after Article 106 states that "the county and communal institutions are regulated by law", Article 107 states that "these laws will have as base the decentralization of the administration as complete as possible and the communal independence "), then found in the Constitution of 1923 in a form that adds more regulation to the election of local authorities (Article 108 -" The county and communal institutions are regulated by the laws The members of the county councils and the municipal councils are elected by the Romanian citizens by universal suffrage, equal, direct, secret, obligatory and with the representation of the minority, according to the forms provided by the law. by law and by members of law and coopted members' birds may also be major women"). The Constitution of 1938, which establishes the regime of royal dictatorship, no longer gives constitutional consecration to the principle of decentralization, showing in Chapter VI (entitled "About County and Community Institutions") in Title III ("About State Powers") only the fact that "administrative institutions are established by laws". Under the empire of the communist regime decentralization has become an obsolete institution.

After the 1989 Revolution, as is normal for a democracy, the 1991 Constitution once again enshrined the principle of administrative decentralization alongside that of local autonomy, to which the 2003 revising law and the principle of administrative deconcentration were added, so that today. Article 120 (1) of the Revised Constitution states that "the public administration in the territorial-administrative units[9] is based on the principles of decentralization, local autonomy and the deconcentration of public services".

The idea of decentralization implies the idea of local autonomy[10]. ***The European Charter of Local Self-Government***[11] adopted by the Council of Europe

[7] Antonie Iorgovan, *op. cit.* (*Tratat de drept administrativ)*, vol. I, 2005, p. 453.

[8] *Idem*, p. 453.

[9] It is emphasized in the doctrine that the term of **administrative-territorial unit** has two distinct meanings: *local territorial collectivity* (the population living on a certain part of the state territory, having a distinct administrative organization and local public interests) and an **administrative-territorial constituency** (the sphere of territorial competence of the deconcentrated bodies of the state) – see Corneliu-Liviu Popescu, *op. cit. (Autonomia locală şi integrarea europeană)*, 1999, p. 32-35.

[10] The doctrine emphasizes that the principle of local autonomy is based on administrative decentralization [Rodica Narcisa Petrescu, *op. cit.* (*Drept administrativ)*, 2009, p. 56] or that local autonomy is the modern form of achieving administrative decentralization [Ioan Vida, *Puterea executivă şi administraţia publică*, „Regia autonomă Monitorul Oficial" Publishing House, Bucharest, 1994, p. 22].

[11] Done at Strasbourg on 15 October 1985 and ratified by Romania by Law no. 199/1997 published in the Official Gazette no. 331 of 26 November 1997.

has created a common framework that brings together European standards for the attribution and preservation of public affairs management competencies to local authorities closest to citizens so that they can participate to make decisions that relate to their everyday environment[12]. Article 3(1) of the Charter states that "local autonomy means the right and effective capacity of local government to solve and manage, within the law, on its own behalf and in the interest of the local population, an important part of the affairs public" and in Article 3(2) states that "this right shall be exercised by councils or assemblies composed of elected members by free, secret, equal, direct and universal vote, who may have executive and deliberative bodies to answer before them. This provision shall in no way prejudice the possibility of recourse to citizens' meetings, referendums or any other form of direct participation by citizens, where this is permitted by law". The provisions of art. 3 of the Charter are taken over by art. 3 of the Law no. 215/2001 *of the local public administration*. We underline that in Romania the local autonomy is exercised, according to the provisions of art. 3(2) of Law no. 215/2001, by the local councils and mayors, as well as by the county councils, local public administration authorities elected by universal, equal, direct, secret and freely expressed vote.

Local government authorities manage public affairs on behalf of and in the interest of local communities they represent. *Local collectivity* is, according to art. 3(4) of the Law no. 215/2001, all the inhabitants of the administrative-territorial unit. The notion of *managing the interests of local communities* is defined in the doctrine as having the content determined by the preoccupation of the local public administration authorities to obtain what is advantageous, necessary, and useful for the communities they represent[13].

In Romania, according to the provisions of art. 4 of Law no. 215/2001 the local autonomy is only administrative and financial, being exercised on the basis and within the limits provided by the law. Local autonomy concerns the organization, functioning, competencies and attributions, as well as the management of the resources that, according to the law, belong to the commune, city, municipality or county, as the case may be. Art. 9(1) of the Law no. 215/2001 *of the local public administration* states that "within the framework of the national economic policy, the municipalities, the cities, the municipalities and the counties have the right to their own financial resources, which the local public administration authorities establish, administer and use to fulfill the competences and attributions I am returning them, according to the law".

Local autonomy gives the local public authorities the right, within the limits of the law, to take initiatives in all areas, except those expressly given to other public authorities (Article 5(2) of Law 215/2001).

According to the provisions of art. 5(1) of the Law no. 215/2001 the local public administration authorities exercise, under the law, exclusive competences, shared competences and delegated competencies. The *Framework Law on*

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[12] See Ioan Alexandru, *op. cit. (Tratat de administraţie publică)*, 2008, p. 362.

[13] Eugen Popa, *Noţiunea de gestionare a intereselor colectivităţilor pe care le reprezintă autorităţile locale*, „Dreptul” no. 3/1995, p. 53.

decentralization no. 195/2006 defines the three competences at the level of the local public administration authorities:

a) *delegated competences* - the powers attributed by law to the local public administration authorities, together with the corresponding financial resources, by the central public authorities to exercise them on behalf of and within the limits established by them (Article 2 letter d). Thus, according to the provisions of art. 27 of the Law no. 195/2006 the local public administration authorities exercise powers delegated by the central public administration authorities on the payment of allowances and allowances for children and adults with disabilities.

b) *exclusive competences* - the powers attributed by law to the local public administration authorities for which they are responsible. The local public administration authorities have the right to make decisions and have the resources and means to fulfill the competences, in compliance with the norms, criteria and standards established by the law (Article 2 letter e).

For example, local government authorities at the level of communes and towns exercise exclusive powers to administer the public and private domain of the commune or city.

c) *shared competences* - the powers exercised by the local public administration authorities, together with other levels of public administration (county or central), with a clear separation of funding and decision-making power for each individual responsible (Article 2, letter f).

For example, local government authorities at the level of communes and towns exercise shared competences with the central public administration authorities on the centralized system of district heating.

From the contents of the Charter of Local Self-Government, the components of administrative decentralization are detached[14]:

- the existence of a local territorial community. Administrative decentralization on the basis of local autonomy is made in connection with the existence of local collectivities established within the administrative-territorial units of the state.

- recognizing the responsibility of local authorities in managing their specific needs and the existence of their own resources. For the sake of local autonomy, it is necessary first of all to recognize the specific problems of local communities as such by law. It is then necessary for these local communities to have the means to meet local needs - a field (public and private) of local interest, a body of officials to manage public affairs and a certain financial autonomy based on the existence of an own budget.

- the local community has its own autonomous administrative authorities. In order to talk about administrative decentralization, it is necessary to have local authorities that are representatives of local communities and not state representatives

[14] Ioan Alexandru, *op. cit. (Tratat de administraţie publică)*, 2008, p. 363, 364. See also André de Laubadère, Jean-Claude Venezia, Yves Gaudemet, *Traité de droit administratif*, tome I, 13e édition, L.G.D.J., Paris, 1994, p. 108-109; Corneliu-Liviu Popescu, *op. cit. (Autonomia locală şi integrarea europeană)*, 1999, p. 49-56; Verginia Vedinaş, *op. cit. (Drept administrativ)*, 2015, p. 435, 436.

(institutional autonomy). In other words, there must be no hierarchical subordination between the central and local authorities in the territory. Local authorities must be the result of free elections organized in administrative-territorial units, and these authorities must have a competence that gives them autonomy towards central public administration authorities (autonomy in decision-making). On the level of legal capacity, local communities are distinct subjects, having their own public interests.

- overseeing the activity of the local community by the authorities of the executive power. Central public authorities have the right to supervise the work of local authorities, exercising control over administrative tutelage.

Administrative decentralization and local autonomy are designated in French through *la décentralisation administrative* and *l'auto-administration*, in English by *self-government* or *local government*, and in German by *selbstverwaltung*.

Rinaldo Locatelli, former director of the Congress of Local and Regional Authorities of Europe, considered local communities as "one of the fundamental structures of a democratic regime and, as a consequence, one of the pillars of the construction of democratic Europe, conceived according to the ***principle of subsidiarity***" [15]. Administrative decentralization, as well as administrative deconcentration[16], is a reflection of the principle of subsidiarity[17]. The principle of subsidiarity, which has been identified since antiquity by Aristotle, is now regulated by the Council of Europe by art. 4 of the Charter of Autonomy and at the level of the European Union by Protocol no. 2 on the application of the principles of subsidiarity and proportionality annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, being taken over by the *Framework Law on decentralization* no. 195/2006[18], Law no. 51/2006 *of the community services of public utilities*[19] and other internal normative acts. This principle implies the exercise of competences by the local public administration authority located at the administrative level closest to the citizen and having the necessary administrative capacity. Thus, at EU level, art. The TEU states that "under the principle of subsidiarity, in areas outside its exclusive competence, the Union shall intervene only if and to the extent that the objectives of the proposed action can not be sufficiently achieved by the Member States either at central level, at regional and local level, but due to the dimensions and effects of the envisaged action, can be better achieved at Union level".

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[15] Rinaldo Locatelli, *L'Europe à l'épreuve de ses démocraties locales – etude comparative*, Timişoara, 1994.

[16] In France Decree no. 92-604 of 1 July 1992 on the Deconcentration Charter (Décret n°92-604 du 1 juillet 1992 portant charte de la déconcentration**,** JORF n°154 du 4 juillet 1992) provides in Art. 1-1. the fact that "only the missions of a national nature are entrusted to central governments and services of national competence and whose execution, by virtue of law, can not be delegated to a territorial echelon"– www.legifrance.gouv.fr. The principle of subsidiarity is also enshrined and with regard to the deconcentrated public administration in the territory.

[17] See Corneliu-Liviu Popescu, *op. cit. (Autonomia locală şi integrarea europeană)*, 1999, p. 318, 319.

[18] Published in the Official Gazette, Part I no. 453 of May 25, 2006.

[19] Published in the Official Gazette no. 254 of March 21, 2006, as amended.

Decentralization is not the opposite of centralization, but its diminution, diminishing the concentration of powers[20]. By means of decentralization certain public services of local interest are transferred from the competence of the center to that of some local public administration authorities, which have independence from the central power, are autonomous and are not subordinated to it[21].

The doctrine emphasizes arguments in favor of administrative decentralization[22]:

a) the denial of the autonomy of the administrative-territorial units equals the denial of their existence

b) there are local interests distinct from the central ones made by the local public administration authorities that are closer to the citizens. Decentralization aims to ensure satisfaction of local needs and interests.

c) decentralization introduces effective action criteria at local government level and reduces formalism. Administrative problems can be resolved more efficiently without waiting for approvals or instructions from the central power. Financial resources can be used more efficiently, depending on local needs and interests.

d) decentralization ensures citizen participation in public life. Decentralization provides citizens with the opportunity to effectively participate in local government by choosing representatives in local government.

e) local interests and needs can be better met through acts and measures taken by the administrative authorities of the administrative-territorial units than through acts and measures established by the central power.

However, we can not fail to note that, despite the constitutional imperative and the numerous laws devoted to decentralization (Law 215/2001 of the local public administration, Framework Law on decentralization no. 195/2006, Local Public Finance Law No. 273 / 2006, etc.), the real administrative decentralization has remained a simple doctrinal desideratum on which most post-decade governments have expressed their intentions. Things seem to be similar today to what happened in the interwar period when the interference of the parties in the good functioning of the public administration and its subjugation to the clientele interests as well as the extremely complicated and cumbersome local administrative apparatus (promoted by the Administrative Organization Law of 1929) imposed in practice, maintaining administrative centralization[23].

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[20] Dana Apostol Tofan, *Drept administrativ*, vol. I, 2nd ed., C.H. Beck Publishing House, Bucharest, 2003, p. 254.

[21] Cristian Ionescu, *Tratat de drept constituţional contemporan*, All Beck Publishing House, Bucharest, 2003, p. 97.

[22] Eugen Popa, *op. cit. (Autonomia locală în România)*, 1999, p. 122; Rodica Narcisa Petrescu, *op. cit.* (*Drept administrativ)*, 2009, p. 58; Erast Diti Tarangul, *Tratat de drept administrativ român*, „Glasul Bucovinei" Publishing Printing House, 1944, Cernăuți, p. 93-95; Constantin G. Dissescu, *Curs de drept public român*, vol. III - Dreptul administrativ, Bucharest, 1891, p. 841-844.

[23] See Manuel Guţan, *Istoria administrației publice românești*, 2nd ed. revised and added, Hamangiu Publishing House, Bucharest, 2006, p. 260-264.

Regarding the legal means by which decentralization can be achieved through the transfer of competences and resources from central to local level, we emphasize that in France the institution of "***administrative contracts for the implementation of decentralization***" has been developed through its consecration in art. 26 of Law no. 82-213 of 2 March 1982 on the rights and freedoms of the communes, departments and regions (Loi n°82-213 du 2 mars 1982 relative aux droits et libertés des communes, des départements et des régions - *Loi Deferre*)[24]. Thus, according to a standard contract approved by decree (see decree of March 15, 1982), the contract for the implementation of the decentralization is concluded between the representative of the state and the departmental or regional executive to determine the ways in which the services corresponding to the new competencies of the department of the region are placed under the authority of the President of the General Council and the President of the Regional Council.

The law promulgated in France on March 2, 1982 by the government of Pierre Mauroy is considered the first act of decentralization and is attributed to it three major innovations: the suppression of the prefect's *a priori* administrative guardianship, the transfer of the departmental executive of the prefect to the chairman of the general council, increasing the autonomy of local communities. Subsequently, the laws of 7 January 1983 and 22 July 1983 were passed which divided the competences between the state and the territorial collectivities and established the transfer of resources.

It is worth mentioning that the reform of decentralization was put on the political agenda during the government of Jean-Pierre Raffarin when the constitutional law of 28 March 2003 on the decentralized organization of the French Republic was adopted. This law enshrined the principle of financial autonomy of territorial collectivities, included the terms of region *(région)* and decentralization (*décentralisation*) in the Constitution and regulated the local decision-making referendum and the right of petition.

As regards contracts for the implementation of decentralization, the French case-law states that, although they have as their object the organization of a public service, they can not be classified as acts of a regulatory nature[25]. Also, the administrative judge, who is sensitive to the risk of reinstating administrative guardianship, has often stressed that in these contracts, although they are of an administrative nature, the parties are in a position of legal equality[26].

Following the comparison, as the Romanian comparator Leontin-Jean Constantinesco pointed out, its own legal order can be brought into a new light, as new aspects, contours and reliefs which until then have remained unnoticed can be discovered[27].

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[24] Published in the Official Journal of the French Republic (JORF) of 3 March 1982, as subsequently amended.

[25] See Laurent Richer, *Droits des contrats administratifs*, 3e èdition, L.G.D.J, Paris, 2002, p. 66, 67 and the decisions of the French State Council quoted there.

[26] *Idem*, p. 67

[27] See Leontin-Jean Constantinesco, *Tratat de drept comparat*, All Educational Publishing House, Bucharest, 1998, vol. II - *Metoda comparativă*, p. 312.

In addition, as René David said, "We can be good Europeans and think with reluctance to unify European rights; we can not be good Europeans wishing to maintain, without the effort of harmonization, the current situation, i.e. the complete insularity of each European national legal system."[28]

From the comparative analysis, we note that there are types of acts that in some countries take the form of administrative contracts, while we have unilateral administrative acts or private law contracts. Thus, the Romanian legislation does not provide **the administrative contract for the decentralization**. The Framework Law on decentralization no. 195/2006[29] defines decentralization as the transfer of administrative and financial competence from central public administration to local public administration [art. 2 letter l)]. From the provisions of art. 8 of the Law no. 195/2006 modified by the provisions of the Government Emergency Ordinance no. 42/2016 *on the establishment of financial measures and the amendment and supplementation of some normative acts*[30] shows that, based on the organization of pilot phases to test and assess the impact of the proposed solutions for decentralization of competences and impact assessments, the transfer of competences to the local public administration authorities are implemented through sectoral decentralization laws.

Methodological Norms for the Application of the *Framework Law on Decentralization* no. 195/2006 approved by Government Decision no. 139/2008[31] provide for the need to conclude collaborative protocols for the pilot phase testing of decisions on the decentralization of certain competences at central and local level. These protocols are concluded between the ministries or other specialized bodies of the central public administration and the local public administration authorities selected and contain provisions on: the signatory parties and their responsibilities, the period of the pilot phase, the monitoring and evaluation of the phase- pilot, any other elements specific to the field of activity for which the pilot phase will take place (Article 13). We note that this protocol only *tests* the decentralization of some competencies from the central level to the local level, but the protocol does not have the role of effectively and definitively achieving the transfer of competences and is not really a genuine administrative contract for the implementation of decentralization, as this institution is developed in France through art. 26 and art. 73 of the Law of 2 March 1982.

Subsequently, some decentralization strategies, such as the medium-term sectoral decentralization strategy within the Ministry of Transport approved by Government Decision no. 1030/2008[32]. In order to decentralize the health system were adopted the Government Emergency Ordinance no. 162/2008 *on the transfer of competences and powers exercised by the Ministry of Public Health to the local*

[28] R. David, *L'avenir des droits européens: unification ou harmonization*, Economica, Paris, 1982, p. 296.
[29] Published in the Official Gazette no. 453 of May 25, 2006.
[30] Published in the Official Gazette, Part I no. 492 of 30 June 2016.
[31] Published in the Official Gazette no. 132 of 20 February 2008.
[32] Published in the Official Gazette no. 663 of September 23, 2008.

public administration authorities[33], the Government Decision no. 562/2009 *for the approval of the decentralization strategy in the health system*[34] and the Government Emergency Ordinance no. 48/2010 *for the amendment and completion of normative acts in the field of health for decentralization*[35], which created the premises of the transfer of attributions and of logistic and financial support in the field of management of public hospitals from the Ministry of Health to the local public administration authorities.

All these regulations, however, see decentralization as a unilateral process, the decision as to what attributions and how they are transferred from the central level to the local level is taken by normative act by the central authorities, not taking into account the particularities of each administrative-territorial unit.

3. Conclusions and *de lege ferenda* proposals

De lege ferenda it is necessary to provide for the new competences of the administrative-territorial authorities by law, and then the concrete transfer of responsibilities is to be done through an administrative-administrative contract. A contract could provide for responsibilities, fixed deadlines, penalties assumed by the local authority to which the competencies are transferred. Then only through a contract, through a negotiation with the local authority, you can adapt the service to the local specificity. Paradoxically, local authorities are not individually co-opted in the process of setting the criteria, assessments and conditions under which the transfer of competencies is achieved, but only at the level of the associative structures. Thus, Law no. 195/2006 in its current form stipulates that the unilateral evaluation of the administrative capacity of the administrative-territorial units is carried out by the ministries and the other specialized bodies of the central public administration, as the case may be, together with the Ministry of Administration and Interior and the associative structures of the local public administration authorities (Article 10-13 of the Law). Depending on this assessment, the transfer of competencies will take place. Decentralization can not be accomplished with centralized procedures. The assessed administrative-territorial authority should be involved in the evaluation.

Along with other authors[36] we consider the content of art. 7 of the Law no. 195/2006 according to which, in the provision of decentralized public services, the local public administration authorities are obliged to meet the quality standards, according to the law. The law also states that ministries and other specialized bodies of the central public administration lay down costing standards for the financing of decentralized public and public utility services and quality standards related to ensuring that they are provided by local public administration authorities within the 12 months after the entry into force of the sectoral decentralization law (Article 9 (1)

[33] Published in the Official Gazette, Part I no. 808 of December 3, 2008, as amended.
[34] Published in the Official Gazette no. 340 of 21 May 2009.
[35] Published in the Official Gazette, Part I no. 384 of June 10, 2010.
[36] Rodica Narcisa Petrescu, *op. cit.* (*Drept administrativ),* 2009, p. 137.

of the Law no. 195/2006 as amended by Government Emergency Ordinance no. 42/2016). Unfortunately, the Framework Law on decentralization no longer shows what happens if, after the transfer of competencies, the administrative-territorial units no longer meet the quality standards. The achievement of the transfer of competences through the administrative contract has the advantage of allowing timely timing of the fulfillment of the quality standards according to the specificity of each administrative-territorial unit and the establishment of a system of sanctions and incentives. If deviations from these standards are made for objective reasons, independent of the willingness of the parties involved (eg. the reduction of financial resources as a result of the economic crisis), the decision-makers at central and local level should jointly analyze the measures to overcome these deviations.

It should then be pointed out that the use of the unilateral administrative act (Government Decision, Minister Order) on the transfer of competences from the central to the local level on the basis of sectoral decentralization law would amount to a burden distribution, which would be in disagreement with local autonomy, there are no hierarchical relations between the Government and local government authorities. The administrative contract for the implementation of decentralization would be a negotiating tool in order to strike a balance between the national public interest and the local public interest.

We believe that the European principle of subsidiarity and the French model of the decentralization contract should also be a reference point for the Romanian legislator. In our opinion, starting from the reality that the local authority is the one that best knows the needs of the local community, the central authorities should negotiate conditions and deadlines for the transfer of competences with each local authority. Only in this way can we talk about a real adaptation of public policies to the needs of the population, taking into account the inequality of resources of territorial collectivities and the opportunities and threats that differ from one administrative-territorial unit to another.

Each reform of public administration should be directed to higher efficiency of allocating public expenditures, to growing quality of public services provided, to better performance of public institutions and to implementation of effective methods for public-administration framework checks[37].

Decentralization is the indispensable corollary of democracy, it represents for administrative organization what representative democracy represents for institutional organization[38]. In these circumstances, the public authorities must exercise special care in organizing the decentralization process, aiming at maintaining the balance between the competencies necessary to satisfy the national public interest and the competencies necessary to satisfy the local public interest. An important role in organizing this process should, in our estimation, have the administrative contract for the decentralization, following the French model.

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[37] Martina Halásková & Renata Halásková, *Impacts of Decentralization on the Local Government Expenditures and Public Services in the EU Countries*, „Lex Localis - Journal of Local Self-Government", Vol. 12, No. 3/July 2014, p. 624.

[38] Antonie Iorgovan, *op. cit.* (*Tratat de drept administrativ)*, vol. I, 2005, p. 452.

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