

The need for new regulation the field of regional development

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ABSTRACT

Regional development is, in a non-academic way, the most sensitive field of local government. Theorists and practitioners in the field of local government might ask the following questions: Why is regional development a sensitive field? Is regional development part of local public administration? In this analysis, through a comparative research, I am trying to answer the above mentioned questions by analyzing the legislation in the field of regional development, highlighting the discrepancies between the normative act adopted in 2004¹, when Romania was not part of the European Union and the normative act adopted in 2020 by the Romanian state², when the European Union recommended Romania to establish a public policy in the field of regional development in line with the European public policies of the regions. The comparative research of the normative acts revealed the fragility of the regional development field and the acute need to amend the normative act adopted in 2004 in the field of regional development, allowing it to be complemented by the normative act adopted in 2020 and regional development can experience real and efficient growth.

KEYWORDS: *regional development, European non-reimbursable funds, local public administration, administrative-territorial organization.*

1. Introduction. Regional development policy - from recommendations and principles to the emergence of the law for regional development.

A) The emergence of regional development policy.

In order to develop economically and socially, the Romanian state needed to be part of the European Economic Area (European Economic Community). Regarding the development of trade and industrial cooperation relations with the E.E.C.³, the Romanian state, immediately after the

¹ In 2004 Romania adopted *Law No 315 on regional development in Romania*, which was published in the Official Gazette No 577 of 29 July 2004;

² In 2020, Romania adopted *Government Emergency Ordinance no. 122 on some measures to ensure the efficiency of the decision-making process of non-reimbursable external funds for regional development in Romania*, which was published in the Official Gazette no. 686 of 31 July 2020;

³ *E.E.C.* - Short for European Economic Community, established in 1958 by the 1957 Treaty of Rome, which entered into force in 1958. The founding countries of the European Economic Community were : Belgium, France, Germany,



events of 1989, signed in 1990 a cooperation agreement, published in the Official Gazette of Romania⁴. The agreement on trade and commercial and economic cooperation signed between the Romanian State and the European Economic Community subsequently became Law no. 23 of 1991.

The cooperation agreement between Romania and the European Economic Community laid the foundations for the development of Romania's economy and trade, which meant that the Romanian state had to go through certain stages in order to modernise all fields of activity, including local public administration, and to reach a certain standard of living so that Romania could become a candidate for accession to the European Union.

A first stage in the modernisation of the Romanian state was the adoption of a package of laws to enable society to make the transition from a centralised to a democratic system. In this first stage of modernisation of the Romanian society and application of the principles of democracy, normative acts were adopted in the commercial field - Law No 31 of 1990 on commercial companies⁵, in the field of central and local public administration - Law No 1 of 1990 on the organisation and functioning of the services of the Romanian Presidency⁶, Law No 37 of 1990 on the organisation and functioning of the Romanian Government⁷ but also in the field of local public administration through the adoption of Law No 69 of 1991 on local public administration⁸.

In this first stage of the modernisation of Romanian society, the Romanian Constitution was also adopted, a fundamental act of the state that regulated the democratic way of functioning. In the field of local public administration, the Constitution laid down the principles governing the work of local public administration such as autonomy and decentralisation. As regards the territory, under the administrative aspect, it was to be organised into communes, towns and counties, some towns, according to the law, were to be declared municipalities⁹.

After this first stage of modernisation of the Romanian society, the second stage of society modernisation and decentralization of local public administration began.

Italy, Luxembourg and the Netherlands. Online source: https://european-union.europa.eu/principles-countries-history/key-facts-and-figures/structure_ro;

⁴ *The Cooperation Agreement between Romania and the European Economic Community* was published in M.O. No 51 of 15 March 1991 under Law No 23 of 1991;

⁵ *Law No 31 of 16 November 1990 on companies* was published in its original form in the Official Gazette No 126-127 of 17 November 1990;

⁶ *Law No 1 of 30 June 1990 on the organisation and functioning of the Presidency of Romania* was published in M.O. No 88 of 2 July 1990;

⁷ *Law No 37 of 7 December 1990 on the organisation and functioning of the Government* was published in M.O. No 137 of 8 December 1990;

⁸ *Law No 69 of 26 November 1991 on local public administration* was published in its original form in M.O. No 238 of 28 November 1991;

⁹ **According to Article 3(3) of the Constitution of Romania**, republished in 2003, "*The territory shall be organized, administratively speaking, into communes, towns and counties. Under the law, some towns are declared municipalities*";

With the main objective of integrating the Romanian state into the European Union, state bodies had to take important steps to ensure that state authorities, state institutions and local community authorities corresponded to the social and economic requirements "imposed" by the European Union. In order to meet the necessary conditions for accession, Romania drew up, helped by consultants from the European Union, the first public policy aimed to raise the living standard and to acquire the capacity to access non-reimbursable European funds. This public policy was translated into the "*Green Charter. Regional Development Policy in Romania*"¹⁰.

"Green Charter. Regional Development Policy in Romania" was divided into 5 chapters, the first three chapters focusing on the analysis and interpretation of 12 socio-economic indicators, considered relevant by experts for the constitution of the future statistical development regions of Romania.

The 12 indicators analysed and interpreted by the experts who drafted the public policy for regional development in Romania were divided into five main categories¹¹:

1. social and demographic structure of the Romanian state territory according to gender, age and demographic increase;
2. employment rate by gender, age and educational attainment across the state;
3. the existing structures and economic potential in each county within the country;
4. the connection level of households to drinking water, sewerage and electricity supply networks;
5. the level of health and primary education services provided by local authorities to communities.

The fourth chapter of the regional development policy, the "*central part*" of the regional development policy, focused on establishing the institutional framework for the regional development policy. This "central part" of the regional development policy established which institutions were responsible for the preparation and implementation of regional development strategies and programmes, a part that would later be transposed into the Law on Regional Development in Romania. For the present study, the fourth chapter of the regional development public policy framework is the most important, the subsequent legal regulation being built around the institutional framework proposed in the Green Charter on regional development policy in Romania.

B) Proposal of institutional structures to implement the regional development policy.

The fourth chapter of the public policy on regional development (Green Charter) defines the institutional structures for drawing up and implementing regional development policies at both central and regional level. The National Council for Regional Development (NCRD) is the national structure that will be in charge of the preparation and implementation of the National

¹⁰ **Green Charter. Regional Development Policy in Romania"** can be consulted at: https://www.adrbi.ro/media/1665/carta_verde_politica_de_dezvoltare_regionala.pdf;

¹¹ **Green Charter. Regional Development Policy in Romania"**, p. 14, online source: https://www.adrbi.ro/media/1665/carta_verde_politica_de_dezvoltare_regionala.pdf;

Plan for Regional Development (generically called NPRD)¹² and the RDAs (Regional Development Agencies)¹³ will prepare and implement the regional development plans, in the same way that such agencies operate in the member countries of the European Union.

The institutional structures required for regional development policy, the National Council for Regional Development and the Regional Development Agencies, were to operate according to the principle of decentralisation, with the Regional Development Agencies drawing up and implementing regional development plans in direct relation to the interests of local communities, and the National Council for Regional Development establishing regional development policies at national level, based on the regional development plans drawn up and promoted by the Regional Development Agencies.

For regional development policy, the National Council for Regional Development had to be an inter-ministerial structure including specialists from several ministries, representatives of non-governmental organizations and also representatives of small and medium-sized enterprises, trade unions, employers, etc.¹⁴. Not understanding the importance and efficiency of regulating such a body, the Romanian legislator centralised the tasks and mission of this council, with the ministry designated by the Government taking over the duties of the National Council for Regional Development, establishing for future financial years the regional development policy at central level, the method of granting European non-reimbursable funding for the eight statistical regions and the funding priorities, without taking into account the real and actual needs of local or regional communities.

According to the recommendations on regional development policy, the composition of the Regional Development Agencies should include members of county councils, academics from each statistical region, representatives of the business community, persons nominated by representative trade union organisations, representatives of agricultural associations, decision-makers from county chambers of commerce and representatives of inter-community associations.

The recommendations of the body of experts who drew up the Green Charter on Regional Development in 1997 were based on the experience of development agencies within EU member countries, which highlighted the basic principles guiding their work. A short summary is presented in order to illustrate and compare:

- a) *the principle of decentralisation of responsibilities to regional authorities or agencies*¹⁵, this principle being identical to the principle of decentralisation governing the activity of local public authorities under the law on local public administration adopted by the

¹² **Green Charter. Regional Development Policy in Romania**", p. 35 - 38, online source: https://www.adrbi.ro/media/1665/carta_verde_politica_de_dezvoltare_regionala.pdf;

¹³ **Green Charter. Regional Development Policy in Romania**", p. 40-42, online source: https://www.adrbi.ro/media/1665/carta_verde_politica_de_dezvoltare_regionala.pdf;

¹⁴ **Green Charter. Regional Development Policy in Romania**", p. 37, online source: https://www.adrbi.ro/media/1665/carta_verde_politica_de_dezvoltare_regionala.pdf

¹⁵ **Green Charter. Regional Development Policy in Romania**", p. 23, online source: https://www.adrbi.ro/media/1665/carta_verde_politica_de_dezvoltare_regionala.pdf

- Romanian state in 1991;
- b) *the principle of cooperation between institutions*, both hierarchically, between different levels of administration and horizontally, between different institutions within the same region¹⁶, this principle is practically identical to the principle of deconcentration that we also find in the law on local public administration in force since 1991, a principle that was also taken over by the new normative acts regulating and governing the organisation and functioning of local public administration in 2001 and 2019;
 - c) *the principle that specific local or regional intermediaries should be set up*¹⁷, a principle of regional development which is similar to the principle of subsidiarity in local public administration in Romania, the establishment of local or regional intermediaries being necessary in order to bring administrative decisions closer to local communities, the beneficiaries of regional development policies;
 - d) *the principle of private sector involvement in the implementation of economic development measures*¹⁸, this principle being a novelty compared to the principles governing local public administration, the private sector, according to the legal regulations in the field of public administration, could only consult with local public administration authorities in the framework of public policies for economic and social development, the decision to attract economic agents within local communities remaining with the public authorities.

The proposal for a public regional development policy, drawn up by the experts appointed, expressly provided for the principles on the basis of which the policy had to be implemented, the benchmarks to be followed in order to verify whether the policy was effective for the local authorities and the authorities which had to apply the policy, the Romanian legislator being responsible for adopting a normative act expressly regulating the regional development policy.

The law on regional development in Romania was adopted by the legislator in 1998¹⁹, taking over the principles of regional development policy, the objectives to be achieved and the way to implement this policy, in the way they were proposed in the "Green Charter - Regional Development Policy in Romania", but as regards the authorities that had to implement the regional development policy, the legislator did not want to maintain the proposed structures, centralising regional development policy around one or more ministries, which led to the implementation of separate regional development policies in several social and economic areas, without a social, economic and administrative link between them, the final result of the absorption of European funds highlighting this fracturing of the authorities that were to implement regional development policy.

¹⁶ Ibid 15;

¹⁷ Ibid 15;

¹⁸ Ibid 15;

¹⁹ **Law No 151 of 15 July 1998 on regional development in Romania** was published in M.O. No 256 of 16 July 1998;

In 2004, the new law on regional development²⁰ appeared, a law through which the Romanian state proposed to remedy the regulatory shortcomings in the field of regional development, shortcomings that contributed, along with other factors, to the delay in the acceptance of the Romanian state in the European Union.

The central part of this comparative research aims to analyse the two pieces of normative act adopted after 2004 in the field of regional development in order to highlight the inconsistencies between them and the effects of these inconsistencies as well as the need to adopt a new piece of normative act in the framework of regional development policy.

2. Comparative analysis of existing normative act in the field of regional development.

C) Analysis of the Law No 315 of 28 July 2004 on regional development in Romania.

According to the timetable for Romania's accession to the European Union, Romania should have become a member of the European Union on 1 January 2004. On 26 March 2003, the European Commission presented a revised edition of the Accession Partnership for Romania's accession to the European Union, in which the date on which Romania would become a member of the European Union was indicated as 1 January 2007.

In preparation for Romania's accession to the European Union, the Romanian legislator issues Law 315/2004 on regional development in Romania.

Guided by the existing recommendations in the public policy proposal "Green Charter - Regional Development Policy in Romania", the legislator has structured Law 315/2004 in four chapters, with particular importance given to its third chapter - "Territorial structures for regional development".

In practice, the territorial structures of regional development are the engines that drive local communities towards effective regional development.

For the territorial structures of regional development, the legislator has used the pattern of organisation of local public administration, with each region having a deliberative and an executive body²¹, namely *the regional development council* and the *regional development agency*. The criticism of taking over the form of organisation of local public administration in the regional development policy is that the legislator did not understand how to apply the principle of decentralisation highlighted in the proposal on regional development policy, preserving the existing dependent system in local public administration, with the consequence of stagnating the modernisation of local public administration by refusing to take over the proposed decentralised system in the regional development policy and decreasing the absorption of pre-accession and Community funds.

The Council for Regional Development, as a deliberative body without legal personality,

²⁰ Law no. 315/2004 on regional development in Romania was published in the Official Gazette no. 577 of 29 June 2004;

²¹ Regional Development Councils and Regional Development Agencies were established taking into account the provisions of Articles 21 and 22 of the Law No 215/2001 on Local Public Administration, in force at the time of the Regional Development Law;

is entrusted, according to the law no. 315/2004 on regional development in Romania, with a series of attributions, the present research focusing on those strictly concerning regional development.

a) Firstly, the main task of *the Regional Development Council* is to *analyse and approve regional development strategies and programmes*²². From this first task, we can see that in its work in the field of regional development, the regional development council must work with representatives of local communities to determine their needs, and then, on the basis of a detailed analysis, determine which strategy must be followed by the region in order to approve a regional development programme.

b) Secondly, the Regional Development Council *approves regional development projects, selected at regional level, together with the specialised regional bodies*. Once the regional development council has decided on the strategy to be followed by the coordinated region and has drawn up a general development programme for the region, it approves the regional development projects *selected at regional level, which, in practice, mean prioritising their implementation according to the needs of local authorities*.

c) In the third stage, the Regional Development Council, according to the third task²³, submits to the national regional development authority *a portfolio of selected and approved projects*, and the national regional development authority will determine the budget level to finance these projects.

This gives *the Regional Development Council* the right to select certain projects based on the criteria established at national level and to apply to the national development authority for appropriate funding. Through this power, in addition to the power contained in Article 7(2)(h), *the Regional Development Council* establishes, by proposing funding for projects, the "investment budget" of the local communities that make up the development region, together with the investment budget drawn up annually by each local community in accordance with local public finance legislation.

d) After the central regional development authority determines which budget the statistical region will use, *the Regional Development Council* approves the criteria, priorities, allocation and destinations of the Regional Development Fund resources.

This way of working of the *Regional Development Council* is similar to the procedure for committing, liquidating, authorising and paying expenditure of public institutions. This once again underlines the fact that the legislator wanted the field of regional development to be organised and operate in a similar way to the organisation and operation of local public administration, *not understanding that regional development was supposed to be a policy that included local public administration and not vice versa*.

e) *The Regional Development Council* shall also be responsible for monitoring the use of

²² According to Article 7 para. (2) letter a) of Law no. 315/2004 on regional development in Romania, as amended, the Council for Regional Development: "*analyses and approves the regional development strategy and programmes*";

²³ According to Article 7 para. (2) letter d) of Law no. 315/2004 on regional development in Romania, as amended, the Regional Development Council: "*submits to the National Council for Regional Development, for funding approval, the proposed portfolio of projects for which a selection procedure is applied at national level*";

funds from the Regional Development Fund. This task transforms the Regional Development Council into a structure for the supervision and control of projects to be financed from the Regional Development Fund. This power is similar to the *administrative* and *financial supervision* power of the County Council, which leads us to state once again that the legislator has seen regional development policy as a component of local public administration, ineffectively in our opinion.

In order to reinforce the previous opinion, we would like to point out that the Regional Development Council is also responsible for proposing to the National Council for Regional Development the amount of the annual contributions, within the limit of the amounts approved by the budgets of the counties and Bucharest municipality, allocated to the Regional Development Fund, for the financing of regional policy objectives, as well as their destination and payment schedules²⁴.

The role of the regional development council, although such an authority in the field of regional development does not appear in the public policy proposal (Green Charter), should be to set the priorities of the region it coordinates, but the legislator, according to the powers we are analysing, has turned it into a "sub-state structure" of local government, regional development is seen as an area of local public administration, diametrically opposed to how the experts who drew up the public policy proposal in the field of regional development (Green Charter) saw it, as they drew up the public policy proposal for several areas of the region's social activity, including public administration.

As stated in the previous considerations, *the Regional Development Council* also has a supervisory role, overseeing the work of the region's "executive authority", the *Regional Development Agency*.

f) The supervisory activity of the Regional Development Agency is derived from the tasks conferred on the Regional Development Council as set out in Article 7(2)(j), (m) and (n), with the *Regional Development Council* approving the six-monthly activity reports drawn up by the Regional Development Agency, the statutes for the organisation and functioning of the Regional Development Agency and its organisation chart. On the basis of its supervisory powers, *the Regional Development Council* shall approve contracts, agreements, conventions, protocols and any other documents signed by the Regional Development Agency in legal relations with third parties in its specific field of activity.

This power to approve the legal acts to which the regional development agency is a party, has a corresponding role in the activities carried out by the local council in relation to the institution of the mayor, which leads us to reiterate once again the consideration that the field of regional development appears as a power of the local public authorities members of the statistical region and not a right of local authorities.

While in the proposal on regional development policy (Green Charter), the regional

²⁴ The Regional Development Council's power to propose the amount of annual contributions, within the limit of the amounts approved by the county budgets, ..., for the Regional Development Fund and for the financing of regional policy objectives is contained in Article 7 paragraph (2) letter h) of Law no. 315/2004 on regional development in Romania, with subsequent amendments and additions;

development agency was the main actor at regional level and the regional development council was not mentioned, under Law no. 315/2004 on regional development in Romania, the regional development agency is a legal entity, a non-governmental, non-profit and public utility body, "executive authority" within the region, "subordinate" to the regional development council, with "mirror" attributions in relation to the legal attributions of the regional development council, which is obliged to carry out all the tasks deriving from the law and aimed at "*fulfilling the tasks set by the regional development council*".

As an example of the "mirror image" of the tasks of the Regional Development Council, we show that the Regional Development Agency is legally required to prepare and propose for approval by the Regional Development Council, the regional development strategy, plan and programmes as well as the fund management plans²⁵. This corresponds to the Regional Development Council's remit as set out in Article 7(2)(a) of Law 315/2004 on regional development in Romania.

Maintaining the "mirror" method of establishing the tasks of the Agency for Regional Development, the legislator has stipulated that it shall ensure the implementation of regional development programmes and fund management plans²⁶. The regional development agency also requests the national institution in charge of regional development for funding approved development projects²⁷.

In addition to the "mirror" tasks set by the legislator in relation to the Regional Development Council's tasks in the field of regional development, *the Regional Development Agency* also has subordinate tasks to the Regional Development Council. As an example, we have pointed out that the Regional Development Council's duty to "approve the six-monthly activity reports drawn up by the Regional Development Agency ..." ²⁸, corresponds to the *Regional Development Agency's* duty, which is set out in Article 9(i) of Law 315/2004 on regional development in Romania, namely to draw up six-monthly reports.

We do not detail each task of the agency for regional development because the research would become extensive, the result of the research in relation to the existing "authorities" in the field of regional development according to Law no. 315/2004 on regional development in Romania is as follows:

- *The Regional Development Council*, an unincorporated entity, is the "deliberative authority" within the statistical region, acting in a similar way to the way county councils and/or local councils operate.
- *The Regional Development Council* is a legal entity constituted on a collegial basis solely of representatives of the local public authorities forming the statistical region.
- *The Regional Development Agency* is the "executive authority" within the statistical region. Although in the public policy proposal in the field of regional development (Green Charter), regional development agencies were supposed to be the driving force of

²⁵ These tasks are contained in Article 9 letter a) of Law 315/2004 on regional development in Romania;

²⁶ Ibid 26;

²⁷ Ibid 26;

²⁸ Attribution that we find in art. 7 paragraph (2) letter j of Law no. 315/2004 on regional development in Romania, with subsequent amendments and additions;

regional development, responsible for bringing together all the important social and economic actors in the statistical regions, the legislator arbitrarily and ineffectively established that regional development agencies are the "executive authorities" of regional development councils, turning regional development policy into an area of local government.

- Public policy in the field of regional development is mainly subordinated to the central body (the National Council for Regional Development), a body that, during the implementation of the law on regional development, became an authority of local public administration, a ministry which, in addition to regional development, brought together other areas of local public administration such as European integration, local public administration, public works, etc., which leads us to state that regional development was seen by the legislator as an activity of public administration and not as a public policy of state modernisation.

The above-mentioned features of the regional development field, such as the transformation of the National Council for Regional Development into a central public authority, the establishment of a national regional development programme coordinated by the central public authority in the field of regional development, the subordination of regional development councils and regional development agencies to the central public authority in the field of regional development, have led to a moderate absorption of European funds granted in the field of regional development in Romania, in the two financial years of the European Union (2007-2013 and 2014-2020) managing to obtain only 79.23% of the total amounts made available by the European Union in the financial year 2007-2013²⁹ and 69.39% in the financial year 2014-2020³⁰.

Analysing the absorption rate of the non-reimbursable funds granted by the European Union for regional development, within the framework of the European financial exercises since Romania has been a member of the European Union, the European Commission has recommended to the Romanian state to approve a normative act that would create an institutional framework at the regional level, with the managing authorities being within each region and not at the central level.

The risk of not adopting a legal act regulating the management authorities for European funds at regional level was that of Romania's de-commitment for the 2021 - 2027 financial year, which led to the adoption by the Romanian Government of Emergency Ordinance no. 122 of 29 July 2020³¹.

D) Analysis of Government Emergency Ordinance No 122 of 29 July 2020 on some measures to ensure the efficiency of the decision-making process of non-reimbursable external

²⁹ The source of the information is available at https://www.fonduri-ue.ro/images/files/implementare-absorbtiie/Anexa_1-Stadiul_absorbtiiei_2007_-_2013_martie_2017.pdf;

³⁰ The source of the information is available at https://www.fonduri-ue.ro/images/files/implementare-absorbtiie/Anexa_1-Stadiul_absorbtiiei_2007_-_2013_martie_2017.pdf;

³¹ **Government Emergency Ordinance No 122 of 29 July 2020** on some measures to ensure the efficiency of the decision-making process of non-reimbursable external funds for regional development in Romania was published in the Official Gazette No 686 of 31 July 2020;

funds for regional development in Romania.

Needing to establish an institutional framework for the management of EU non-reimbursable funds for regional development, the Romanian state issues Government Emergency Ordinance No122 in 2020, an ordinance that aimed to establish some measures to streamline the decision-making process in the field of non-reimbursable external funds granted by the European Union for regional development.

Based on the legal basis of Regulation EU, Euratom 1046/2018 of the European Parliament and of the Council of 18 July 2018³², the Government is urgently establishing a new structure for the management of non-reimbursable external funds, using existing "regional authorities" with experience in managing regional programmes, we say.

To begin with, we would like to highlight the emergence of two new principles in the field of regional development, the first of which is "*the principle of linking the real needs of beneficiariesto European strategic objectives*". By regulating this principle, it is practically recognized that the entire regional development policy that was developed in Romania until the end of the second European financial year (2014-2020), was a centralized public policy, drawn up by the central public authority in the field of regional development without taking into account the needs of local communities that form the statistical regions of regional development. As mentioned in the analysis of the law on regional development in Romania, the regional development policy carried out during the two European financial years (2007-2013 and 2014-2020) was a public policy drawn up and carried out under the strict coordination of the ministry designated by the Government to deal with regional development policy in Romania, without taking into account the urgent needs of local communities. On the basis of this public policy, local development projects have emerged, which have received non-reimbursable European funding, which have had no connection with the social and economic development of local communities.

The second principle legislated by GEO 122 of 29 July 2020 is the "*principle of institutional de-bureaucratisation*". From the legal definition³³ it follows that the overlapping activities of the managing authority and control bodies must be eliminated. In fact, the legislator wanted to legislate the decentralisation of regional development policy by transferring the management activity to the regions, the control activity being carried out by regional institutions according to the existing legal rules. Obviously, this aspect was recommended by the European Union, but the Romanian legislator wanted to translate the principle of decentralisation of regional development policy into a new European principle of de-bureaucratisation.

The normative act of the two principles analysed above highlights an important aspect for regional development policy, which is that this public policy did not correspond to the interests and needs of the local communities forming the statistical development regions during the previous European financial years, after Romania became a member state of the European Union.

After setting out the principles, the normative act indicates the managing authorities for the 2021-2027 European financial year, which are the *regional development agencies*, set up and

³² Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 is available at: <https://eur-lex.europa.eu/legal-content/RO/TXT/HTML/?uri=CELEX:32018R1046&from=RO>;

³³ The principle of institutional de-bureaucratisation is defined in Article 2 letter e) of GEO 122 of 29 July 2020;

organised according to Law No 315/2004 on regional development in Romania, as amended.

The transformation of *the regional development agencies* from "executive authorities" of the regions into managing authorities is a change in regional development policy that restores the development agencies to their functional position as set out in the proposed public policy for regional development (Green Charter).

Yes, *the regional development agencies* become management authorities according to art. 3 paragraph (1) of the O.U.G. 122 of 2020, but they remain subordinated to the regional development councils, according to art. 8 paragraph (1) and art. 9 of the Law no. 315/2004 on regional development in Romania.

Returning to the research of the O.U.G. 122 of 29 July 2020, we note that the agencies for regional development, as managing authorities for the regional operational programmes, become public institutions with the exercise of the prerogative of public power, they can according to art.3 paragraph (4) letter a) of the O.U.G. 122/2020 "*issue administrative acts of individual character in the field of management of non-reimbursable European funds*".

On the basis of this prerogative of public authority, the Regional Development Agencies have the right to conclude funding contracts, to make payments to beneficiaries³⁴, to carry out checks and controls, to detect infringements of the applicable legislation to projects with European non-reimbursable funding, to issue debt certificates in accordance with national legislation on the prevention and sanctioning of irregularities, to take all necessary steps to recover debts³⁵ and also to be directly accountable to the European Commission.

The Regional Development Agencies, as Managing Authorities, are the only ones to draw up the Regional Operational Programmes, which are supported by the Ministry of European Funds. In contrast to the provisions of Article 9(a) of Law No 315/2004 on regional development in Romania, which provides for the drafting of the regional development strategy, plan and programmes and their submission to the Regional Development Council for approval, according to Article 5(1)(a) of GEO 122 of 29 July 2020, the regional development agencies draw up the regional operational programmes in cooperation with the Ministry of European Funds, without submitting them to the Regional Development Council for approval, in my personal opinion.

Also as managing authorities, the regional development agencies authorise payments and make payments to beneficiaries of non-reimbursable European funds on the basis of approved projects and signed financing contracts, without the need for the opinion of the regional development council.

As managing authorities, the Regional Development Agencies exercise control over expenditure made by beneficiaries, detect irregularities in the implementation of beneficiaries' projects and issue enforcement titles in cases where beneficiaries have not legally used the

³⁴ The rights to conclude financing contracts and to make payments to the beneficiary are inserted in Article 5(1)(a) and (b) of the O.U.G. of 29 July 2020;

³⁵ The exercise of the rights of verification and control, the establishment of deviations and irregularities, the issuance of the titles of creation and the recovery of the sums representing claims are inserted in the content of art. 3 paragraph (4) letter a-f) of O.U.G. 122 of 29 July 2020;

amounts reimbursed from non-reimbursable European funds.

All these powers exercised by the regional development agencies as managing authorities, based on the prerogatives to issue administrative acts under public power, transform them into public authorities, in their own opinion, public authorities defined according to Article 5 letter k) of the content of O.U.G. 57 of 2019 on the Administrative Code.

It is obvious that GEO 122 of 2020 has produced substantial changes in the regional development policy, changes that require the amendment of Law no. 315/2004 on regional development in Romania in certain aspects.

3. Conclusions

Adopting the Government Emergency Ordinance No 122 of 29 July 2020 on some measures to ensure the efficiency of the decision-making process of non-reimbursable external funds for regional development in Romania, the public policy of regional development is undergoing a real modernization, a Europeanisation if we can make such a statement.

Comparing the public policy proposal in the field of regional development (Green Charter. Regional Development Policy in Romania) and the Emergency Ordinance no. 122 of 29 July 2020, we state that the regional development agencies have been recognized as the driving forces of regional development policy, as outlined in the public policy proposal in the field of regional development.

After the entry into force of GEO 122 of 29 July 2020, the following questions arose:

- Do grant contracts to be signed by regional development agencies with beneficiaries, including documents with EU representatives, need to be endorsed by regional development councils?
- The Regional Development Agencies will submit their revenue and expenditure budgets to the Regional Development Councils for further examination and approval.
- What happens if a representative of the regional development council is, through the administrative-territorial unit that he/she coordinates, a beneficiary of non-reimbursable funding during the same period as he/she is also the first mentioned?
- Will the Regional Operational Programmes have to be endorsed by the Regional Development Councils according to Art. 9 letter a) of Law 315/2004 on regional development in Romania?
- Will the new organigrams of the regional development agencies be approved by the regional development councils in accordance with Article 7(2)(n) of Law 315/2004 on regional development in Romania, although Article 11 of GEO 122 of 29 July 2020 no longer provides for this obligation?

For all the questions that have arisen after the entry into force of GEO 122 of 29 July 2020, the only one able to answer them is the legislator, who will have to adopt one of the legal variants that we propose.

A first option is to amend Law 315/2004 on regional development in Romania in the form of repealing articles that no longer correspond to the social, economic and political reality of regional development, so that Law 315/2004 on regional development in Romania is in line with

the provisions of O.U.G. 122 of 29 July 2020 and the current social, economic and political realities.

A second working hypothesis would be the adoption of a normative act that would clearly and precisely regulate the social-economic, administrative and political position of the regional development agencies, a normative act that would also include the general structure of the agencies, their functioning and their legal relations with the central and local public administration authorities and other entities. Such a legal act would clarify many of the interpretations currently given to the two legal acts in the field of regional development. In my opinion, it would be the optimal solution for both regional development in Romania and for regional development agencies.

A final working hypothesis would be for the legislator to issue a new normative act regulating regional development policy in Romania in all areas of regional development (public administration, agriculture, human resources and professional training, business environment, etc.), the new normative act to be drafted in accordance with the recommendations sent to Romania in 2018 by the European Parliament and the European Council.

The new normative act should also take into account the social and economic changes that have taken place in the state over the last decade, the challenges that may arise in the political, social and economic environment and the dynamics of regulation in areas such as local public administration, agriculture, transport and business. .

Issuing a normative act regulating the regional development policy as a whole and the management of European non-reimbursable funds, without political interference in the way regional operational programmes are drawn up, would lead to an accelerated assimilation of the money that the European Union makes available to the Romanian state for the 2021-2027 financial year.

We believe that a new law in the field of regional development is necessary for the Romanian state, a law that can set Romania on a path that will lead to increased living standards.

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