

Metropolitan Areas -Realities and Perspectives

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Abstract: Through its objectives, the paper presents a real interest from a scientific point of view, as it highlights conflicting issues existing at both theoretical and practical level. From a legislative perspective, in Romania there is no coherent legal framework regarding intercommunity development associations of metropolitan areas, the law is contradictory; we present the different legal statuses that apply to intercommunity development associations of metropolitan areas. Also, the regulations regarding the conditions to be met in order to gain the status of metropolitan area are not provided for in a special law. On the other hand, although these legal provisions are to be found in disparate normative acts, they are rather ambiguous, so that, at the moment, in our country, there is no uniform practice with respect to a particular model type of institutional metropolitan area. From an institutional point of view, metropolitan areas are governed differently at the legislative level. Also, from the analysis of documents of incorporation of intercommunity development associations of metropolitan areas in Romania, we notice various institutional structures. Taking into account the social and economic prospects that will be addressed in the present research, we are attempting to identify a viable model of metropolitan areas, which corresponds to Romanian realities, but also to all the malfunctions of existing arrangements. In this regard, the research aims to analyze, from a comparative point of view, the existing legislation in the other states applying the metropolitan model, in order to identify the proposed normative framework that corresponds to Romanian realities and that needs regulation, taking into account the degree of development of metropolitan areas in Romania so far.

Keywords: associations of metropolitan areas; European Union; institutional structures

1. The National Legal Framework for the Organization and Functioning of Metropolitan Areas

In this paper we approach, from a critical standpoint, the legislation in force in order to identify the normative framework that corresponds to Romanian realities and that needs regulation, taking into consideration the development of metropolitan areas in Romania, at the present time.

This is included in the *Law no. 215/2001*, in conjunction with other normative acts in force. In this sense, the provisions of art. 4, par. 4 of the *Ordinance no. 53/2002*

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*regarding the Framework-Statute of the administrative-territorial unit*¹ refer to the provisions of the *Law no. 215/2001 concerning the local public administration: the organization and functioning of metropolitan areas are made according to the law.* According to the *Ordinance no. 53/2002 regarding the Framework-Statute of the administrative-territorial unit: the communes around Bucharest city and those around first degree cities may be organized in metropolitan areas of the city.*

According to the *Law no. 351/2001*², *in view of the balanced development of the territory around Romania's capital city and around first degree cities or of cities that are capitals of counties, the basic administrative-territorial units in these areas may associate in order to create metropolitan areas of the urban area. The association contributes to the strengthening of complementarities between these units and the decision makers interested in developing the territory.* According to Appendix 1 to the *Law no. 351/2001*, by metropolitan area, we understand *the area constituted by association, based on voluntary partnership, between big urban centers (Romania's capital city and first degree cities) and the urban and rural townships in the immediate area, at distances of up to 30 km, that have developed cooperation relations on multiple levels.*

So, the purpose of the metropolitan area is explicitly ruled by the provisions of art. 11, par. 2, second thesis of the *Law no. 215/2001 of local public administration*³ republished, that is the development of infrastructures and common interest development objectives, with the explicit agreement of the local councils of the composing administrative-territorial units.

2. Highlighting the Theoretical and Practical Contradictions

The organization and functioning of metropolitan areas from the perspective of the current legislation. From a legal point of view, the statute of metropolitan areas is

¹ Ordinance no. 53/2002 regarding the Framework-State of the administrative-territorial unit, article 4, paragraph 4. Ordinance no 53/2002 Framework status of the administrative-territorial unit, Official Monitor No. 633 of 27.08.2002.

² Law no. 351/2001 regarding the Approval of the National Territory improvement plan. Law no. 351/2001 on the approval of the Landscaping Plan of the National Territory - Section IV – The Network of localities, Official Monitor No. 408 of 24.07.2001.

³ Law no. 215/2001 concerning the local public administration, article 11, paragraph 2. Official Monitor No. 123 of 20.02.2007.

represented and treated differently, both in the Special Law no. 215/2001, as well as in the other normative acts.

The Law 215/2001 *concerning the local public administration* states that the metropolitan area is the *intercommunity development association based on the partnership between Romania's capital city or first degree cities or county capital cities and administrative-territorial units in the immediate area.*

At the same time, the intercommunity development associations are the *legal cooperation structures, private law entities, created, in the legal framework, by administrative-territorial units in order to commonly develop projects in the area or in the region or to commonly supply public services.*

Also, the Law no. 351/2001 regarding the approval of the National territory improvement plan – Section IV – the township network states that *metropolitan areas mentioned in this document work as independent entities without legal status* by metropolitan area we mean the *area constituted by association, based on voluntary partnership.*

In Romania, the functioning of associations and foundations is ruled by the Government Ordinance no. 26/2000 regarding associations and foundations, that rules the legal status of the association which the Law no. 215/2001 refers to. Thus, *the legal persons that want to perform general interest or community interest activities or, as applicable, in their personal non-patrimonial interest, may constitute associations in the conditions of this ordinance, these representing private law entities without a patrimonial purpose.*

The organization and functioning of metropolitan areas from a real perspective. From an institutional point of view, metropolitan areas are different structures, created based on the law of associations and foundations, or on the law no. 21/2001. Also, upon analyzing the statutes of association of Romanian metropolitan area intercommunity development associations, we find different institutional structures.

Thus, from the Law no. 215/2001 it follows that *intercommunity development associations are managed by an administration board, which may create a technical apparatus, financed from the resources of the intercommunity development association. Concerning their organization and functioning, this is all set in the act of incorporation and the statutes of association of the intercommunity development association, approved by the decisions of local councils or county*

councils that associate. From the content of the legal text, it follows that associations creating metropolitan areas only have management boards and technical apparatus.

From the perspective of the Government Ordinance no. 26/2000¹ regarding associations and foundations, the association's components are different, being constituted by the general assembly; the management board; the censor or, as applicable, the censor commission.

In practice, the associations created based on the Government Ordinance no. 26/2000 regarding associations and foundations have as management and administration only an Administration board, a general assembly, the management board, the censor or, as applicable, the censor commission, or any combination of these. Furthermore, the urban and rural townships in the immediate area, making up some metropolitan areas and that have developed cooperation relations, on several levels, do not respect the condition of the minimal distance of up to 30 km.

3. Identifying the Malfunctions that Prevent the Development of the Metropolitan Area of the Galati City – Case Study

The statute of the association of which Galati city is a founding member, that is the *Intercommunity Development Association Metropolitan Area "Lower Danube"* is unclear, the consolidation of the existing association statute is a necessity.

The association of which Galati city is a founding member, that is the *Intercommunity Development Association Metropolitan Area "Lower Danube"*, does not currently function in the spirit of the legislation in force. This functions as an association in the sense of the special law of associations and foundations. In order to consolidate its role, taking into consideration the explicit provisions of the Law no. 215/2001, in which the condition of the existence of the explicit agreement of the composing local councils of those administrative-territorial units is imperative, it is necessary that the 47 local councils (46 communes and the city of Galati) stipulate their clear manifestation of will concerning the creation of a metropolitan area.

¹ Government Ordinance no. 26/2000 regarding associations and foundations published in the Official Monitor no. 39 of 31.01.2000, article 20.

At the same time, it is necessary to approve, in the local councils of the administrative-territorial units (ATU), the changes and additions to the Articles of Incorporation and the Statute of the Intercommunity Development Association Metropolitan Area “Lower Danube”, taking into consideration the decisions of the ATU to become a metropolitan area.

As results from the content of the decisions of the local councils of the existing administrative-territorial units, we mention a general legal ground - art. 11, par. 1 and 2 of the Law 215/2001, that does not clearly set the statute of the NGO created, in relation to the association method allowed by the Law 215/2001. Also, the purpose of the creation of a metropolitan area is different from the one of the associations creating metropolitan areas. Thus, according to art.11, par. 2, second thesis of the Law 215/2001, the purpose of metropolitan areas is to develop common interest infrastructures and development objectives. At the same time, changes need to be made concerning the composition of the management structures and the inclusion of references to strategies, programs, territorial improvement plans that shall be further adopted.

Also, based upon the research and study visits performed, we have identified the measures and the steps to be taken in order to consolidate the statute of the existing metropolitan area (changes of the articles of incorporation and of the statute, identifying strategies and area development programs, creating an area territory improvement plan etc.). In this sense, we have noticed that the issue of the Galati metropolitan area is not to be found in the strategic objectives of the Local Development Strategy for the Galati city in the current period.

It is necessary to cooperate with different experts or specialists in several fields (social, economic, urbanism and territory improvement etc.) in order to identify the elements that will have a social and economic impact on the population in the metropolitan area.

Since the results of the research confirm the fact that the existing intercommunity development association metropolitan area does not fulfill all the necessary elements of a metropolitan area, as well as the fact that many founding members will no longer want to be part of this association, we foresee the solution of creating a new intercommunity development association metropolitan area, for which a measure plan taking into consideration the purpose will be elaborated (strategies, programs, territorial improvement studies etc.). Thus, the approach proposed will be the result of the cooperation with specialists or experts in several

fields (social, economic, urbanism and territory improvement etc.), or as a consequence of cooperating with other institutions.

4. Conclusions

From a juridical point of view, the legislation in force is contradictory, as we have presented different legal statuses that apply to intercommunity development association metropolitan areas. This is due to the fact that, currently, there is no special law that regulates the issue of metropolitan areas, this law being just a project. From an institutional point of view, the Romanian metropolitan model is a hybrid. On the whole, in Romania there is no uniform practice concerning the development of a national metropolitan model for the existing development areas, much less can this be assessed as a reference for the metropolitan areas in the European administrative area.

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