THE ROLE OF THE PUBLIC ADMINISTRATION AUTHORITIES IN THE MANAGEMENT OF THE NATIONAL DEFENCE SYSTEM

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ABSTRACT

The application of the measures and the carrying out of activities specific to defence are ensured by the public authorities of the Romanian state, of which the authorities of the public administration play a vital role. In addition to the Parliament and to the President of Romania, the representative authorities in which the will of the people is expressed directly, the authorities of the local and central public administration, through their exercised powers, enforce the Constitution and the laws and guarantee the existence of an effective national defence system.

KEYWORDS: public administration, authority, national defence, public institution

1. The National Defence, Public Service of the State

Fundamental activity of the state by means of which power is exercised [1], the public administration uses legal, managerial and political processes in order to achieve government mandates to provide the regulations and services necessary to the society [2]. With the multiplication of the social needs, there has also increased the degree of complexity of the administrative structures responsible for meeting these needs and this has imposed that the public service become a cornerstone of the public administration system [3].

Particularized by its specificity, the national defence is included within the public services of the state [4], meeting the necessary requirements of the existence of the public services: by means of these the requirements of the members of society are met, their establishment is done by acts of authority, their work is carried out in achieving state authority, having legal personality, and the financial and material resources they use are provided by the state budget [5].

Inextricably linked to the very existence of the state, the public service of national defence has demonstrated its continuity, adaptability and efficiency in time and has represented a major support point of the state edifice, “the evolution of the administrative organization is linked to the evolution of the army; the very idea of hierarchy comes from the idea of specific subordination to the military phenomenon” [6].
Subsystem of the public administration, which carries out, during peacetime, the concrete execution of the normative acts specific to the military field, the military administration ensures the organization, maintenance, completion and mobilization of the armed forces, as well as the elaboration of the specific rules for the application of the legislation and of the normative acts in the army. Moreover, in situations of crisis or war, the military administration is the one that ensures the organization and the rule, through the military authorities, of an occupied territory or ensures the carrying out of specific tasks under exceptional circumstances, such as the state of siege or war [7].

According to art. 1 of Law no. 45/1994, the national defence includes all the measures and activities adopted and carried out by the Romanian state in order to guarantee the national sovereignty, the independence and the unity of the state, the territorial integrity of the country and the constitutional democracy and the carrying out of these activities is ensured by the public authorities, according to the powers established by law [8].

A constant challenge of contemporary democracies has been to find the best way to ensure an effective control over national defence; most often the solution that was used was to divide the exclusive right to political, administrative and military command and to assign separate tasks to the major state public authorities. To support a democratic control over the defence forces and national resources, even the text of the fundamental law of the Romanian state holds that the army is exclusively subordinated to the will of the people and contributes to collective defence in the military alliance systems, according to the law and to the international treaties to which Romania is a party [9].

The national defence is structured as a system, which is composed of the forces intended for defence, the resources of the national defence and the territorial infrastructure, elements over which a leadership provided by the most important state authorities it exercised. Thus, according to art. 7 of the Law on National Defence, “the leading of the national defence system is an exclusive and inalienable power of the constitutional authorities of the state and is conducted by: the Parliament, the President of Romania, the Supreme Council of National Defence, the Government of Romania, the Ministry of Defence and the authorities of public administration with responsibilities in the field of national defence” [10].

2. The Role of the Parliament and of the President of Romania in the Leading of the National System of Defence

Supreme representative body of the people and the sole legislative authority of the state [11], the Parliament performs the legislative function by passing laws, sets out the main courses of action of the state, social, economic and cultural activity, chooses forms, appoints or revokes the public authorities of the Romanian state and, not least, exerts control over the executive activity. Although according to the principle of the separation and balance of state powers, the Parliament does not have an executive role, its duties strongly interfere with the duties of other public authorities.

Although “the Parliament is made to control the administration of a country, not to administer that country” [12], the tasks of the Parliament and of the Government are no longer distributed in current democracies according to the distinction between the power to execute primary decisions and the power to perform these decisions [13].

In leading the national defence system, the Parliament defines the legal framework for the organization and functioning of the military administration, approves the National Security Strategy, declares the state of war, declares total or
partial mobilization, declares the suspension or the termination of military hostilities. Moreover, the Parliament gives its vote of confidence to the governing program and to the composition of the Government, of which the Minister of Defence is part, examines the annual report of the Supreme Council of National Defence, and through the committees of defence, public order and national security of the two chambers of the Parliament, exercises control over the executive activity in the field of national defence.

The President of Romania represents the Romanian state, is the guarantor of national independence, of the unity and of the territorial integrity of the country and monitors the observance of the Constitution and the proper functioning of the public authorities [14]. Based on its popular legitimacy, the President shall act as a mediator between the powers of the state and between state and society, significant components of the political and civil society [15]. Considered in the presidential and semi-presidential systems a central exponent of the executive power, which he leads or, depending on the situation, he shares with a government led by the Prime Minister, the President is established, according to the current Romanian constitutional system, outside the system of the authorities that exercise the legislative, the executive and the judicial power, but without his powers they do not have the legal force to subordinate the other administrative authorities politically, judicially or administratively.

Due to his defence duties, the President of Romania is, under the Constitution, the commander of the Armed Forces and Chairman of the Supreme Council of National Defence. As commander of the armed forces, the President of Romania may declare partial or total mobilization of the armed forces, with the prior approval of the Parliament, which can become subsequent approval in exceptional cases, when the decision of the President shall be subject to the approval of the Parliament within 5 days after adoption. The Romanian President is compelled, in the event of armed aggression against the country, to ask for the taking of measures to repel the aggression, with the immediate informing of the Parliament [16].

The role of the President of Romania is manifested in other crisis situations; in case of exceptional measures, the President of Romania shall declare the state of siege or the state of emergency, having the obligation to ask for the approval of the Parliament for the adopted measure within 5 days of taking this measure [17].

Moreover, some of the executive powers related to national defence are the following: the President of Romania confers decorations and titles of honor, grants the ranks of marshal, general and admiral, makes appointments to public offices (the Chief of General Staff, the Directors of the Romanian Intelligence Service and of the Foreign Intelligence Service), under the conditions stipulated by law [18].

One can notice the primacy of the Parliament in the exercise of the powers of the President of Romania in the field of defence [19], although the decisions in exercising the role of commander of the armed forces belong entirely to him, a fact that is obvious in the case of the situations that require a rapid political and legal response.

3. The Role of the Public Administration Authorities in Leading the System of National Defence of the Country

Category of the public authorities with a stable structure and continuous activity, endowed with administrative legal capacity that allows their participation in their own name to the accomplishment of the executive power [20], the public administration authorities represent an intermediary mechanism of execution of the political
power in the organization of a society and the regulation of its functioning [21].

The Government of Romania is the central authority of the executive power which ensures the achievement of the country’s domestic and foreign policy and provides overall leadership of the public administration, in line with the government program accepted by the Parliament [22] by exercising the functions of strategy, of regulation, of state resource management and of representation [23].

In the area of national defence, the Romanian Government is responsible for organizing the activities and applying the measures relating to national defence. Thus, the Government coordinates the activity of the ministries and of the other authorities of the public administration in order to carry out the measures that ensure the defence capability and, through Prefects, conducts specific activities at the local level.

Furthermore, the Government ensures the allocation and use of the financial and material resources necessary for organizing, equipping and mobilizing the armed forces, for the maintenance and training of the staff, for keeping the technique and the weapons operational. In case of a declaration of war, the Government sets out the obligations of the ministries and of the businesses in the mobilization plan of the national economy for the first year of war and during peacetime, it ensures the accumulation of the reserve materials needed in wartime, both for defence needs, as well as for the needs of the population [24].

Specialized body subordinated to the Government, the Ministry of Defence conducts activities in the field of defence [25] and is responsible for carrying out the fundamental concept of homeland defence in the military field. The MoD examines the defence needs of the country and proposes measures to the competent authorities on organizing and equipping the army, on preparing the population and the territory. During peacetime, it ensures the training of the headquarters and the training of the active and reserve staff and organizes the preparation for the mobilization of the army and of the population [26]. In times of crisis, the Ministry of Defence has responsibility for managing the state of siege, by issuing military orders [27], and in the event of general or partial mobilization, it makes proposals for declaring the exceptional state and manages it.

The way in which the responsibilities of the Ministry of National Defence are materialized is essential for the military defence of Romania and is reflected in the way in which the central structures of the ministry are configured [28]. Of these central structures, we mention the role of the General Staff which, by law, provides the leading, the organization, the planning and the operationalization of the forces, the gradual increase in the fighting capacity and in the mobilization of the army, the leading of joint operations, the training of the headquarters and of the troops, the basic and specialized preparation of the military personnel, the management of the individual career of the military personnel, weapons planning, standardization in the military field, and the carrying out of international military relations [29].

The Supreme Council of National Defence is the autonomous administrative authority vested, under the Constitution, with the organization and coordination of activities related to the defence of the country and to national security [30]. The composition of the Supreme Council of National Defence reflects its coordinating role regarding the national defence; besides the President of Romania, who is Chairman of the Council, the Prime Minister and the heads of the major line ministries of relevance in the field giving it an executive specialization, not only a deliberative one, to the Supreme Council of National Defence.

The autonomous character of this public authority excludes its subordination to the Government, but its activity is
subject to parliamentary scrutiny and verification through the presentation of reports on the conducted activities, reports that are submitted annually or at the request of the specialized standing committees of the Parliament, under the right of parliamentary control exercised by the legislature.

At the level of the central public administration, the ministries, the state intelligence services, the other authorities of the central public administration are responsible for the application of the measures to protect the country, according to the field of activity and to the competences established by law. The authorities of the local public administration also have responsibilities in the field of national defence, both during peacetime and in case of mobilization and war, according to their competence, by ensuring the fulfillment by businesses, public institutions and individuals of the provisions and measures regarding the preparation of the population, of the economy and of the territory for defence, by meeting the requests presented by the military units located within their county regarding the needs for mobilization, by implementing the measures necessary for making requisitions and for services [31].

4. Conclusions

Being under democratic control through the exclusive subordination to the will of the people, the defence system of the modern states is conditioned, internally, by the efficiency and viability of the state institutional structures, which should ensure the necessary political, legal, managerial or economic reaction to any type of threat to the national security.

Authorities outside the executive sphere, the Parliament and the President of Romania have an essential role in leading the national defence system, being public authorities with a representative character, directly elected by the people, and their functions and duties constantly interfere with those of the executive power in achieving the balance of the state powers. The manner in which the measures are applied and the way in which the activities specific to the national defence are carried out by the central and local public administration authorities is conditioned by the degree of the effectiveness of the organization and functioning of the public administration. Subsystem of the public administration, the military administration must be ready, at all times, in peacetime or in times of crisis or war, to provide the optimal response to the internal and external challenges that the state may face.

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