

DEFINING THE RURAL AREA IN ROMANIA – LEGISLATIVE APPROACHES

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SUMMARY: *This article is an analysis of how the rural area was defined in the Romanian legislation starting with the oldest law in force until last legislative initiatives in the field. The texts of Romanian legal acts were studied comparatively and against the provisions of the European Charter of Rural Areas. It was found that the definition of rural area in Romania was done generally by comparison and even in opposition to urban area. The new European paradigm emphasizes the complementarity of the two areas, different as specificity but equally important. Thus, the European Union's aim is no longer to transform rural into urban but to preserve and capitalize the specificity of each area in order to increase the living standards of all citizens, to maintain a healthy natural environment and to comply with the principles of sustainable development. National legislation does not seem to keep up with these trends, the biggest risk identified so far being a low rate of absorption of European funds. To avoid blockages, the documents providing the access to finance found, however, solutions for choosing beneficiaries specific to them. However, redefining the Romanian rural area within the national legislation, rigorously and in compliance with current European trends is a necessity for the elaboration of sustainable development policies in the medium and long term.*

Keywords: *rural environment, urban environment, territorial administration, rural development, urbanization indicators*

JEL Classification: P25, A12, D63

INTRODUCTION

The definition of rural area is subject to certain socio-economic paradigms which are reflected in European development policies but also in national legislations. For this reason, we thought the opportunity of a brief analysis of legal regulations from Romania, starting with the oldest law on territorial organization, still in force, and ending with the last attempts to harmonize the legislation with rural development policies of the EU.

MATERIAL AND METHOD

This paper is a study of national legislative documents that provide definitions of the rural area. There were analyzed comparatively the laws in force, the amendments thereof, a recent legislative initiative and the European Charter of Rural Areas. For confronting the de jure and de facto situation there have been used data published by the National Institute of Statistics on some of the minimal urbanization indicators mentioned by Law 351/2001.

RESULTS AND DISCUSSIONS

The oldest document in force on the theme studied was adopted in 1968, republished in 1981, repealed by Law 2/1989 but brought into force again in 1990 “until drafting a new law of administrative organization of Romanian territory”. The new regulations were adopted 11 years later, the Parliament omitting to repeal the Law 2/1968 on the administrative organization of Romania. Article 4 thereof defines the city as “the center of population more developed from economic, social-cultural and urban-household point of view”. Article 5 defines the commune as the “administrative-territorial unit which comprises rural population and it mentions that “by its organization, there is provided the economic, social-cultural and household development of rural areas”. Therefore, the definition of urban and rural area is made comparatively, the city being superior(more developed), but without having clear explanations about the measurement indicators of this superiority (GDP per capita, regional institutions, infrastructure, etc.). Superiority

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of city thus becomes the letter of the law and the development differences a “normality” that will last as long as the division of territory into cities and communes will last. Since some communes have become cities based on this law, we could conclude that, in their case, the development gap would have been eliminated through “economic, social-cultural and household” progresses.

After its re-enactment (1990), 5 localities were declared cities: Teius (Alba) and Faget (Timis) in 1994, Baia de Aries (Alba) – 1998, Otopeni (Ilfov) and Geogiu (Hunedoara) – 2000. After 2001, the transformations will continue based on *Law 351 on the approval of the National landscaping plan* that establishes the minimum criteria for classification of localities in various categories, presents procedures and ways of transitioning from one category to another and sets up metropolitan areas.

According to NIS data, none of the 5 localities mentioned above had more than 10,000 inhabitants when declared city or today, except city Otopeni. On the other hand, the communes Floresti (Cluj) has evolved from 5616 inhabitants in 1992 to 24,941 inhabitants in 2015, Commune Matca (Galati) had 11,227 inhabitants in 1992 and currently has 12,545, Commune Lumina (Constanta) registered 5572 inhabitants in 1992, today it has 10,348 inhabitants. There are many such examples, showing a stronger development of some communes compared to smaller cities whose population has diminished in the past years (Teius, Faget, Geoagiu, etc). Percentage of modernized roads (paved!) in these cities is less than 50% except Geoagiu and Faget. In the case of Faget, however, the percentage increase is due to the decrease in the total number of kilometers of road from 33 to 15, therefore the percentage of modernized roads does not represent progress. The sewage system remains weak. Less than 50% of roads have this facility, Otopeni included. Concerning green spaces, Otopeni seems to have suffered the most from urbanization, followed by Faget, and Teius never provided the minimum 15 sqm/inhabitant. None of these localities currently report the flow taken by plants in operation for wastewater treatment. Meanwhile, communes like Şintea Mare (Arad), Maracineni (Arges), Sascut (Bacau), etc. benefit from this facility.

The main novelty brought by Law 351/2001 is dividing the localities into five “tiers” as follows: “tier 0 – Romania’s capital, municipality of European significance; tier I – municipalities of national significance, with potential influence at European level; tier II – municipalities of inter-county, county significance or with steady role in the network of localities; tier III – cities; tier IV – villages as commune residence; tier V - villages composing the communes and villages belonging to municipalities and cities”. (Article 2) According to Annex 1, the tier is the expression “of present and immediate future significance of a locality within the network from administrative, political, social, economic, cultural point of view, etc., in relation to the sizes of the area of influence polarized and to the decision level it involves in the allocation of resources. This matter must also find its counterpart in the level of modernization”. [10]. The dividing line between rural and urban is between tier III – cities and those of tier IV – villages as commune residence. Annex II, Law 351/2001 establishes the minimum conditions to be met by a locality to belong to the urban environment. Given that these parameters are defined as “minimum”, we understand that they must be met cumulatively and compulsorily. At the time the Law was enacted, Romania had 172 cities, many of which did not meet and do not meet either today (15 years since the adoption of the Law and 4 years since its last update) the minimum conditions stipulated. If we consider only the first criterion (minimum 10,000 inhabitants) and consult the list published in the same law, we note that over 40% of the cities had a smaller population. The gap was increased by a reverse migration phenomenon. “If until 1997, more people were leaving from rural environment to urban environment, the trend has started to reverse: every year, approximately 28,000 people left the cities for the villages”. (Territorial Development Strategy of Romania, 2014, page 45) The importance of cities as a hub for economic, social and administrative development seems to be decreasing with the decrease of their ability to give people facilities they would search for and afford. The prioritization depending on the importance of regional influence of a locality on those around (of the network) from administrative, political, social, economic, cultural, etc. point of view is often a consequence of its level of development. Thus, the communes with a population greater than 10,000 inhabitants, which have managed to attract several investments, may become more influential in regional and

even national level than the depopulated and impoverished cities. After the adoption of this law, many communes have declared themselves cities. In 2012 Romania counts 217 cities (an increase of 26%) given that some of the old cities became municipalities (22 localities in 11 years). “For most new cities, the transition from rural to urban was done without modernization and development of facility and service infrastructure”. (Territorial Development Strategy of Romania, 2014, page 27) We would add *in its absence*, also. If the letter of the law would have been obeyed, the adequacy of reality to it would have meant either to bring cities to the level of achievement of minimum indicators, or to reclassify them into category of tier IV localities. From 2001 until now, no city has become commune. On the other hand, the law has not been interpreted by the executive as its obligation to bring at least the cities already declared to the facility level mentioned. Subsequent amendments to the Law establish the bodies which may be involved in the development of localities (government, local authorities, civil society) but there are no sanctions for breaches of minimum requirements for fitting in certain categories of localities, nor deadlines for bringing them to this level of compliance. However, the localities that have been declared cities in various contexts of our recent history and so considered *ex officio* of superior “tier” while simply fitting the localities in the category of communes or villages makes them of inferior “tier”, regardless of GDP per capita, the amount of taxes collected, the number of inhabitants, provision of public utilities.

<i>The main minimum quantitative and qualitative indicators to define urban localities</i>	
Number of inhabitants	10,000
The population employed in agricultural activities (% of total employment)	75
Equipping houses with water supply installation (% of total houses)	70
Equipping houses with bathroom and toilet in the household (% of total houses)	55
Equipping houses with central heating installation (% of total houses)	35
Number of beds in hospital per 1,000 inhabitants	7
Number of physicians per 1,000 inhabitants	1.8
Educational units	high school or other form of education
Cultural and sports facilities:	auditoriums, libraries, spaces for sports activities
Places in hotels	50
Modernized roads (% of total length of roads)	50
Roads with water distribution networks (% of total length of roads)	60
Roads with sewage pipes (% of total length of roads)	50
Wastewater treatment:	wastewater treatment plant with mechanical-chemical gear
Roads with exterior fire hydrant networks (% of total length of roads)	60
Green areas (parks, public gardens, squares) sqm/inhabitant	10
Landfills with secured access	present

Table 1 Annex II, Law no. 351/2001 revised by law 100/2007

As noted, the law stipulates a hierarchy of localities, according to their presumed importance in the network. It regulates again the inferiority of rural over urban by fitting the communes and villages in tier IV and V. In 2014, of the total area of Romania, the rural area represents a percentage of 87%. 47.8% of the population living in this area. (Territorial Development Strategy of Romania, 2014, page 21) The question is whether we can afford to consider these localities of inferior “tier” and whether this type of approach is the one that lowered the standard of living of a large social segment.

First of all, in terms of language, the use of the word “tier” can feed in the collective mentality a disregard of rural, perceived as underdeveloped and secondary to the urban and civilized. As we have seen, the mere fact of being declared a city in various pre or post-revolutionary conjuncture does not mean prosperity or urban amenities. The city is not always “more developed” or more influential, therefore, “tier of significance” given by law is often formal.

Secondly, urbanization minimal indices can be interpreted today as indispensable factors of a decent standard of living that should be provided to all citizens regardless of residence environment. We may not say that for localities which are no longer in urban area, the lack of public utilities such as sewage systems, hydrants, green areas, modernized roads, etc. is normal. Regardless of the number of inhabitants in a locality or their occupation (agricultural or non agricultural), each of them is entitled to an unpolluted environment, education and health. To say that 1000 inhabitants in cities need a minimum of 1.8 doctors, in municipalities the same number of

inhabitants must have a minimum 2.3 medical assistance while in rural areas there is only needed a medical clinic, pharmacy or drug store, without mentioning the type of personnel employed and regardless of the size of population in the commune it means to treat the 1,000 people differently, depending on the type of localities where they live, which may constitute discrimination. Same goes for the square meters of green area/capita (15 in cities, 10 in municipalities). In fact, we talk about the same number of people and these people are equal in rights. Art. 16 of the Constitution states that “All citizens are equal before the law and the public authorities, without any privilege or discrimination”, and Art. 47 states: “The State is bound to take steps of economic development and social protection, likely to provide the citizens a decent standard of living”. It is about all citizens and the Constitution does not allow ranking the importance of citizens based on residence environment.

Thirdly, the law maintains this rule according to which the communes may transition from an inferior tier to a superior tier as significance only by transforming themselves to cities. It is thus omitted the development of rural localities by preserving their identity and developing their inner features that can be seen as advantages compared to the urban areas. Development of rural tourism, revival of crafts, making the rural agriculture more efficient, can bring more prosperity to rural localities than mere transition to city status. Moreover, they are opposite to urban environment features. Annex 1 comes with a completion expected in this field, defining the rural locality as a locality where: “a) the majority of workforce is focused in agriculture, forestry, fishery, providing a specific and viable way of life to its inhabitants, and through which the modernization policies will also maintain in the future the rural specificity; b) the majority of workforce is in areas other than agricultural, forestry, fishery, but currently providing an insufficient facility necessary to declare it as city and which, by the facility and modernization policies can develop into urban localities”. So, the modernization is not incompatible with the rural status but “the development” of these localities remains subject to adopting characteristics specific to the urban environment.

An interesting document in defining urban and rural areas is the **Law no. 2 of April 18, 1989 on improving the administrative organization of the territory of the Socialist Republic of Romania**. It was repealed in 1990 because it abolished “over 300 communes and a large number of villages with deep tradition in the country’s history”. At the same time, however, there was decided to maintain in force the provisions of the law on the transition of 23 communes to the category of cities”. (Article 1) In its preamble there was mentioned the need for territorial reorganization as a consequence of “the profound transformations that have occurred in the lives of all localities of the country in the period since the adoption of Law no. 2/1968”. The law of 1968 was considered obsolete by 1989, the legislators after 1990 maintain it in force. The stated purpose of the document was to deepen “the process linking the working conditions, of life and culture in rural areas to those from urban areas, to the material and spiritual standard of living of all people”.

Instead of ranking the localities on tiers proposed by the current legislation, Articles 7 and 8 were creating the same type of locality, depending on one criterion, the number of inhabitants. Thus the cities were divided into the following categories: “I – up to 10,000 inhabitants; II – between 10,001 – 20,000 inhabitants; III – over 20,000 inhabitants”. (Art. 8) Thus, the communes were no longer considered a “less developed” area compared to cities (as the Law 2/1968 mentioned), they were not “tier IV” as significance and influence. The legislator stipulated that “the commune organization ensures the strong development and modernization of agriculture, expansion of industrial and service activities, of the health network, education and culture, thereby creating to inhabitants work and life conditions as close as possible to those of the population of cities”. A simple amendment to the annexes of this law by re-adding dismantled communes and villages would have offered us a more progressive legal document than the Law 2/1968 but also than the Law 351/2001, since 1989. The paradigm which this document is subordinated to, repealed in 1990, seems to better align to the international trends and Rural Charter than many of the legislative attempts after the Revolution.

The Order No. 143/610 of March 4, 2005 on the definition and characterization of the rural area was issued by the Ministry of Agriculture, Forestry and Rural Development. Its goal was

to define and characterize the rural area of Romania “in accordance with the provisions of the Council Regulation (EC) No. 1,296/1996 on the European Charter of rural areas” and to clarify the eligibility status of applicants to SAPARD funds.

In 1996, the Council of Europe noted that “a new action was needed at Pan-European level to strengthen the justice and social and economic stability between urban and rural areas”. It aims to improve “the living and working conditions in rural areas” proposing concrete measures for rural development, without considering at any time its urbanization. On the contrary, art. 9 letter b mentions the commitment of signatory states to protect “the rural area against intensive or anarchic urbanization”. The document speaks about rural development by preserving and enhancing its own specificity. The perspective of approaching is different from Law 2/1968 but also from Law 351/2001. Unfortunately, despite the aim stated in its preamble, neither the Order 143/2005 transposes it entirely.

Since the beginning, to define the rural area, the Charter uses the terms “villages and small cities” while the Order 143 mentions “areas belonging to communes, as well as peri-urban areas of cities or municipalities”, removing the possibility of categorizing the small cities in this area. The document of the Council of Europe defines areas with a particular use of lands for certain economic, social, cultural, environmental protection purposes, while the Order 143/2005 delimits areas only defined by a certain economic specificity. The notion of territory, which by its nature is fixed, constant, helps the delimitation and localization of rural area for its protection and development. Thus, defining an area in terms of its economic activities carried out may be temporary while territoriality is a constant. In addition, the economic aspect does not exhaust the definition of rural area as neither “agriculture, forestry, aquaculture and fishery” in the European vision only includes “plant agricultural and/or livestock, forestry, fishing and aquaculture production” because agricultural production means agriculture but is not identical to it. Council Regulation (EC) No. 73/2009 defines agricultural activity as “production, raising or cultivation of agricultural products [...] **or maintaining the land in good agricultural and environmental conditions.** (art. 2, let. c) If agricultural land is no longer used for some time for economic purposes, it does not mean that it is no longer part of the rural environment. Its non-use does not remove the obligation to protect it from ecological point of view, activity which remains subject to the agricultural field. The Annex of the Recommendation also notes that today agriculture is multi-functional. Besides obtaining agricultural products, which is not only made for economic reasons but also for social reasons (such as ensuring food security of the population in both areas of residence), agriculture should contribute to: “the preservation and maintenance of the landscape heritage [...] keeping and promoting the cultural values of the rural world [...] conservation of vital resources (soil, water, air)” and their sustainable exploitation (Annex, Guideline 6. Agriculture and Agricultural Policy). The document mentions the need for “an economic and social policy” aimed at both “rural development and agricultural development”. This should “take into account the equality and interdependence of rural area and the urban area”. Development of rural area is no longer done by the transition to city but by preserving and capitalization of complementary differences in a world where the importance of the two areas is equal. (Guideline I. Principles, let. b).

In 2013, noting an unsatisfactory absorption of European funds and awareness that many Romanian cities are not on track to meet the criteria of Law 351, a group of Members of the Parliament submitted the “**Legislative proposal on defining national rural area**”. Stated objectives were “balanced development of the national territory, efficient use of European funds, encouraging diversification of the rural economy, improving the quality of life in rural environment” (art. 3). The draft was adopted by the Chamber of Deputies (2013) but rejected by the Senate after two years of waiting (2015). Article 4 included in the rural area “all administrative-territorial units up to 25,000 inhabitants” (and therefore a part of small cities), provided cumulative fulfillment of the following criteria: “density of population-150 inhabitants per km² maximum; the proportion of households engaged in industry is at least 25% and over half of the minimum quantitative and qualitative indicators of urban development set out in annex 1 are fulfilled”. The point of view addressed to the Chamber of Deputies (registered under no. 8114/September 20,

2013) by the Romanian Government opposes to the adoption of the document, citing procedural flaws but also the presumption that the recognition and preservation of rural characteristic of small cities would be anachronistic. So, contrary to the spirit of the European Charter, governmental approach remains true to the paradigm where the villages and communes are inferior to cities and development is only done by urbanization at any price and not by exploiting the specificity and inner advantages of each area, as indicated by the European Council. The question is whether low level of development of these localities, which the Government admits, is the result of forced and artificial preferred urbanization of certain sustainable rural development policies. Could it be that, through such political and administrative approaches, the rural population is condemned to social exclusion and underdevelopment, considering natural that the village is underdeveloped as long as it keeps its appurtenance to the rural environment? In terms of the access to financing, the executive believes that it is not blocked “only by certain ambiguities in the national legislation” but rather by eligibility rules and provisions of documents governing access to finance”. From my point of view, the question is whether the access is blocked by these ambiguities not whether they are the sole cause of the blockage. If ambiguities are in this blockage, whether the only causes or part thereof, they should be eliminated. In addition, the eligibility criteria for accessing European funds refer to rural/urban division in the national legislation. It is however true that, solutions were found in this regard by customized definition and even the exact nomination of beneficiaries in the applicant’s guides of every funding line. Although it is a rural development program, the RDP also addressed some localities considered urban by the national legislation. The example of LEADER program invoked by the Government is eloquent, also addressing to cities of up to 20,000 inhabitants.

CONCLUSIONS

Customized approaches for defining eligibility for each line of financing seem a good solution but only for the moment, typical to the Romanian society that seems to bypass problems, leaving them unresolved but looking for detours to still go further. One such issue is prioritizing rural and urban areas, the first being inferior by law, approach which, according to the author, is unconstitutional, does not align to the European development policies and it is not always consistent with the reality that surrounds us. Inequalities between urban and rural areas may not be denied, but the development degree of each is often tributary to the paradigma adopted by the national development policies. The beneficiaries of these policies should be citizens with equal rights, respected and represented by state institutions equally, regardless their residence.

Due to the lack of coherent long-term development policies we face with contrary tendencies. On the one hand there is a tendency to (re) ruralization. Government considers it anachronistic but government policies so far are actually those that created it. Territorial Development Strategy of Romania 2014 considers this phenomenon “obvious in case of small and medium cities”. It “is manifested by waiving urban amenities (running water, heating) that have become too expensive for some people, increase of population employed in agriculture, plus a significant flow of return migration” to the rural area. (Territorial Development of Romania, 2014, pg. 51) On the other hand, we are facing the “uncontrolled urban sprawl outside the area for housing, where they are regularly lacking most basic facilities (both in prosperous areas and in poor areas) and an “intensive or anarchic” urbanization acknowledged both at the European Council recommendation (Title IV; art. 9) and Law 351/2001 (art. 10), tendencies which rural areas must be defended of.

Finally, we remember that the laws have primarily a normative, not descriptive character. Their role is not to find and especially to preserve inequalities unfavorable to its citizens but to establish rules by which all citizens may benefit from rights such as equal opportunities, access to a decent living regardless of the area of residence. The approach of the legislators whereby rural area is defined as an inferior tier in permanent opposition to the city which is, by definition, “more developed” is anachronistic and does not always correspond to reality. Moreover, it can create social disparities, antagonisms, under or over unfounded assessments and ultimately perpetuation of socially unfair inequalities and economically ineffective in the rural-urban relationship.

We need a revision of mentalities and legislation that should accept the complementarity of urban and rural area, preserving and developing the different ontological but equally valuable potential that both have. This approach that resonates with the spirit of the European Charter of rural area is the duty of State institutions to all its citizens, regardless of where they were born, they live, where they carry out their activity or where they choose to retire. It is a duty that we all have for all: previous, present and future generations.

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