



NEWSLETTER OLA - 2020 (n°2)

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OLA (Observatory on Local Autonomy – www.ola-europe.eu)



**Publication
articles of the
symposium
maintained**

Dear colleagues,

The pandemic resumed in August 2020 in the North of France and in many other parts of the world, making the health context very uncertain once again and the measures for protection and social distancing increasingly drastic. The health context has thus made the holding of the OLA colloquium with interpretation very complex and uncertain, even in dematerialized mode.

As a result, the conference organizing committee had to reluctantly take the decision to cancel the 2020 conference scheduled for September 25 and 26 in Lille on the theme « The state of local government reforms, local public services and local public finances in Europe (including specifically Democratic and Electronic Changes in Local Public Action in Europe: REvolution or E-volution?) ».

However, the scientific committee has decided to maintain the publication of the symposium proceedings in early 2021, in order to disseminate the many high-quality contributions we have received from more than 40 authors representing 20 states around the world.

We will of course keep you informed of the publication of the Proceedings.

Best regards,

The committee of the organization of the OLA symposium



Thesis defense
of Antoniu TUDOR

The decentralization in Romania since 1859

On September 24, 2020, took place the thesis defense of the former scientific manager of the OLA network, Mr. Antoniu TUDOR. The thesis was on "Territorial decentralization in Romania in the light of its administrative history since 1859. Between rupture and continuity".



The jury was composed of : Mrs. Dana APOSTOL-TOFAN, Professor at the University of Bucharest; Mrs. Elsa BERNARD, Professor at the University of Lille; Mrs. Patrizia MAGARO, Professor at the University of Genoa; Mrs. Verginia VEDINAȘ, Professor at the University of Bucharest; Mr. Mr. David CAPITANT, Professor at the University of Panthéon-



Sorbonne; Mr. Farid LEKEAL, Professor at the University of Lille; Mr. Angel Manuel MORENO, Professor at the University Carlos III of Madrid.

Thesis Director: Mr. Stéphane GUERARD, Lecturer (HDR) at the University of Lille.

The presentation of the candidate was in three stages. Firstly, was presented the choice of the subject and the delimitation of its scientific field ; secondly, the problematic and the avenues of research were presented, and finally, were presented the conclusions of the thesis.

In summary, the analysis of territorial decentralization in Romania in the light of its administrative history, during the three periods (monarchical, communist and contemporary), allows us to understand the complexity of the functioning of the state and proposes to make a contribution to the study of administrative law by examining both the local and the central level. The administrative reform projects that have marked the implementation of territorial decentralization in Romania since 1859, the date that signifies the creation of the Romanian State, as well as the doctrinal heritage of the end of the 19th century concerning the Romanian local administrative system, will contribute to a general reflection on territorial decentralization by bringing up forgotten scientific questions, but which seem to be of particular interest today (especially from January 1st 2007, date of Romania's accession to the European Union) on the adaptation of this rich doctrinal heritage to the current scientific and socio-economic contexts. The aim of decentralization is to improve Romania's international competitiveness, and to reduce the economic and social gap between Romania and the member states of the European Union.

This thesis has a historical and reflexive dimension on the past, the state and the future of territorial decentralization in Romania, and therefore in time. It is a research, which concerns a series of problems in the Romanian local public administration, its evolution and even its future.

Mr. Stéphane GUERARD, the Director of the thesis, took the floor by thanking the colleagues members of the jury but especially those who were also visiting professors in the activities of OLA, such as: Mrs. Patrizia MAGARO (Professor at the University of Genoa), Mrs. Verginia VEDINAȘ (Professor at the University of Bucharest) and Mr. Angel Manuel MORENO (President of the Group of Experts of the Congress of Local and Regional Authorities of the Council of Europe), specialists on the issue of territorial decentralization and local self-government. The thesis, written in French, explains, through the history of the Romanian administration, how territorial decentralization has been more quickly and strongly asserted in the young European state, especially during the monarchic period. All the more so as everything that currently affects the legal history of the EU member states influences in some



way the legal construction of the EU and at the same time it even feeds it implicitly. It was also recalled the issue of regionalization in Romania, an old institutional sea snake both in Romania and in Europe, which is co-substantial to the birth of the Romanian state.

The first historical presentation of the Romanian administration aims to lead to a reflection of the reform proposals on the current system in Romania. This sends us to the questioning of our own administrative systems, whether French, Italian or Spanish.

The ultimate objective of this thesis was to try to identify a system of local administration that is as efficient as it is democratic; the legal element is an element to achieve it. The double objective, both managerial and political, which is nevertheless emancipated from international and European texts, concerning local autonomy or territorial decentralization, depends on elements of historical as well as economic context. To study the local is to enter a multidisciplinary field where law sometimes occupies a more or less congruent place depending on the periods and territories.

To sum up, the thesis crosses the main personal and intellectual interests of the candidate, on the one hand, the French-speaking world and public law, and in fine, the history of decentralization in Europe, on which we will soon work within the OLA network; and on the other hand, on the former authors of Romanian administrative law and incidentally on the first issues of the first period of the publication of the RDP (Romanian Public Law Review).

There is one issue on which Mr. Stéphane Guérard does not share the candidate's point of view, and it is that of regionalization, even if he respects the demonstration on the subject. Then, an interesting point is the place of administrative reforms, especially territorial reforms imposed by the EU in the process of joining the EU.

Each member of the jury questioned the candidate on themes related to the thesis and he answered some underlined aspects and constructive remarks, hoping that they will continue to nourish the reflection in this field of the candidate.

After the deliberations of the jury members, Mr. Antoniu TUDOR was awarded the title of Doctor of Public Law.

The OLA network warmly congratulates Antoniu TUDOR for his high quality work and thanks him warmly for his involvement in the network, which is always renewed and appreciated.



Local elections in Europe (1/2)

In Russia

Territorial elections in Russia: is the "non-system" opposition gaining strength?

By Olga SHARAPOVA-HANG, doctor of law, lecturer at Paris Descartes University

Despite the COVID-19 pandemic and the closure of borders since March 30, 2020 (with a few exceptions), Russia has recently experienced the most important elections in terms of territories involved. Marked by the alleged poisoning of the emblematic figure of the so-called "out of system" ¹ opposition, the lawyer Alexei Navalny, a few weeks before D-Day, elections were held in 83 of the 85 states of the Russian Federation. Despite prejudices about the "Russian-style" elections, the results were quite surprising. They are the result of both voter absenteeism (1) and the strategy of the "non-systemic" opposition (2).

1. The abstention rate as a factor favouring political reshuffling

Following the vote, regional leaders were appointed in all 20 regions, regional parliaments were renewed in all 15 regions, deputies to the municipal councils of 22 regional capitals were elected, and elections for municipal councillors were held in the remaining 36 regions.

¹ Political parties and groups except the Communist Party, Just Russia (close to United Russia) and the Liberal Democratic Party of Russia (far right).



Thanks to the most recent changes in the electoral legislation, the population concerned could opt for electronic voting in the case of regional elections, as well as vote outside polling stations, in condominium courts, squares and parks.

These new forms of voting, as well as the staggering of the vote over three days from September 11 to 13, 2020, for health reasons, did not save the case: only in eight subjects of the federation did the turnout exceed 50 per cent, given that seven of the eight regions were electing regional leaders; in 14 regions the turnout was barely 40 per cent; and the three states had an abstention rate of more than 70 per cent (!) in elections to regional parliaments ². In local elections (for municipal councils), turnout was only 23 per cent.

The Russian electorate, jaded by political immobility and electoral falsifications, frightened by the pandemic and traditionally disinterested in voting in the case of municipal elections, preferred not to go to the polls but to take advantage of the freedom of movement so much appreciated after the confinement.

This may seem paradoxical at first glance, but this high abstention rate somehow favoured the good results of the electoral race for the "non-system" opposition. Not everywhere, but as we shall see below, in some territories opposition candidates won mandates. This was due to the participation of the most motivated voters who implemented a particular strategy.

2. The "intelligent voting" system, a Navalny innovation at the service of the opposition

According to statistics from the Central Electoral Committee, approximately 171,000 candidates ran in the territorial elections, of which 156,000 were registered. The registration refusal rate was historically low, barely 5%, as 94% of rejected candidates did not present the necessary documents to examine their applications ³. It should be noted that 130,000 candidates represented 36 political parties.

Only 1171 candidates in 66 election campaigns in 39 Russian regions were registered on the "smart vote" list ⁴. Tested for the first time last summer during the elections to the Moscow Duma, Navalny's invention consists of calling voters who are against United Russia to vote for an opposition candidate who is the most active in his election campaign and who has the best chance of winning. This time around, the candidates supported by Navalny won 141 mandates in 18 regional parliaments and 123 local governments. Thanks to these candidates, United Russia lost the majority in three regional capitals: Tomsk, Novosibirsk and

² "The 3-day vote did not help: turnout was down in most regions", published on 14/09/2020, [https:// regnum.ru/news/polit/3062712.html](https://regnum.ru/news/polit/3062712.html)

³ « Le Comité Central Electoral annonce un faible taux de refus d'enregistrement des candidats pour la journée unique de vote 2020 », publié le 19/08/2020 http://rapsinews.ru/incident_news/20200819/306169641.html.

⁴ « Comment le vote intelligent se déroulait en 2020 », publié sur la page web officiel du projet <https://votesmart.appspot.com/>.



Tambov ⁵. However, United Russia's results declined even in regions where the traditional ruling party had traditionally performed very well: Caucasus regions and agricultural regions (e.g., Krasnodar region).

To conclude, here is a brief interview with Ilya CHABLINSKI, Professor of Constitutional and Local Government Law at the National Research University Higher School of Economics (Moscow), member of the Human Rights Council to the Russian President (2012-2019 ⁶).

- In your opinion, how do you explain the extremely low turnout even in the elections to the legislative assemblies of the subjects of the Federation (regional parliaments)?

The main reasons are the lack of real competition [among the candidates] and the fact that the electorate does not believe in the possibility of influencing in any way.

- Is "intelligent voting" the future strategy for the "non-system" opposition?

"Intelligent voting" implies voting for the strongest opponent of the candidate of the ruling party without taking into account the real preferences [electoral program that corresponds to a voter]. Thus, it is a "forced" tactic in the absence of the real contenders for power who advocate democracy. It is the only possibility at the moment, but not in the long term.

- The results in Tomsk, Novosibirsk, Tambov are a "happy coincidence" or the birth of a real political alternative to "United Russia" at the municipal level?

Yes, partially it is an accident, because the "filters" of the local authorities have poorly monitored and did not cancel the registration of some candidates. However, partly it is also the result of maturing democratic minds in some regions.

- Can the fact that dozens of candidates on the "smart vote" lists won, be taken as a sign of the rise of the "out-of-system" opposition?

It is better not to call the opposition "out of the system", as the electorate rarely qualifies it in these terms. This victory is a sign that the movement to restore democracy is gaining strength.

- Are you pessimistic or optimistic about the upcoming municipal elections?

Local autonomy is a scale on which the party currently in power is ready to accept its competitors, but that is no longer enough.

⁵ id.

⁶ Exclu du CDH par le Décret présidentiel du 21 octobre 2019. Selon Chablinski, la raison principale de son exclusion était son attitude en tant que président de la commission des droits électoraux. Il a pointé de doigt les manipulations, voire falsifications, des autorités liées au refus d'enregistrer certains candidats aux élections au Conseil (Douma) de Moscou en août 2019.



Local elections in Europe (2/2)

In France

The 2020 municipal elections in France : an unprecedented ballot

Par Marig DOUCY, PhD student in Public Law at the University of Lille

The 2020 municipal elections elected some 35,000 mayors - due to the famous French exception and its huge number of communes - and nearly one million local elected officials. This election had several peculiarities: an unprecedented delay between the two rounds, an unprecedented abstention rate for municipal elections and an unusual electoral dispute.

Originally scheduled for March 15 and 22, 2020, municipal elections will involve nearly 35,000 municipalities in France - the French exception! - were turned upside down by the health crisis. While the first round of voting did take place on Sunday, March 15, two days before the confinement of France, the second round was cancelled and postponed to June.

Thus until June 28, 2020, the date of the second round, two types of mayors assumed their functions: those elected in 2014 and whose term of office was extended to avoid any shortcomings, and those elected in the first round of the 2020 municipal elections. As a result, the councils and executives of the intercommunal bodies - to which the French communes are obliged to belong - could only be constituted after the second round of voting.

A record abstention rate



Another particularity of this exceptional election is its high abstention rate. While the municipal elections resisted as best they could the lack of interest of citizens, the participation rate was at its lowest in the entire territory: 44.66% on the evening of the first round ⁷ and 41.6% on June 28th ⁸. These are the lowest participation rates in the Fifth Republic for the municipal elections. Without going into an in-depth analysis of this phenomenon - always increasing - of the citizen's distance from elective public life, the fears generated by the health crisis most likely contributed to the abstention, pushing voters to avoid the polling stations, potential places of spread of the virus. Before the first round, several votes had been raised in favor of postponing this ballot, which was a health risk for voters as well as for the presidents and assessors of the polling stations.

On this basis of low, or even very low, turnout, electoral disputes have emerged, in addition to the usual disputes. Concerning recurring disputes, one can, for example, cite the cancellation of the municipal and community elections of Grand-Fort-Philippe, in the Hauts-de-France, due to a too small difference of votes - 17 - and abuse of electoral propaganda ⁹; a decision that falls within the scope of traditional electoral disputes. Not all cases have yet been decided. The Administrative Court of Lille has yet to render its decision in several cases, notably concerning Lille and Roubaix, communes of 100,000 inhabitants and more, before March 11, 2021 ¹⁰. In Lille, two opponents have indeed filed an appeal, relying on a small difference of votes (227) and denounce "irregularities".

What is the impact of Covid-19 in the electoral litigation ?

A new type of litigation could have emerged. In Malville, in Loire-Atlantique, the majority list had won the election in the first round by three votes above the required absolute majority. However, the abstention rate was exceptionally high (55.37% in 2020 versus 34.95% in 2014). On July 9, 2020, the Administrative Court of Nantes, seized by a candidate, ruled that this low turnout was the consequence of the health crisis and that it had undermined the sincerity of the ballot ¹¹. According to the court, the health context and the "messages disseminated by the government in the days preceding the vote" "dissuaded a significant proportion of voters from going to the polling station. An appeal was filed with the Council of

⁷ <https://www.interieur.gouv.fr/Actualites/L-actu-du-Ministere/Resultats-et-suivi-des-taux-de-participation-au-premier-tour-des-elections-municipales-et-communautaires-2020>

⁸ <https://www.interieur.gouv.fr/Archives/Archives-elections/Elections-municipales-2020/Resultats-et-suivi-des-taux-de-participation-au-second-tour-des-elections-municipales-et-communautaires-2020>

⁹ <http://lille.tribunal-administratif.fr/Actualites/Communiqués/Annulation-des-elections-municipales-et-communautaires-de-la-commune-de-Grand-Fort-Philippe-Nord>

¹⁰ <http://lille.tribunal-administratif.fr/Actualites/Communiqués/Elections-municipales-1er-tour-de-scrutin-du-15-mars-2020>

¹¹ https://www.lemonde.fr/politique/article/2020/07/13/municipales-2020-la-justice-annule-une-election-aux-motif-de-l-abstention-imputee-au-coronavirus_6046062_823448.html



State following the annulment. Other municipalities, notably in Loire-Atlantique, had been the subject of similar disputes, questioning the low turnout due to the health crisis.

In another case, however, the Conseil d'État recalled that other conditions had to be met in addition to the sole reason for a high abstention rate: a difference in votes of less than 5% and the presence of local irregularities. The increase in the abstention rate alone cannot constitute a ground for cancelling the municipal election ¹².

It should also be noted that the Constitutional Council had validated the organization of the 2020 municipal elections ¹³, despite the low turnout, while encouraging the administrative judge to analyze the consequences of abstention on a case-by-case basis. The Conseil d'État thus had the opportunity to exceptionally relax its jurisprudence and adapt electoral law to the health crisis. However, a motive based on a low turnout due to the health crisis remains insufficient according to the High Court.

Treaty on Local Autonomy
in Europe

Call for
proposals

Due to the pandemic that has affected us all around the world, and has slowed down our activities, the OLA network is relaunching its call for proposals with a view to drawing up a Treaty on local self-government in Europe.

¹² <https://www.legifrance.gouv.fr/ceta/id/CETATEXT000042120845/>

¹³ <https://www.conseil-constitutionnel.fr/decision/2020/2020849QPC.html>



KNOWING that the main objective of the OLA network is to study local autonomy or “decentralization”, the management of local communities, multi-governance and the resulting themes,

DETERMINED to establish closer local foundations between the people of Europe,

DECIDED to ensure by joint action the economic and social progress of their local authorities by eliminating regional imbalances,

CONVINCED that it is at the local level that this right can be best exercised,

CONVINCED that local authorities, invested with effective skills, will allow a better approach to the well-being of citizens and inhabitants,

CONSCIOUS that the fact of the strengthening of local self-governement contributes to and will help to build a more united and prosperous Europe,

The proposal for a Treaty on local self-government in Europe is agreed.

In this context, the OLA network is launching a call for papers. You can send us your publication proposals for the Treaty on local self-government in Europe. They have to be sent to Marig Doucy : marig.doucy@mail.com

You can send your contribution in word format, specifying your contact details, your function and your structure. Your article must include between 40,000 and 80,000 signs, spaces and annexes included. If your proposal is selected to be part of the program, concerning the Treaty on Local Self-Government in Europe, you will receive a confirmation by email.

The articles will be published, in English and in French, by a recognized European publishing house. Final contributions must be send in English and in French, otherwise a financial contribution for the translation will be requested from the authors.

The publication date is scheduled for the end of 2021.

An information, a conference to make known?

The newsletter of the OLA network is intended to announce events of all kinds (seminars, conferences, publication of works, etc.) related to its purpose : decentralization in the World and local authorities. It is also likely to highlight works carried out by members of the network.

So, if you wish to share this type of information, you can contact us at this e-mail address : marig.doucy@gmail.com and drisslaabdi@yahoo.fr.

