

## 100 YEARS OF...CONSTITUTIONALITY

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### **Abstract:**

*The present study aims to take a look at the modern constitutions of Romania, starting with the protoconstitutional attempts, then going through the Constitution of 1866, getting to the true constitutional consecration of the Great Romania of 1923 to finally see the constitutional continuity of our country up to the present. This constitutional itinerary does not aim to make a detailed analysis of each constitutional regulation but tries to point out only the main fundamental milestones of the constitutional regulations of Romania, in the triggering context of the particularly troubled historical events of this people.*

**Keywords:** *protoconstitutions, statal formations, constitutions, historical events, social and democratic changes.*

### **Introduction**

Paraphrasing a famous masterpiece of the matchless Gabriel Garcia Marquez we will make a brief journey through the history of the Romanian State and law focusing on the most relevant aspects of the architecture of the modern Romanian State edifice.

Starting from the title we are inclined to speak about a centennial historical continuity of the constitutionality of Romania, a continuity that preserves the fundamental democratic values, regardless of the political regimes Romania has gone through, but also to highlight the aspects characterizing the Romanian State forms in relation to the political regimes that this people, so put to the test by geopolitical neighborhoods and vicissitudes, went through in the course of history.

We cannot talk about the fundamental milestone set by the Constitution of 1923 for the foundation of the modern stality of Romania without speaking of the precursors of the essential regulations brought about by the constitutional precedents mentioned above.

## **I. Protoconstitutionality of the modern edifice of Great Romania**

According to the opinion of Professor Cristian Ionescu: *The unitary constitutional character of the constitutional development of the two Romanian countries [Wallachia and Moldavia] was favoured, among others, by natural geographic factors which permitted the connections on water and land between the different zones... The unitary constitutional evolution was, at the same time, accentuated as well by the homogenous Romanian character of the population... In the light of the above, we consider that in the constitutional development of the Romanian State the following constitutional cycles occurred:*

1. *From the foundation of the Romanian Feudal States of the 16th century until the end of the 18th century, when the feudal State actually reached a final form. At the beginning of the 19th century began the modernization of the State life of the two Romanian Principalities in harmony with the guiding lines of the European constitutionalism.*

2. *From the application of the Organic Regulations of Wallachia and Moldavia of 1831 and, respectively, 1832 up to the Convention of Paris in 1858.*

3. *From the Convention of Paris in 1858, until the adoption of the Constitution of 1866.*

4. *From the adoption of the Constitution of 1866, until the Constitution of February 1938 [the democratic Constitutions].*

5. *The autoritary Constitutional Organization [The Constitution of Charles II and the Constitutional Acts of September 1940].*

6. *From the reenforcement of the Constitution of 1923 on 31 August 1944, to the proclamation of the Republic on 30 December 1947 [the decline of the Parliamentary democracy].*

7. *The socialist constitutional organization [The Constitutions of 1948, 1952 and 1965].*

8. *The Constitution of 1991 inaugurated a new constitutional cycle based on the Parliamentary traditions and the Romanian political organization traditions connected to the fundamental principles of the contemporary constitutional democracy” [1].*

This very inspired classification made by the above-mentioned author would tempt us to go along the same doctrinal journey of a particularly pertinent analysis, yet our desire

to return to the main topic, that of the commemoration of a century of constitutionality leads us to go over a few historical stages and focus our attention starting with the constitutional regulations of 1866.

## II. Protoconstitutionality of the modern edifice of Great Romania

About this Constitution of 1866 one can say many things, yet the historical reality exceeds all customs and legends.

Thus, Alexandru Ioan Cuza, immediately after his enthronement as ruler of the United Principalities of Romania, ordered the creation of the working structure: "*Central Commission and the protocols of the Central Commission relating to the Constitution*" and "*elaborated a Project of Constitution of the United Principalities Moldavia and Wallachia*" [2].

During his reign, Alexandru Ioan Cuza constantly modernized the two principalities, taken over medieval formations and transformed, in an extremely short historical time into modern formations, contemporary with those existent in Western Europe. Towards the end of his reign there was already a Constitution project drafted by the State Council, a Constitution which was decreed and enforced later on by Carol I and the act itself was published in the Official Journal (Monitorul Oficial) of July 1, 1866, so after the forced abdication of February 11, 1866 of the ruler Alexandru Ioan Cuza.

As published, it foresaw in Art.1: "*The United Romanian Principalities constitute one State, under the name of Romania, under a reigning prince chosen from a reigning dynasty of Europe, with right of heredity, in the male lineage of his family.*" This Constitution was modified by the laws of "*13 October 1879 and 8 June 1884... The law of 8 June 1884 added in the Constitution also Art. 133 called additional article, decreeing that the Constitution will apply, by special laws, also in the Romanian side over the Danube, in Dobruja. Consequently, by the Law of 14 April 1910, with its regulation of application from 16 April 1910, the inhabitants of Dobruja, as well, were granted their political rights. At the same time, the Law of 1 March 1913 and its regulation of 25 April 1913 instituted Courts of jurors from the cities of Tulcea and Constanța, to judge ordinary crimes and political and press crimes*".[3]

As we can observe, after 1878 when the United Principalities become the Kingdom of Romania, constitutional recognition comes and modifies the initial regulations of this constitution, supporting the new form of government, namely the one of kingdom. What this modification does not say is, however, the consequence of the second thesis of the former Article 1 abrogated, namely the stipulation of the hereditary character of the recently restored monarchy and the supporting of the salic law from the perspective of the succession to the throne, a consequence that, as we will see, survives until 1947 when by the abdication of the last king of Romania, namely King Mihai I, Romania becomes a republic, from the perspective of its form of government.

### **III. The Constitution of 1923**

In the doctrine of public law in general, and especially of constitutional law, there is awareness of the indissoluble relation between the transformations and historical modifications of substance and the adaptation of the normative framework to the special dynamics of the social relations to be regulated. Thus, the history, the will of the peoples and their right to selfdetermination led, as it is known, to the fateful events of Romania in 1918 and immediately after these moments the realization of the Great Union and the return to the motherland of the historical territories lost or found under the boundaries of the different neighboring empires. The immediate consequence of the First World War was that the great feudal empires imploded, and the peoples under their dominion asked and obtained, many of them, the sovereign right to selfdetermination. The fall of “the prison of the peoples”, namely of the Austro-Hungarian Empire, then the Bolshevik Revolution of 1917 led to the evaporation of unjust formations and the return, albeit for a short historical period of time, to their traditional homeland, of certain territories unjustly subjugated by the mightier ones of those times.

We will not make a historical analysis of the events, but it was necessary to make this reference to the historical componence lying at the basis of the subsequent constitutional development.

The Great Romania, as it is known, was formed by the Union of Transylvania, Bessarabia and Bukovina with the Kingdom of Romania.

These territories returned to the historical homeland of the Romanian spirituality, were, however, heterogeneous from the viewpoint of the form of government but also from the legislative perspective. Namely, Bessarabia was a component of the Russian Empire, a component become after the Revolution of 1917 the Democratic Moldavian Republic! Transylvania was part of the Hungarian Kingdom which from 1867 formed the Austro-Hungarian Empire. Bukovina was under Austrian administration namely under an empire recently disintegrated after the First World War. In this political and administrative "cocktail", a unitary formation was needed, starting from the State structure up to the form of government, from the principles of constitutional law up to the uniformization of the institutions and public authorities which needed to function unitarily and continually.

*The administrative unification of the completed Romania was the main component of the legislative unification process, as the existence of four different administrative systems was endangering not just the stability of the Romanian State but also the so-called "unification of the soul", which all the responsible voices were invoking as fundament of the national project. [4]*

During the period November 1922 - March 1923, the Deputies' Assembly and the Senate, as Constituent Assemblies, drafted and debated in their own commissions the Constitution project which was adopted on 26 March 1923 by the Deputies' Assembly and then on 27 March 1923 by the Senate. On 28 March 1923, the Constitution of the Completed Romania was promulgated, as the necessary constitutional setting "*for the consolidation and well-founded prosperity of Our beloved Romania*" [5] .

The adoption of the Constitution of 1923 marks a unique moment in the constitutional and statal history of Romania. It made perfect and consolidated, on the level of the fundamental Law, the Romanians' national project of realization of the Romanian unitary national State, being the politico-juridical act which permitted the legislative and administrative unification of the Romanian State after the Great Union of 1918. The essential elements proclaimed and supported by this constitution are:

- the form of government is the kingdom;
- the State structure is national unitary and indivisible State;
- the administrative territorial delimitation is in counties and communes [urban and rural];

- the equality in rights is guaranteed regardless of gender, ethnicity, language, religion or freedom of conscience;
- the freedom of the education, of the press, of the reunions, of the association, as well as the individual freedom are instituted. At the same time, the domicile inviolability is guaranteed and also property is guaranteed;
- mining ores, and the State riches of the underground of any nature are the property of the State;
- the freedom of labour and the freedom of conscience are defended;
- the right of petitioning is introduced and guaranteed;
- the separation of the powers in the State is instituted, all the powers emanating from the nation. Here we need to have in view a few characteristic features, namely: the legislative Power "is exerted collectively by the King and the national Representation made up of two Assemblies: the Senate and the Deputies' Assembly ". Any law requires the meeting of the minds of the three branches of the legislating power. No law can be submitted to royal sanctioning except after having been discussed and voted freely by the majority of both of the Assemblies (art. 34).
  - the category of senators of law is instituted;
  - *"the executive power is entrusted to the King who exerts it in the way regulated by the Constitution"* [art. 39];
  - *"the judicial power is exerted by its organs"* [art. 40];
  - *"a legislative Council is created, meant to help consultatively in the making and the coordination of the laws"* [art. 76];
  - the monarchy instituted is constitutional, hereditary and salic [art. 77];
  - *"the royal lieutenancy is instituted, made up of three persons, which will exert the royal powers until the King is enthroned"* [art. 79];
  - *"the King names and revokes his ministers"*[art. 88];
  - the government exerts the executive power in the name of the King... and these make up the Council of Ministers presided by the President of the Council of Ministers, entrusted by the King with the formation of the Government [art. 92-93];
  - the Court of Cassation and Justice is instituted, with competences of solving administrative disputes regarding the interpretation of the constitution;

- the local administration is based on the principle of decentralization;
- taxes of any nature can only be established and collected by law;
- the colours of the flag are blue, yellow and red, the residence of the Government is in the Capital and the official language is Romanian.

As the President of Romania noted in his discourse on the occasion of the anniversary of 100 years since the adoption of the Constitution of 1923: *The fundamental Romanian law was one of the most advanced in the Europe of those times, becoming the juridical and political foundation for the functioning of the institutions of Romania, a monarchy based on a democratic, parliamentary constitutional regime.*

*The Constitution of 1923 was a modern juridical work, of European inspiration, which reflected not just a series of aspirations and traditions specific of the Romanian society, but also the natural belonging of Romania to the cultural, political and juridical space of the Western democracies.*

*The explicit consecration of the unitary character of the State, of the civil and political rights, the protection of the religious freedom, the law of national minorities, the regime of property, the interdiction of discrimination on grounds of ethnicity, language or religion and of the death penalty in times of peace, as well as the interdiction of censorship are just a few of the modernizing elements that the Constitution of 1923 brought to the Romanian State.*

*In the fundamental Law of a century ago found their place the principles of liberal constitutionalism, such as the separation of the powers in the State, the rationalization of the legislative process or the consecration of the control of constitutionality over the laws, realized back then by the Court of Cassation and Justice” [6].*

#### **IV. The Constitution of 1938**

In the proclamation of King Carol II of 20 February 1938, the authoritarian political regime is instituted. Reading this proclamation, this is sprinkled only with good intentions such as: saving the Country, laying more solid foundations, priority of the Romanian nation, a better clarification of the citizen's rights and obligations, reduction of the number of Senators and Deputies [see again the referendum of 2009!], a better representation of the peasants, workers and intellectuals in the parliament, increased punishments for

those attempting to steal from the public wealth, strengthened control on the administration of public money, etc. The New Constitution was approved by the plebiscite of 20 February 1938. While regarding the stipulations on the citizens' rights they remain in principle the same as in the Constitution of 1923, with mentions and completions, apparently a new chapter is introduced concerning the Romanians' obligations. Of these, we underline:

*-“considering the Motherland as the most significant basis of their purpose in life, sacrificing themselves to defend her integrity, independence and dignity; contributing by their work to her going higher morally and her economic prosperity; accomplishing faithfully the community tasks imposed by laws and contributing willingly to the accomplishment of the public tasks without which the State's being cannot live on”* [art. 4];

-interdiction of changing the form of government, of sharing or distributing the wealth of others, tax exemption or class struggle;

-interdiction of the priests' spiritual subordination to other States, interdiction of any political propaganda;

-interdiction of any political associations on religious grounds;

-interdiction of registering militarily for other States.

A series of new aspects emerge concerning the State powers, such as:

*-“the legislative power is exerted by the King through the National Representation”*  
[not in common by these components!];

- the categories of the non-elected senators are reduced;

*-“the initiative of the laws is given to the King”;*

- regency is instituted instead of lieutenancy.

From this enumeration of a few elements introduced by the Constitution of 1938 it does not result very clearly why the period 1938-1940 was considered to be a “royal dictatorship”! If anyway the executive power belonged to the king and was exerted via “his government”, one can talk about the king taking upon himself the legislative power by pushing behind himself the National Representation [the bicameral parliament!] and exerting the legislative initiative himself. Even if in the Constitution there appears no interference in the judiciary power we can observe that by sanctioning the Law for the



defense of the Rule of law of 25 February 1938 the Council of Ministers was entrusted the dissolution of the political groups endangering the political and social order, which by decision – i.e. administrative act – would accomplish such a prerogative [not at all the judiciary]. It is known that the central organ of the public administration was subordinated to the king, that the king was the executive power and the ministers were subordinated to him. In this context can we still speak about the separation of the powers in the State? Not at all! It is a huge step back that Romania took after the issuing of the Constitution of 1923 which, as it was correctly estimated at that moment, was one of the most democratic and progressist constitutional regulations of Eastern Europe. Then, the right of association supported by the Constitution was immediately removed by the Law-Decree for the dissolution of all associations, groups or political parties, a normative act issued on 31 March 1938. The troubled times that Romania entered subsequently represented an even greater diminution of the democracy leading, as we will see, to the suspension of the Constitution of 5 September 1940 and the dissolution of the Legislating Bodies. This fact occurred through the resigning of the Government of Ion Gigurtu and the naming of the general [later on become marshal] Ion Antonescu in the function of President of the Council of Ministers and his being entrusted with the formation of the new government. The instauration of Antonescu's dictatorship occurred formally immediately by the Law-Decree no. 3053/5 September 1940 when the King invested General Ion Antonescu with full powers to lead the Romanian State, the King still keeping a few prerogatives, such as: to be *the head of the army*, strike coin, confer decorations; exempt a person from executing a condemnation and reducing punishments; accrediting ambassadors, concluding treaties. All the other State powers were exerted by the President of the Council of Ministers. And as the roller of the dictatorship and of the full eclipsation of the fresh democracy did not stop here, in January 1941 General Ion Antonescu asked the King to abdicate. Acquiescing this unprecedented approach, King Carol II abdicates in September. The historical troubles seem endless! In 1940 transferring symbolically his throne to his son Mihai, Great Voivode of Alba Iulia, he becomes under those precarious historical conditions King Mihai I. The crazy race of historical troubles continues so that by the Royal Decree for the approval of the Royal Decree no. 3151 of 14 September 1940 the National Legionary State is founded, a State created based on dictatorial principles

starting with 15 February 1941. General Ion Antonescu consolidates his power by a plebiscite in the month of March 1941 obtaining a confirmation with 2,960,298 votes against 2,996 votes. This is how dictators manage by apparently democratic methods to institute their own dictatorship and to obtain the support of the masses despite defying the most elementary democratic rules.

#### **V. The Coup of 23 August 1944 and its constitutional and political consequences**

It is known that on 23 August 1944, being in audience at the Royal Palace, General Ion Antonescu was arrested and by the Proclamation to the Country King Mihai I announces Romania's withdrawal from the Axis Powers and the end of Romania's war against the Allies. A new Government of National Unity was formed and the conclusion of a peace with the Allies was decided, the armistice offered by the Soviet Union, Great Britain and the United States was accepted, guarantees were received regarding the country's independence and autonomy, the injustice of the Vienna Diktat by which a large part of Transylvania was stolen was acknowledged. This put an end to the dictatorship of General Antonescu and restored the citizens' rights and freedoms. The Government was formed of the representatives of four political parties: National-Liberal, National-Peasant, the Communist Party and the Social-Democratic Party united all in the National Democratic Block.

By the Royal Decree no. 1626/31 August 1944 the Romanians' rights *“are those recognized by the Constitution of 1866, with the modifications also brought later on by the Constitution of 29 March 1923... Until the organization of the National Representation, the legislative power was exerted by the King at the proposition of the Council of Ministers”*.

There is a return for a short while to the previous democratic constitutions, especially that of 1923. The legislative power was *“exerted collectively by the King and the National Representation, according to the provisions foreseen in the Constitution of 29 March 1923, concerning the State powers,”* as it results from the contents of the Decree no. 2218 on the exerting of the legislative power of 15 July 1946.

## **VI. The proclamation of the republican form of government**

By the act of abdication of King Mihai I of 30 December 1947, he renounces both for himself and for his successors to the throne, leaving to the Romanian people *“the liberty to choose their new form of State”*. The foreword of the royal abdication act notes that the transformations and the rapports of power *“no longer correspond today to the conditions established by the fundamental pact – the Constitution of the country – they demanding a fast and fundamental change”*.

So, by the Law no. 363/30 December 1947 for constituting the Romanian State in the Romanian Popular Republic, is abrogated both the Constitution of 1866 and that of 1923. The Chamber of Deputies acknowledges the abdication of King Mihai I for himself and his successors. We observe two fundamental changes: the bicameral Parliament disappears and the form of government changes from kingdom to republic! *“Until the enforcement of the new Constitution the executive power will be exerted by a presidium made up of five members elected, with majority, by the Assembly of Deputies out of the personalities of the public, scientific and cultural life of the Romanian Popular Republic”* [7].

As it results of the Law no. 364/30 December 1947 the presidium included: C.I. Parhon, Mihail Sadoveanu, Ștefan Voitec, Gh.C. Stere, Ion Niculi.

By the Law no. 32/25 February 1948 issued by the Assembly of Deputies, the electoral body is convoked for 28 March 1948 to elect the Great National Assembly which will come together on 6 April 1948. It will elaborate the Constitution of the Romanian Popular Republic, and until its constitution the legislative power will be exerted by the Government. As we can see, we are witnessing the sunset of the separation of the powers in the State and the instauration of the communist regime.

## **VII. The socialist constitutions**

### ***VII.1. The Constitution of the Romanian Popular Republic of 13 April 1948***

As it results from this Constitution, Romania is a popular, unitary, independent and sovereign State, and its whole power emanates from the people and belongs to the people. As a continuity of these regulations, this Constitution stipulates the exclusiveness

of State property, but mentions certain domains such as the post office, the telegraph, the telephone and the radio as belonging to the State. The adjudication of the means of communication by the State was the grounds for restraining certain fundamental rights and excluding any form of competition. Equality in rights was substituted with equality in front of the law, formally, there being no discriminations, from any perspective. This Constitution proclaims the autocephaly of the Romanian Orthodox Church and the freedom of the cults. In a manner that is slightly puerile and contradictory appears regulated the freedom of the press, of the word, of reunion, of the meetings, corteges and manifestations, because *"the exercise of these rights is assured by the fact that the means of printing, the paper and the places of reunion are made available to those working."*

A new right is introduced, the right of refuge guaranteed to the strangers pursued for their democratic activity, for the fight for national freedom, for scientific and cultural activity, but also a constitutional obligation of the obligatory military service for all the citizens.

Supreme organs appear in various statal zones, such as the Great National Assembly, as unique legislative organ, and its presidium is that permanence of power acting in the periods between the Great National Assembly's sessions, and then the Council of Ministers as a supreme executive and administrative organ. On a local level, the country was divided into communes [*urban and rural – our completion*], second order administrative units called *plasa*, counties and regions, these being led by local popular councils as local organs of the State power. The judicial organs were formed of the Supreme Court, tribunals and popular courts and the prosecutor's office is stipulated along with them having huge constitutional powers. As symbol, the coat of arms of the country is introduced, which persists throughout the communist regime, appearing on the national flag in the middle, while its three colours remain the same, already known [blue, yellow and red].

## ***VII.2. The Constitution of the Popular Republic of Romania of 27 September 1952***

This Constitution has an introductory chapter glorifying the victory of communism and the role of the Soviet Army lying the bases of the proletary dictatorship. The

constitutional servilism to the Soviet Union reflects a behavioural pathology of the decision-makers of those times.

A whole chapter describes the social order emphasizing exclusively the alliance of the workers and of the peasants, excluding the intellectuals from the existence of the society, continuing with the glorification of the Soviet influence. This Constitution institutes the omnipresence of the socialist property on the production means, lies the bases of the cooperatist property and institutes the right of possession on the small household property. Instead of private property, there appears the right to personal property. The State is proclaimed as being popular democratic, unitary, sovereign and independent. There emerge as dominant the regions of Soviet inspiration and an Autonomous Hungarian Region, with the raions (districts) comprising the Hungarian minorities, an experiment which in time will prove very dangerous.

On the level of the State regions, the ones supported by the previous Constitution are preserved, however describing their juridical appearance more. On the local level, towns and raions emerge, which did not exist according to the previous Constitution, while the administrative unit called *plasa* disappears. The fundamental rights and obligations are regulated somewhere at the end of the Constitution and are generally the same as in the previous Constitution. The *innovative* element is the regulation on the exclusivity of the unique party, the Party of the Romanian Workforce / Partidul Muncitoresc Român bringing together “*the most active and conscientious individuals from among the workforce class and from among the other layers of working people.*”

Another element of constitutional novelty is the insertion in the contents of the Constitution of the electoral system, which normally would have needed to find its place in a law not in a Constitution. Summing up, this Constitution is rather an ideological manifesto and a pile of regulations that go very far from the rigor and the techniques of a logical and efficient fundamental norming. The most eloquent argument on the atechnicity of the constitutional regulation is the description of the coat of arms [on its left there was an oil rig, the coat of arms is framed by a wreath of ears of wheat, at the top there was a star with five corners, while at the bottom the ears of wheat are kept together by a tricolored ribbon on which the letters R.P.R. are written]. All these heraldic signs should have appeared in a law, not at all in a Constitution. It is known that there was no

Legislative Council, which, if it had existed, would have been able to suggest how fundamental act needs to be drafted.

By the Law no. 1/25 March 1962 for the modification of the Constitution, the State Council is introduced in the place of the presidium of the Great National Assembly, which assured the permanence of the Assembly in the period between the Assembly's sessions.

### ***VII.3. The Constitution of the Socialist Republic of Romania of 21 August 1965***

Unlike the previous Constitution, this one is drafted much better technically and much more clearly. It consecrates the socialist order of Romania and the leading role of the Romanian Communist party, which becomes a fundamental principle of public law. The socialist State property becomes omnipresent and the citizens' personal property is restrained to a few basic elements [house to live in and its annexes, the insignificant agricultural inventory etc.]. A greater openness to the world is manifested, constitutional priority going to the relations with the other socialist countries but also with all the States of the world and also an openness to the international organizations. The territory of the country is divided into counties, towns and communes, administrative divisions still valid to this day. The civil and political rights are supported by this Constitution as well as the belonging to the Romanian Communist Party of the most "conscientious of the workers, peasants and intellectuals". As one can note, is reintroduced, after a long historical absence, the category of the intellectuals which returns in the attention of the socialist State. The right of asylum stipulated previously by the Constitution of 1948 returns. The organs of the State power are the same with the mention that for the State Council a whole constitutional chapter is allotted to regulate its juridical aspect.

As a novelty, this Constitution has for the first time a chapter dedicated to the President of the Socialist Republic of Romania, a constitutional institution that appears only in 1974, and the person occupying this function was considered as the head of State representing the State power in the internal and international relations of the country, being elected by the Great National Assembly / Marea Adunare Națională [this gives birth to the parliamentary republic]. As a special note, beside a chapter dedicated exclusively to the judiciary, a distinct chapter is allotted to the Procuratorate, which denotes its

importance for the socialist State and which was called to oversee the defence of the socialist order. This Constitution resisted until the Revolution of 1989 when the socialist State imploded and all the structures of power ceased their activity, this vacuum being filled by the Council of the National Salvation Front / Frontul Salvării Naționale.

### **VIII. The period of constitutional transition**

In the press release to the country of the Council of the National Salvation Front of 22 December 1989 the following guidelines were set:

- abandonment of the party's role of leader;
- organization of free elections;
- separation of the powers in the State;
- restructuring of the economy based on the principles of the market economy;
- reorganization of the education;
- respecting the rights and freedoms of the national minorities;
- promoting good relations with the neighboring countries in the external politics;
- promoting the citizens' interests in the internal politics.

All these desiderata were later on supported normatively by the Law-Decree no. 2/27 December 1989 regarding the constituting, the organization and the functioning of the Council of the National Salvation Front [8].

### **IX. The Constitution of 1991**

The present Constitution of Romania was adopted in the meeting of the Constituent Assembly of 21 November 1991 and came into force after its approval by the national referendum of 8 December 1991.

The Constitution was reviewed in the year 2003 by the adoption of the Law reviewing the Constitution of Romania, approved by the national referendum of 18-19 October 2003, law that came into force on 29 October 2003, date of its publication in the Official Journal of Romania.

The Constitution of Romania is the fundamental law of the Romanian State which regulates, among others, the general principles of organization of the State, the rights, freedoms and fundamental duties of the citizens and of the fundamental public authorities.

This fundamental act is considered as one of reference because Romania returns to her democratic trajectory interrupted by the communist period.

The essential elements of the Constitution are the statuting, with the force of the fundamental law, of the qualification of the State [national, sovereign, independent, unitary, indivisible, Rule of law, democratic and social], the determination of the form of government [republic] [9], “*consecration of a bicephalic executive, in which there are two heads, respectively the President and the Government*” [9]. This Constitution supports the separation of the powers [public authorities] in the State, the legislative authority [the bicameral Parliament], the executive authority [the Government], the judicial authority [courts] and introduces new public authorities: the Superior Council of Judicature /Consiliul Superior al Magistraturii [guarantor of the accomplishment of justice], the Constitutional Court [guarantor of the constitutionality of the laws], the Advocate of the People [garantor of the respecting of the citizens’ rights and freedoms], the Court of Accounts [garantor of the efficient using of the public money], the Supreme Council for the Defense of the Country [garantor of the defense of the country and of the national security].

On the central level, the parliamentary bicameralism already introduced previously to this Constitution is preserved, and the Government adopts beside simple decrees and ordinances also emergency ordinances. These normative acts were given in the competence of the Government by the Constitution [art. 114 paragraphs 3 and 4] as a legislative delegation, the Government being able to legislate in the domain of the ordinary laws when the Parliament delegates this right of theirs during the parliamentary holidays empowering the Government to decree via simple ordinances in various domains, strictly established, and subsequently these ordinances reenter the parliamentary procedures being confirmed, modified or abrogated by the legislative forum. The emergency ordinances are a distinct situation of primary legislation bestowed upon the Government by the Constitution and they could manifest themselves even in the domain of the organic laws only in emergency situations, so exceptionally... the condition being that the Parliament be in session. Unlike the incipient period of the transition when the acts of the Government were annulable by the “superior structures of power” [see the Council of the National Salvation Front or the Popular Council of National Union], after



the first general elections they could only be annulled by the administrative legal department.

On a local level, modern and democratic public authorities emerge: county councils and local councils [deliberative authorities], town halls [executive authorities] by means of which the local autonomy is realized by these elected public authorities. Beside these constitutional principles, the Constitution also supports another basic principle of organization of the local public administration, namely the principle of decentralized public services.

## Conclusions

The continuity of the constitutional regulations in this Carpathian-Danubian-Pontic area is the constant of the fundamental regulations that delineated the architecture of the State-related organization and of the regulation of the relations between citizen and State. Our belonging to the European area can be seen as well through this prism of the constitutional regulations as it is known that almost the unanimity of the democratic countries of the world [10] rely on a Constitution, as a fundamental law, function of which all the other legal norms had to be aligned to this sacrosanct principle of the constitutionality of the laws. Romania, through the prism of its constitutional continuity is part of this *honourable family* of the modern, democratic States. Even though the socialist period was considered a deviation from the democratic trajectory of the country, however, there is this constant of the constitutional regulations which remains, even throughout this period.

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- [5] According to the parliamentarians of the Constituent Assembly
- [6] Extract from the speech of President Klaus Iohannis from 27.03.2023
- [7] Art. 6 of Law no. 363/30 december 1947
- [8] See Ivan Vasile Ivanoff, *Aprecieri critice privind apariția și evoluția administrației locale din România*, Ed. Bibliotheca, Târgoviște, 2021

[9]For more details, see Verginia Vedinaș, *Drept administrativ, Ediția a II-a revăzută și actualizată*, Editura Universul juridic, București, 2006, p. 14 et seq. [attenuated or parlamentarized semi-presidential regime, a semi-parliamentary regime]

[10]Except for the United Kingdom of Great Britain and Northern Ireland