

### Journal of Danubian Studies and Research

# Romania in International Relations 1944-1947. The State of Law Versus the State of Facts

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**Abstract:** The process of establishing communism in Romania was not a singular phenomenon, on the contrary, it was multiplied on the scale of Central and South-Eastern European integrity, within a vast scenario of "finlandization" of the area by the Soviets with the tacit consent of its allies. Direct and brutal involvement in domestic politics, the imposition of "friendly governments" is by definition a violation of the constitutional principles of sovereignty, invalidating from the outset the regimes of "popular democracy". The phenomenon will be presented at that time and later throughout the communist regime, as a natural evolution of society, a struggle between old and new ad the phenomenon will be presented at that time and later throughout the communist regime, as a natural evolution of society, a struggle between the old and the new, the truth being largely distorted.

Keywords: mediatized notions; democratic society; institutionalization of political

#### Introduction

In order to hide the cruel reality established by the Armistice Convention, concluded by Romania with the United Nations, in Moscow on September 12, 1944, the political regime established on March 6, 1945, will present the foreign troops as "liberators" and the Soviet Union as "big brother from the east". The imposition by violence of the new "people's democracies" in the states of Central and South-Eastern Europe will contribute to the stagnation and backwardness of their economy and, in general, of these societies, the costs paid for the recovery being quite special and paid today by all of us, over 75 years after the events took place.

Before 1989, the rulers tried assiduously to present the moment of the establishment of the communist regime as originating "from the will of the people", a fact that

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would give them legitimacy for this purpose, the communists and their supporters were not shy to fabricate on a large scale evidence to authenticate them as exponents of the popular masses, of the entire people. However, once in power, the new rulers will unleash a fierce persecution against the opposition, and not only at the same time considering the dissolution of democratic institutions and practices that no longer fit into the new patterns imported and faithfully copied from the U.S.S.R. Of course, now that Romania has overcome the phase of "popular democracy" returning to a truly democratic form of government, the interest in finding out the truth about Romania's evolution in the difficult period during and immediately after the second world war is fully motivated. of civil society's desire to prevent possible errors that Romanian society could make again. Now, when the rule of law, political pluripartyism, human and citizen rights are among the most mediatized notions, new determining aspects can be revealed to the subject subject to our attention, for an analysis that wants to be as objective as possible and why not really pertinent regarding the legality of the way in which the abolition of the monarchy was carried out in our country and the transition to the new form of government, that of the popular republic.

If, from a historical point of view, after 1990 the bibliography of the respective period is as abundant as possible, excelling through a rich and judiciously chosen documentation, from a legal point of view, those interested in the topic under discussion cannot be made available comparable number of studies and specialist works, so that the problem is only half solved, because as is well known, the Romanian communists and their supporters from the Kremlin -through the red army stationed in Romania - have resorted to a real arsenal of legal, or less legal, means to access government. The legality of the legal acts through which the transition from the monarchical to the republican form of government was made is thus put into question, but most of the time this is done in a rather poor way, enumerative even (Muraru, 1998).

The functioning of any democratic society has always assumed as an essential premise in the realization of the rule of law, the need to create that institutionalized control system, in order to "censor" the way in which public authorities at any level fulfill their duties, without exceeding their competences and exercise abuses (Apostol, 1999). The problem of the institutionalization of political power within society, of its legitimacy, therefore represented a constant interest of the collective, interested in the good organization and functioning of any form of social organization. The abolition of the monarchy and the proclamation of the People's

Republic in Romania on December 30, 1947, is a fact inextricably linked to the internal and international political changes that occurred at the end of the Second World War. As thanks for the substantial participation in the defeat of Germany, the United States and Great Britain will grant the Soviet Union an important security zone, on its western borders, more precisely in Central and South-Eastern Europe (Gardner, 1993; Harbour, 1993; Henri, 1987). This fact will lead to the forced implementation of communist ideology and regimes by the U.S.S.R. in all the states of this part of the continent, extensive social and political transformations were registered, going from the change of the form of government (as was the case of Romania (Baciu, 1996; Chiper, 1993; Frunza, 1990; Markham, 1996), Yugoslavia or Bulgaria), to the political cleansing of the entire state apparatus, the annihilation the opposition or the political and cultural ideologies of the masses. The apparent legality of the establishment of the popular regimes in the states in question will be justified in Moscow's opinion by the establishment on the territory of the Soviet Union of volunteer units from prisoners of war as well as liberation committees controlled by the communists, who strongly supported by the Red Army, they will reach the government in the name of the people, but in fact without their consultation or, worse, their adherence.

It is well known that any totalitarian type regime has as its main objective the preoccupation of conferring legality on its government, apparently in most cases, and as a subsidiary the annihilation of any forms of opposition, even minor ones, that could call into question the legitimacy and legality of the power. The establishment of the communist regime in Romania coincided in fact and in law with the establishment of such a political regime, which will not try to deny itself in any way in this regard. That is precisely why it is all the more interesting and important to find out how truthful, in the representative and legal sense of the term, was the method of taking over power by the Romanian communists, especially since it was assumed to have been done in the name of a popular legitimacy, seen and understood through the prism of communist political doctrine, debatable by the way and in relation to the possibilities of successfully transposing theory into practice. The process of the establishment of communism in Romania was not a singular phenomenon, on the contrary, it found itself multiplied on the scale of the whole of Central and South-Eastern Europe, within a vast scenario of "Finlandization" of the area by the Soviets with the tacit consent of its allies<sup>1</sup>.

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<sup>&</sup>lt;sup>1</sup> Acapararea puterii politice de catre comunisti și instaurarea 'democratiilor populare in statele ocupate de armata roșie s-a realizat in etape distincte ,incepand cu realizarea de coalitii 308

The direct and brutal involvement in internal politics, the imposition of "friendly governments" represents by definition a violation of the constitutional principles of sovereignty, invalidating the regimes of "popular democracy" from the start. The phenomenon will be presented at that time and later throughout the communist regime, as a natural evolution of society, a struggle between old and new ad The phenomenon will be presented at that time and later throughout the communist regime, as a natural evolution of society, a battle between the old and the new, the truth being mostly distorted. However, historical progress presupposes a realistic and pragmatic approach to the evolution and reconstruction of democracy, especially in states that have been imposed totalitarian governments, so that in the contemporary period there is a need for an acute explanation of events and facts forbidden to be discussed not long ago. The forced abdication of the king and the proclamation of the Romanian People's Republic had important political and social implications involving conceptual reassessments in terms of political theory, starting from the imposition of new governance structures and new principles or mechanisms for the exercise of power, in the communist period, until the citizen is placed in the role of a political spectator, without him having a real way of holding the governors accountable. Therefore, the desire and interest that is clearly manifested in the subject under discussion is fully justified, especially for historians and jurists motivated not only by finding out the real way of passing the facts, but also by the legality of the constitutional transformations that have occurred.

The analysis of the way in which the transition from the monarchical to the republican system was made is closely correlated with the study of the stages through which the communists succeeded in taking over political power to the detriment of the "historical parties", the favorites of the electorate and why not also of the western democracies, with which they collaborated during the war (Ciachir, 1996).

Trying to determine the place and role of political power within the rule of law, we will note that the reason for the delegation by the people of certain attributes of power to be exercised by the specialized public authorities, which they otherwise control, is to guarantee the collective safety of all citizens. Although Romania did not deviate from the democratic principles of the rule of law, this fact did not prevent the communist party from subordinating its institutions to the political power under the conditions in which the Soviet political and military pressure made its presence

autentice ,coalitii fictive și terminand cu regimul monolitic. Pentru detalii vezi Florin Sperlea :Aparatul politic in armatele tarilor Europei Centrale și de Sud Est (1944-1947),p. 47in Revista de Istorie Militara(in continuare RIM),NR 1\41an 1997.

imperatively felt. Although Romania did not deviate from the democratic principles of the rule of law, this fact did not prevent the communist party from subordinating its institutions to the political power under the conditions in which the Soviet political and military pressure made its presence imperatively felt. The historical, social and political importance of this phenomenon for Romania is given by its subsequent implications regarding the evolution of the Romanian state. The origins of communist-type totalitarianism, known and appreciated as it should be by all of us until recently, (sbln n.G S), can easily be found within the internal political convulsions of that unfortunate period in Romania's recent history. In the conditions of the deep crisis that the Romanian state was going through, during and immediately after the second war, the totalitarian propaganda - to be read popular through the prism of the communist ideology - will assiduously follow the victory of the popular masses. The legal and constitutional governance within the rule of law, correlated with the existence and exercise of the fundamental rights and freedoms of man or citizen, implies for the totalitarian parties and groups, a narrow space for maneuver, in the struggle for the conquest of political power. That is precisely why, unable to use terror except to a rather limited extent, these centers of power are forced to share with the other political parties - which follow the observance of democratic principles - the need to win adherents through propaganda, a tool that can penetrate the subconscious of the masses but also of the elites<sup>1</sup>. Moreover, it is well known that German Nazism, led by A. Hitler, will come to power in interwar Germany after winning democratic elections, and respecting the legal means of expression given to any political party. The comparison with the situation in Romania, although it bears ideological differences - Nazism being openly declared the opponent not only of democracy but also of communism - in fact they are very similar, both ideologies and political concepts being totalitarian. The difference also lies in the implementation of the respective political doctrines, the communist party in Romania having as its political support in the country, the important military forces of the red army. The fact of having passed such a stage, in its historical evolution, can be characterized as a moment of ebb of democracy or a revival of the idealism of egalitarian political conceptions.

By gaining political power, it was very easy for the Romanian communists to control and subordinate the entire state power, for the benefit of their own ideology. The existence of some masses, in the sense mentioned by H. Arendt, made possible the

<sup>1 \*\*\* (1994).</sup> An important monograph dedicated to totalitarianism can be found in the work of Hannah Arendt, Originile Totalitarismulu. Bucharest: Humanitas.
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implementation of communism and the adherence of a certain segment of the poor population, eager for political organization to the communist ideology, and the emergence of the totalitarian regime became possible due to the existence of important social categories that became superfluous - willed or not - and which could be used in the sense desired by the communist rulers (Chatelet & Pisier, 1994). The need for identity, absolutely necessary for all those who propose to replace one political system with another, in our case it is the members and supporters of the communist party, was grafted on "the destruction of the class system and the automatic collapse of the more considerate party system that these parties, being parties of interest, could no longer represent class interests".

It therefore follows that the political relations between the holders of political power and those who are temporarily, during their mandate, subordinate to them, are identical to a transfer of competence and authority, in the sense of their delegation, by the people to those who are in charge of the state, in which the authorities public who are delegated the prerogatives of political power abuse them and govern in an authoritarian manner, specific to totalitarian regimes, the people have the right to free themselves from this tyrannical authority by resorting, in this situation, to violence and insurrection, absolutely legitimate, in order to restore democratic ideals, their respect and the establishment of a regime truly combatable with its interests.

The exercise of multi-party democracy generally offered the possibility for the electorate to immediately sanction those who betrayed their hopes and restricted their rights and freedoms, but in the present case the political primacy acquired by the insignificant communist party until then will lead to the establishment of a regime deeply totalitarian in the service of a limited number of individuals, although the regime's official propaganda claimed the opposite. The ideological motivation used, to justify one's own political actions, was justified by the statement of the communist political doctrine, which sought to present the constitutional transformations produced within the Romanian state, as some natural evolution of the progress of society in general. It is painfully true that the analysis of this later situation, made in communist style, presents an undoubted reality regarding the exceptions and constitutional violations committed, and these are attributed to the legitimate will of the people. Moreover, since the beginning of the Bolshevik revolution, Lenin together with his other Bolshevik collaborators stated the primacy of the political over the economic, renouncing the evolutionary theories proposed by economists and being convinced of the necessity of revolutionary acts through immediate and violent political actions (Chatelet & Pisier, 1994).

After 1990, the question was often asked how it was possible for a single political party to seize all political power, namely the communist one, as well as the constitutional transformation of the state based on ideological, party criteria, eventually becoming a totalitarian state. Historians' explanations have in most cases stopped at the argument given by the complex geopolitical conditions since the end of the Second World War and the otherwise undisputed importance of the external factor, given by the presence of the Red Army in the country, as the army of occupation.

From a social point of view, the transition from the monarchical to the republican regime could be possible thanks to the crisis of confidence in the state institutions, present in the collective mentality of the masses, but not only. On the other hand, the mess after the war resurrected the latent values of a population that lacked the necessary attributes for an at least decent existence within a true state of law. The terror and intimidation of the political opponents, the physical elimination of the members of the opposition will awaken in the consciousness of a sufficiently frightened population the instinct of conservation released in most situations through a passive resistance. On the other hand, for the supporters of the communist political regime, the power grants important political advantages and materials, which for a country with material and moral reserves dried up by a war, represented an ideal difficult to achieve, but inconceivable in normal situations.

The experts in constitutional history issues highlighted the fact that once the political power is acquired, the governors have at their disposal an entire institutionalized state apparatus, which in the absence of a democratic political consciousness can be used to achieve their own political objectives, whether they are ideologically motivated or not. The distinction between political power and state power, as from whole to part, is analyzed by constitutional law professor Ioan Muraru. According to him "... the features of political power are found in the powers of the state, but the features of the state are not found in the entirety of the political power", which is sovereign as the supreme authority in the state and as derived and conditioned power means that it can be opposed to it the people and used against and against their legitimate interests (Muraru, 1998). Also, the inadequacy of the separation of powers theory within multi-party democratic regimes is highlighted by the concentration of political power at the level of all power structures, at the level of state institutions, by the political party that wins the elections and is in government. This gave the possibility of the establishment of the totalitarian regime to be achieved paradoxically sometimes by observing the rigors imposed by an authentic

democracy. The next step will be represented by the removal of control and the separation of powers in the state, on the grounds that "power is considered as an instrument of political transformation, thus lacking the reasons for separation and limitation", within the framework of some theories, we would say, that promote the uniqueness of political power(Muraru, 1998).

The exit from the patterns of constitutional democracy could not be possible without resorting to the destruction of the traditional political culture, so that we will arrive absolutely intentionally at a human model whose main "quality" will be total obedience to the regime, the lack of a minimum of individual autonomy as well as to an equal extent an accentuated depersonalization of the individual. Only within this complex political and social context can be understood in its entirety, the process of transition from the monarchical political regime to the republican one, without respecting the legal constitutional provisions. These considerations will oblige us to expand the scope of our research on the other aspects as well related to a purely constitutional analysis of the subject subject to our discussion, such as political doctrines, social and political issues..

After 1989, the premises for a correct and objective analysis of the phenomenon were created, due to to one of the distinctive features of the moment, namely the "revival of democracy", also understood by the elucidation of all the uncertainties that still hover over the moment of the forced abdication of the king and the proclamation of the Romanian People's Republic. With the proclamation of the Romanian People's Republic, another stage in the process of political and military regimentation of Romania in the Soviet military bloc was achieved. The Communist Party completely took over the leadership of the state, managing to reduce the country to a situation of total obedience to the Soviet Union. The direct and premeditated political aid from the Soviets contributed to the success of the coup d'état of December 30, 1947, giving the representatives of the Communist Party an apparent state of legitimacy, stemming from a simulacrum of democracy. Throughout the period between March 6, 1945 and December 30, 1947, there were great discrepancies between the authentic functioning of a state of fact and the constitutional legality of a state of law. The deliberate imposition by the Soviets on March 6, 1945, of a government controlled by communists, will inaugurate a stage strewn with numerous constitutional dysfunctions, which includes the royal strike, the falsification of the elections of November 19, 1946, as well as the forced abdication of King Mihai and the proclamation of the Republic Popular Romanian.

#### Conclusion

All these political events can be explained not only by the opportunity shown by different politicians or simple citizens. They can be correctly understood only to the extent that the external Soviet factor is taken into account, which permanently advised the representatives of the communist party, directly encouraging them to violate the mechanisms of constitutional democracy, by guaranteeing political powers. The fact that the entire political scaffolding, intended to justify the revolutionary legality of the popular will, was created falsely and with disregard for basic constitutional obligations, leads to the thought that the republican type of government did not have the consent of the people, being established in a completely illegal manner, Romania insisting on being de jure a monarchy, but in fact operating according to principles, norms and within a framework of political organization of the people's republic type. The complexity of such an attempt, with the aim of identifying the constitutional aspects of the establishment of the "regime of popular democracy" remains risky and difficult until the thorough research of all the political documents held by the Communist Archives. Of course, this question mark, regarding the legality of the form of government existing today, cannot be raised because in December 1991, the Constitution was democratically adopted by the electorate. The distinction between the state of law and the state of facts, registered by the Romanian state during the period of the communist regime, appears all the more obvious as all the measures taken to circumvent the legal constitutional provisions from that time, were not done by the nation's own will and even if she formally gave her consent, it was tainted by the influence and terror exercised by the communist state, or by the legal non-compliance with the steps necessary to revise the 1923 Constitution.

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