

GENERAL ASPECTS OF CONSTITUTIONAL CHARACTER AND THE IMPORTANCE OF THE ORGANIC REGULATIONS IN WALLACHIA AND MOLDAVIA

Roxana DOBRIȚOIU

Lecturer, PhD

Faculty of International Relations, Law and Administrative Sciences, “Constantin
Brâncuși” University of Tg-Jiu, Romania

ABSTRACT

ORGANIC REGULATIONS HAVE PREFIGURED HOWEVER INSTITUTIONS SIMILAR TO THOSE OF A PARLIAMENTARY REGIME, USHERING THE MODERN SYSTEM OF REPRESENTATION AND THE APPLICATION OF THE PRINCIPLE OF SEPARATION OF POWERS. THESE REGULATIONS, WHICH HAD A VERY SIMILAR CONTENT, ARE THE FIRST SUCH EXPLICIT WRITTEN CONSTITUTIONAL NATURE THROUGH WHICH ARE INSERTED INTO THE TWO ROMANIAN PRINCIPALITIES REPRESENTATIVE MODERN ASSEMBLY, CHOSEN BASED ON PREDISPOSING SUFFRAGE. ORGANIC REGULATIONS ALSO CONSECRATED FOR THE FIRST TIME IN OUR EXPLICIT SEPARATION OF POWERS IN THE STATE.

KEYWORDS: *CONSTITUTION PROJECT, SEPARATION OF POWERS, CONSTITUTIONAL INSTITUTIONS, FUNDAMENTAL LAW.*

I. Historical conditions in which Organic Regulations were adopted

The Congress of Vienna in 1815, which ended the Napoleonic epic ushered in an era with an opening wider policy, which imposed on the master-plan for a new weighing political alternatives, implications and consequences of political acts.

Restoration of the old regimes, on the one hand, and revolutionary movements generated in the spirit of the age, on the other hand, have yielded to the peoples of Europe to draw up the mobilized national political. Great empires, in their medieval structures preserved, and after 1815 had (after the collapse of the Restoration in France in 1830, the revolution of the Belgian and Greek) to accept some reforms for the people started on the path of revolutions to earn national and social freedoms.

Great empires, in their medieval structures preserved, and after 1815 had (after the collapse of the Restoration in France in 1830, the revolution of the Belgian and Greek) to accept some reforms for the people started on the path of revolutions to earn national and social freedoms.

In this overall context, after the revolution from the Atlantic to the Urals in the 1920s of the 19th century there was a shift of the balance in favour of conservative powers, lightened and contradictions existing between the two liberal powers (France and England). Russia's political positions have hardened considerably, as a result of the Division of spheres of influence, after the separation of the Greek problem from that of the Romanians (1825), by the Convention of Akkerman (1826) and then by the Treaty of Adrianople (1829), and established an official protectorate over those two principalities, Russia, suzerainty banning portions. Political influence of Russia increases as a result of the Treaty of Unkiar Iskelessi (1833), and the Straits Convention (1841).

Support for Austria to maintain its position in the German Confederation, all have made Russia the main force of the European reaction and counterrevolution. In such conditions, control of the two principalities, Romanian provinces remains effectively becoming genuine guberniyas of Russia. The Organic Regulation, the Tsarist State and established political influence. Appointment first regular reign through circumvention provisions of the law and the manner in which it was included additional article proved the leading role of Russia in the two principalities[1].

During this period, Wallachia was reduced by about three-quarters of its territory, through mastery of the Turks of Dobrogea and Danube ports of several (Turnu, Giurgiu, Brăila), and Moldova included only about 2/5 of its old heritage, since it was under the Austrian Bukovina, and Bessarabia under Russian[2].

II. Constitutional character and the importance of Organic Regulations

In terms of the character and the significance of the Organic Regulations, which represented "the heavy test of adapting our lives delayed the progress of Europe[3] and life", and the aftermath of the adoption of these acts of major importance for the Romanian principalities, the opinions of historians, scientific researchers and lawyers have been and are different. Thus, were considered: the Constitution, the fundamental law and code of laws.

The notion of a Constitution has emerged in the works of historians: n. Balcescu, Nicolae Iorga, Constantin c. Giurescu, Dinu Giurescu and jurists: Andrei Rădulescu, C. Dissescu, Paul Negulescu, A. Iorgovan.

The fundamental characteristic of legal regulations was supported by historians: Vlad Georgescu, Emil Cioran, Emil Molcuț, and lawyers: Ion Deleanu, Liviu P. Marcu, Cristian Ionescu, Tudor Drăganu, which refers to the constitutional nature of the Regulations says that they "have acquired a constitutional character and the formal functioning because they gained a legal efficiency superior to other regulations that due to the introduction of an additional article, could no longer be amended only subject to certain formalities "[4]

Attribute code of laws belongs to historians: A. D. Xenopol, Gh. I. Brătianu, I. C. Filitti, Valeriu Șotropa. The weighted assessment of the Organic authors of the Treaty is the history of Romanian law[5]. They represent according to the authors of this synthesis "the first fundamental law of organization of the Romanian countries constitutions by the bourgeois state organization founded formally on the principle of separation of powers by providing rules for the election of the Lord and to limit, to a certain extent the princely power, at a public Meeting, the Organization of the judicial organization and administrative and other measures which have contributed to the advancement of the Romanian countries and have created favorable conditions for their Union"[6].

The same authors, after amending of limited reforms contained in the Organic Regulations through the characterization of what made them a "Charter of Nicolae Bălcescu poverty people crowd in favor of boyars", concluded that, in terms of centralized organization they have marked "a step forward in the process of creating the modern Romanian State"[7].

Organic regulations of Wallachia and Moldavia were a characteristic pattern of legal identity because they settled in the two Romanian countries the same State Organization. This fundamental law has renewed some institutions of the Romanian principalities. Organic regulations also organized on the basis of modern public services and gave rise to others, have established their competence and composition, were assembling a corps of permanent officials, had set up the national militia, have modernized their financial systems, abolished the buying functions, were assembling a Legislative Assembly, foresaw the Lord's choice of life.

They were the first fundamental law of organization of the Romanian Countries,[8] who established a State organization built on the principle of formal separations of powers, establishing links between them.

A.D. Xenopol argued that the provisions contained in the two Organic Regulations relating to administrative measures are really useful[9]. Thus, the Organic Regulation "establishes fixed and steadfast rules instead of momentary desire and good will, restrict arbitrariness, replacing him with leading standards, introduce liability Act, put in place for the first time in the Romanian society, the idea of the public interest as something superior to the individual ... it was the substitution of arbitrary legal life until then; the idea of the State is born for the first time in its modern conception in Romanian, as the life of a whole, drafted on public standards "[10].

Although the A. D. Xenopol the meanings of constitutional institutions, N. Iorga revealed the discrepancy between modernity and institutions of the Organization and not that they be put into practice: "Regulation has installed an administration complicated enough as to allow all system administration abuses Russo-French (...) Representative Assembly, with broad powers, but without laws, overseeing the initiative almost a gentleman with the right of veto, but available to the Russian consulate ... everything with a formal consultation suzerain powers remaining in shadow, as a blank form and an element of the past "[11].

After the entry into force of the Organic in Wallachia, on 1 July 1831, was the usual Gathering that began the public drafting of legislation for the implementation of the regulatory provisions and modification. Through some of these laws and amendments have been made in the judicial organization. Of these is worthy of noting the law of 3 November 1832 for the competence of courts and correctional couches and criminally in reason. In this show that are those which are correctional culture and punished with imprisonment of up to one year, the other being considered criminal. It also provided that only the courts had the right to judge because correctional, and decisions were subject to appeal to criminally sections.

In criminal matters, the courts were limited to do research and to discover the culprits. On December 29 the same year was adopted the law on prosecutors ' duties were laid down the rights and obligations of prosecutors. By the laws of 3 February 1833 February 22 respectively, civil courts in unresolved until the publication of the law.

The commercial court of Craiova was disbanded and calls in progress at this divan were to be judged by civilian Divan. The law of 20 March 1833 establishing the High Court has ordered the revision made of the great chancellor of Justice, all presidential sofas in Bucharest, two alternate members of the High Divan, members of the civil section of Bucharest and six Madulari from among the usual public assembly elected ruler. The latter was not entitled to work if in the Court's composition were not present at least two parts of the judges entitled to judge the result.

High Court review was chaired by the oldest of mădulari. She opened work on December 25, judging from all causes sent by the ruler. The decisions of this Court judgment became final and could not be appealed against only once were never sanctioned by the head of State. It was abolished in 1847. In 1835 the Advisory Council was created, consisting of three members "Romanians people, honest with the codices Sciences", given the task of helping the Prince to judgments that were subjected to hardening. It was to investigate all the decisions, which were subject to the ruler to be reviewed and strengthened and to determine whether laws have been complied with.

If so, they sent the Officers of Justice to be strengthened, and otherwise sent them to be High Divan judged again. By a law passed on 12 June 1840, Prince Alexandru Ghica has changed the commercial organization. Courts of Commerce in Craiova and Bucharest remained as first instance, being composed of two members nominated and elected three merchants and judging causes up to 1000 lei but create a new Court-House in Braila. As the Court of appeal was established Commercial Court Appellation in Bucharest also known as Divan of Commerce, merchants and consists of three appointed, two merchants and two alternates (one called and the one chosen). It was supposed to govern all commercial calls from all counties. By the law of 28 June 1840 were brought some changes and High Divan which was to be divided into two sections, each consisting of five members. The Department had jurisdiction to appeals against Divan of Craiova and decisions of the Department of civil defense at the Bucharest Divan, and section II- appeals against judgments of the civil and criminal branches in Bucharest. To be judges at one of these courts, aspirants must have rich knowledge, initially scheduled to be legal and have 25 years of age for High Court research, 27 at the Court, 20-Divan for president, 35-to 40-High Divan for President. Merchants for commercial judgments were elected from lists drawn of the greatest praise for the company's capital, wearing the most honest and good order that keep their age "over a period of two years and only if they had more than 30 years. The judges were appointed by the Lord for a period of three years, but if it was worthy of function occupied their mandate could be extended. Unlike previous periods when they had the right to receive certain benefits, statutory period they began to be paid[12].

Conclusions: the Organic Regulations in Wallachia and Moldova are considered to be the chronological landmark of a new era. Now, after the interpretation of Nicolae Bălcescu, Romanian feudal State has evolved from the initial phase of State-reign "or absolutely" in State "noble or aristocratic", then in " State Phanariot" State, covering "one hundred years of press and rifling, and corruption and degradation and weakness of nationality". In the first half of the 19th century, with the introduction in the two principalities of the Organic Regulations, the state transforms into a state "boyars or bureaucratic" and the and forty-eight revolution task would be "to make it democratic or Romanian"[13].

Organic Regulations (introduced in the 1831/1832) have prefigured however institutions similar to those of a parliamentary regime, ushering the modern system of representation and the application of the principle of separation of powers. These regulations, which had a very similar content, are the first such explicit written constitutional nature through which are inserted into the two Romanian Principalities representative modern Assembly, chosen based on predisposing suffrage. Organic Regulations also consecrated for the first time in our explicit separation of powers in the State. This is how you appreciate the role of Nicolae Bălcescu Organic: Organic Regulation "with all its evils, brought some useful principles, however, and made a tool of progress. He acknowledged in law the principle of freedom of trade, separation of powers, legislative, administrative and judicial and parliamentary regime introduced "[14].

Nicolae Bălcescu's findings are repeated to this day. Our contemporaries, as well as the opinions of Professor George Georgiu are eloquent. In the admirable summary of his reign on the History of Modern Romanian Culture[15]: the public Assembly shall be Ordinary legislative powers have. Extraordinary Public Assembly was charged with choosing the ruler (one Lord was chosen by this procedure, Gheorghe Bibescu, in 1842). The administrative powers were conferred on an Administrative advice. The public meetings have acquired over time the character of a genuine Parliament, in which experiencing various positions and interests. In addition to the wealthiest boyars, who dominate these institutions, small and medium-sized and nobility-and said she was more attached to the interests of the third State or exponents of liberal thinking.

Assemblies were able to modernize administrative law in some areas, economic, cultural and social, in line with trends and innovative ideas of the time. In these legislative assemblies have emerged two trends, one conservative and one liberal, the latter manifesting as a contesting force, which introduced many initiatives into question Romanian democratization and national unification projects.

The Constitutional Regulations equipped the Romanian Principalities with a series of institutions liable to encourage capitalism's development, prepared their union into a modern and centralized state. They were considered as an expression of the fight between the old and the new, passing from feudalism to capitalism.

The Constitutional Regulations had to create the transformation programme of the inner structures reported to the century's spirit, to modernize the Romanian society, to create certain conditions able to accelerate the progress. These demands, expression of 1821 Revolution's programme, had been included, sui generis, in the Adrianople Treaty[16].

Although, the Constitutional Regulations, related to their content's essence, represented an action of an undeniable progress. Pointing out the Romanian nation's existence and expressing it by common organization standards, the two legislative documents were emphasizing the fact that "the inseparable union" represented a "saviour necessity"[17].

Removing a series of feudal institutions and practices, they have created a modern state device and a more favourable climate to develop the new. At first, they have proclaimed the modern principle of powers' separation inside the state, the legislative power being entrusted to a public assembly, the executive one being exerted by the ruler, who was helped by an extraordinary administrative council, consisting of six members and

by an administrative council, consisting of three members. The judicial system had been organized by using modern basis, knowing the judged thing's authority[18].

The Constitutional Regulations, which the 1848 revolutionists considered only as an oppression and humiliation tool, were a progress factor, a real constitution that has founded Romania's modern institutions[19].

The Constitutional Regulations had to create the transformation programme of the inner structures reported to the century's spirit, to modernize the Romanian society, to create certain conditions able to accelerate the progress.

Removing a series of feudal institutions and practices, they have created a modern state device and a more favourable climate to develop the new. At first, they have proclaimed the modern principle of powers' separation inside the state, the legislative power being entrusted to a public assembly, the executive one being exerted by the ruler, who was helped by an extraordinary administrative council, consisting of six members and by an administrative council, consisting of three members. The judicial system had been organized by using modern basis, knowing the judged thing's authority.

REFERENCES

- [1]. Gheorghe Platon, Romanian Revolution of 1821 and 1848 and the issue of national independence. National and international context, in the Romanians in world history (coordinators I. Agrigoroaiei, Gheorghe Buzatu, V. Cistian), Iași, "Al. I. Cuza ", 1986, p. 244; Ioan Aurel Pop, Romanians and Romania. A brief history, Bucharest: Romanian Cultural Foundation, 1998, p. 109; Gheorghe Platon, Organic Regulation: work progress or instrument of social and national oppression?, in Gheorghe Platon, From the Great Union Constitution nation. Studies of Modern History, vol. III, Iași, University "Alexandru Ioan Cuza", 2000, p. 36; Idem, Organic Regulation: work progress or social and national oppression tool ?, in Time History, Memory and Hritage, II. Professor Dinu C. Giurescu, Bucharest, 1998, p. 138; Dinică Ciobotea Vladimir Osiac, Policy Lower Danube Czarist Empire (1711-1878). The general area of Oltenia, Craiova, Publisher Aius, 2008, p. 57 et urm.
- [2]. Ioan Aurel Pop, op.cit., p. 109
- [3]. Andrei Radulescu, Centenary Organic Regulation of the Romanian Country 1 July 1831-1 July 1931, Bucharest, 1931, p. 22
- [4]. T. Drăganu, Beginnings and Development of Parliamentary Regime in Romania until 1916, Cluj, Ed. Dacia, 1991, p. 149.
- [5]. History of Romanian law, vol. II, Part I, Bucharest, Romanian Academy Publishing House, 1984, p. 126; The work of The Romanian Constitution. Texts, notes, comparative presentation - signed by I. Muraru, Gh. Iancu, Monalisa Pucleanu, C. L. Popescu, Bucharest Autonomous Official Gazette, 1993, by omission, does not consider the Organic between Constitution.
- [6]. Ibidem.
- [7]. Ibidem, p. 128.
- [8]. ***History of Romanian law, I / I, p. 126
- [9]. A.D. Xenopol, History of the Romanians in Dacia Traiana, Edition III, 11, Bucharest, 1930, p. 100.
- [10]. Ibidem , p. 110.
- [11]. N. Iorga, Romanian History, vol. VIII Revolutionaries, Bucharest, 1938. p. 342.
- [12]. Andrei Radulescu, Country Romanian judicial organization in the era of the Organic Regulations, in The original pages in the history of ancient Romanian law, Edited, introductory study, bibliography and notes Irina Rădulescu- Valasoglu, Bucharest, Romanian Academy Publishing House, 1991, p. 110-119.
- [13]. Apud Grigore Georgiu, Modern Romanian culture history, the second edition of Bucharest: Comunicare.ro, 2002, p. 104.

- [14]. Ibidem.
- [15]. Ibidem, p. 104-105.
- [16]. Romanian History, volume VII, Romanian Academy's Publishing house, Bucharest, page 85
- [17]. Idem, page 86
- [18]. Idem
- [19]. A. Oțetea, Constitutional Regulations' Genesis, History Studies and Articles Magazine, Historical and Philological Sciences Society Publishing house, Bucharest, 1957, page 387