

ABOUT STATE SYMBOLS, NATIONAL HOLIDAYS AND FORMS OF GOVERNMENT OR WHY ROMANIA DOES NOT HAVE A REPUBLIC DAY

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Motto: "We believe that we should not take a decision without preparing the people, without looking very carefully at our past and giving the people a chance to express themselves."

(Ion Rațiu, The Works of the Constituent Assembly, 1991)

Abstract: *In our constitutional history, starting with the form of government, all three constitutional categories under our analysis in this paper (national or state symbols, the holiday or, more precisely, the National Day and the form of government) have been enshrined sooner or later at the level of fundamental law, and in order to determine whether and what is the structural link between them, we propose, first of all, to observe the changes that occurred in the choice and designation of elements with national symbol value according to the forms of government and political regimes they represented.*

Secondly, this study will try to observe the link between the forms of government that have succeeded each other in Romania and the (official) national holidays, namely the National Day of the country, which they have generated and enshrined in legal and constitutional terms.

Thirdly, we will seek explanations for the obsolescence of the celebration of Republic Day, which, although it was officially celebrated for 40 years during the communist regime, never became Romania's National Day compared to the historical destiny and past and present legal status of May 10. Moreover, even today Republic Day is no longer celebrated either on 30 December or on any other date, although the republican form of government is very important in the economy of Romania's 1991 Constitution, having been declared non-revisable.

Keywords: *forms of government, national symbols, National Day, Republic Day, Romanian Constitutions.*

JEL classification: [K41, K 42]

I. Aspects of structure and legislative technique in Romanian constitutions concerning the form of government, national symbols and national holidays

Apparently, in view of the structure of the current Romanian Constitution (and previous Romanian state constitutions), there would be no connection between the form of government of the country, the national symbols and the day designated as a national holiday or National Day for many reasons.

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However, the enshrinement of national symbols in the country's fundamental law is a genuine formal tradition of our constitutionalism that has been established since Romania's first constitution in 1866, whether they were referred to as "symbols" or "insignia" or were listed separately in a separate title, or were contained in a title of "general provisions". According to Article 12 of the Romanian Constitution in force, these are: the flag, the national day, the national anthem, and the State coat of arms and seal, the last two being given to the competence of organic law.

Regardless of the title, chapter and article in which they were included, Romania's national symbols have undergone changes in content from constitution to constitution depending on the form of government of the state and the political regime they established.¹

¹ The Constitution of 1866 provides for the following national symbols (without being specifically named as such) in Title VI of the "General Provisions": The colours of Romania shall be: Blue, Yellow, Red (art. 123); The City of Bucharest is the capital of the Romanian State and the residence of the government (art. 124), available online at: https://www.cdep.ro/pls/legis/legis_pck.http_act_text?id=37755, accessed on: 23.05.2024

The 1923 Constitution provides for the following national symbols (also without being specifically named as such) in Title VI, of the "General Provisions": The colours of Romania are: Blue, Yellow, Red, placed vertically (art. 124); The residence of the government is in the capital of the country (art. 125); The Romanian language is the official language of the Romanian state (art. 126), available online at: https://www.cdep.ro/pls/legis/legis_pck.http_act_text?id=1517, accessed on: 23.05.2024

The Constitution of Romania of 1938 provides the following national symbols, in Title VI of the "General Provisions": The colours of Romania are: Blue, Yellow, Red, placed vertically (art. 92); The residence of the Government is in the Capital of the Country (art. 93); The Romanian language is the official language of the State (art. 94), available online at: https://www.cdep.ro/pls/legis/legis_pck.http_act_text?id=9206, accessed on: 23.05.2024

The Constitution of the Romanian People's Republic of 1948 provides in Title VIII, specially dedicated to "Coat of Arms, Flag and Capital of the Romanian People's Republic", the following: the Coat of Arms of the Romanian People's Republic represents the wooded mountains, above which the sun rises. In the middle is a well and around the coat of arms is a crown of wheat ears. (art. 99). The coat of arms of the country is depicted on the State seal (art. 100). The flag of the Romanian People's Republic consists of the colours blue, yellow and red, placed vertically. The coat of arms is placed in the middle (art. 101). The capital of the Romanian People's Republic is the city of Bucharest. (art. 102), available online at: https://www.cdep.ro/pls/legis/legis_pck.http_act_text?id=1574, accessed on: 23.05.2024

The Constitution of the Romanian People's Republic of 1952 provides in a special chapter dedicated to the "Coat of Arms, Flag and Capital" of the Romanian People's Republic, the following: "The coat of arms of the Romanian People's Republic represents wooded mountains, above which the sun rises. On the left side of the coat of arms is a well. The coat of arms is framed by a wreath of wheat ears. At the top of the coat of arms is a five-pointed star. At the bottom of the coat of arms, the ears of wheat are wrapped in a tricolour ribbon on which are written the letters R.P.R. (art. 102). The flag of the Romanian People's Republic bears the colours red, yellow and blue, placed vertically with blue next to the chain. The coat of arms of the Romanian People's Republic is placed in the middle (Art. 103). The capital of the Romanian People's Republic is the city of Bucharest. (art. 104),

As a novelty, the current Constitution has introduced Romania's National Day as one of the national symbols, which is set on 1 December. There is therefore also a definition of this new national symbol, which links the three constitutional categories we are considering. More specifically, National Day "is a public holiday (non-working day) officially established to honour an important event in the history of a state. It may be symbolised by the date of independence, of becoming a republic, or a significant date for a patron saint or leader (birthday, accession, removal, etc.)."²

Therefore, National Day is a species of national holidays in the sense that it is designated as the most important of all religious, social and political events that bind a state-organized human community. In turn, national holidays are sociologically classified as public or private³, and from a legal point of view they are usually regulated at infra-constitutional level.

Most often, the National Day of a country is designated as the common denominator of community identification with the most important event of national history, whose echo in the public consciousness requires the reliving, recreation and reaffirmation of that moment in periodic festivities attended by the whole of that society and also takes the form of state ceremonial.

Surprisingly, none of the events listed above were chosen or designated or established themselves in the public consciousness convincingly enough to become Romania's National Day, either under the communist constitutions or under the current constitution. To be more precise, one of the most important reasons for a national day in general, namely the establishment or proclamation of the republic, was not preferred either by the communist regime for declaring Republic Day as a National Day, opting for 23 August, or by the Constituent Assembly of 1991, which opted for a historical desire of the Romanian nation, the great union of 1 December

available online at: https://www.cdep.ro/pls/legis/legis_pck.http_act_text?id=1454, accessed on: 23.05.2024

The Constitution of the Socialist Republic of Romania of 1965 provides in Title VIII, entitled for the first time: "Emblems of the Socialist Republic of Romania", the following: "The coat of arms of the Socialist Republic of Romania represents wooded mountains, above which the sun rises. On the left side of the coat of arms is a well. The coat of arms is framed by a wreath of wheat ears. At the top of the coat of arms is a five-pointed star. At the bottom of the coat of arms, the ears of wheat are wrapped in a tricolour ribbon on which is written 'SOCIALIST REPUBLIC OF ROMANIA'. (art. 116). The coat of arms of the country is depicted on the State seal, around which is written 'SOCIALIST REPUBLIC OF ROMANIA'. (art. 117). The flag of the Socialist Republic of Romania bears the colours red, yellow and blue, placed vertically, with blue on the lance. The coat of arms of the Socialist Republic of Romania is placed in the middle (art. 118). The state anthem of the Socialist Republic of Romania is approved by the Grand National Assembly (art. 119), available online at: https://www.cdep.ro/pls/legis/legis_pck.http_act_text?id=37735, accessed on: 23.05.2024

² National Day, https://ro.wikipedia.org/wiki/Zi_na%C8%9Bional%C4%83, accessed on: 23.05.2024

³ Mihai S. Rusu, Ismo Kantola, "A time of Meta-celebration: Celebration the Sociology of Celebration", in, *Journal of Comparative Research in Anthropology and Sociology*, 2016/07/15, Vol. 7, SP.1, p. 16, <https://www.researchgate.net/publication/305390885>, accessed on: 23.05.2024

1918, to the detriment of the option for the national celebration of the form of government established in our country at the end of 1947.

This is not only a scientific curiosity that justifies a research on this topic, but also a contradiction between the pre-eminence given by the current constitution to the republican form of government, as an attribute of the contemporary Romanian state, by including it in the non-revisable domain, along with its other features and supreme values, provided for in Article 152 of the fundamental law, and the non-inclusion of the republic among the symbols of the state and even among the national holidays. From this perspective, the Constitution in force conforms to a tradition of legislative technique of the Romanian constitutions of the last hundred years, regardless of the form of government of the State and the political regime they created and served, of specifying the form of government from their very first article.

Thus, the Romanian Constitution of 1991 established in Article 1, para. 2, that the form of government of the country is the republic, and by the provisions of Art. 148, para. 1, the republican form of government was declared non-revisable. Therefore, the technical pre-eminence of the rule on the form of government denotes the fact that it has always been a defining element of the Romanian state in our constitutionalism, and the name of the country has also contained or referred to the form of government, whether it was a kingdom⁴ or a republic⁵.

However, although the form of the contemporary Romanian state is the republic, it has not become a national symbol in the constitutional sense. In other words, the form of government is an attribute of the contemporary Romanian state, to which "Romania's Constitution seems to attach decisive importance"⁶, but not an element of constitutional identity, all the more so as it is part of the constitutional core of identity, being the beneficiary of the "eternity clause", in the same way as the other non-revisable areas listed in Article 152 of the Romanian Constitution.⁷

We do not argue that this was obligatory, in the sense of enshrining the form of government as a national symbol, although the common belonging to the core of the elements of constitutional identity⁸ calls for their connectedness and therefore for their non-separate treatment. In another sense, the incongruity mentioned may explain what we are aiming at in this study, namely the absence of the republic's

⁴ Romanian Constitution of 1866 (revised) (art.1), Romanian Constitution of 1923 (art. 1), Romanian Constitution of 1938 (art. 1).

⁵ Constitution of the Romanian People's Republic of 1948 (art. 1), Constitution of the Romanian People's Republic of 1952 (art.1), Constitution of the Romanian People's Republic of 1965 (art. 1).

⁶ Dan Claudiu Dănișor, *Romania's Constitution commented. Title I. General Principles*, Universul Juridic Publishing House, Bucharest, 2009, p. 36.

⁷ Manuel Guțan, *Romanian constitutional identity between legal positivism and interdisciplinary approach*, available online at https://www.researchgate.net/publication/275948690_Identitatea_constitutionala_romaneasca_intre_pozitivism_juridic_si_abordare_interdisciplinara, p. 8, accessed on: 23.05.2024

⁸ Ibid, p. 12.

insignia from the state's symbolism and its founding moment from the collective memory or, more precisely, what is missing for the real or formal source of the establishment of the contemporary form of government to be celebrated at the national level and become the country's national day.

If we go back to the definition of the National Day, it seems that even today the republic and the historical contexts of its establishment or re-establishment are not such important events for the evolution of the Romanian state, nor for the collective mentality, because neither at the formal level, of inclusion by the state among the official holidays, nor at the informal level, of ceremonies or civic manifestations, created by custom, coming from the people, there is a celebration of the contemporary form of government.

Finally, the common place of these three constitutional categories (the third of which acquired this consecration only through the 1991 Constitution) within our constitutional history and the ceremonial of state power is given by the fact that during both the constitutional monarchy and the republic, as a form of government of the communist regime - both aimed at highlighting and honouring political power⁹, regardless of its source - the days dedicated to them were declared national holidays, but only the first of them became Romania's National Day until 1947. In this logic, in the constitutional evolution of the Romanian state, the structural relationship between the form of government, national holidays and national day is that the monarchy generated a national holiday that became the national day of the country, while the republic generated only one (official) national holiday, along with several other ceremonies specific to the ideological pantheon of the communist regime in the period 1948-1988¹⁰, and today, the form of government is completely ignored by both the authorities and civil society.

However, the importance of Republic Day for state ceremonial and public consciousness was not great enough to establish itself as Romania's national day, i.e. that common denominator of national identity reflected in the constitution and having the role of reminding citizens of this identity, as well as reinforcing their loyalty to a certain *status quo*¹¹, in this case the perpetuity of the republican form of government.

2. The first establishment of the republic in Romanian constitutionalism. A comparative look at the political-historical and ceremonial meanings of the celebrations of 10 May and 30 December

On December 30, 1947, under conditions already known to the general public, first by means of some constitutionalists who are less well known in our

⁹ Mihai Teodor Nicoară, "Communist holidays from commemoration and celebration to indoctrination (1947-1953)", in, *Caiete de Antropologie Istorică*, year IV, no. 1 (7), January-June 2005, p. 245.

¹⁰ Ibidem, (especially for the period 1947-1953), pp. 250-263.

¹¹ Mihai S. Rusu, I. Kantola, *op.cit.*, p. 16.

constitutional doctrine¹² (to which we can add the works of some historians, political scientists and constitutionalists of recent generations¹³) and more recently accepted by its mainstream¹⁴, King Michael I (1921-2017) was forced by historical blackmail to abdicate "for himself and his descendants"¹⁵, which in communist ideology amounted to the "abolition of the monarchy" with irreversible effect in Romania.

From a constitutional point of view, 66 years after the establishment of the monarchy (Romania became a Kingdom on 14 March 1881, the Constitution of 1866 having been amended to this effect on 8 June 1884 by the Law for amending or repealing certain provisions of the Constitution¹⁶), the form of government of Romania was changed on that very day by "Law no. 363 of 30 December 1947 for the Constitution of the Romanian State in the Romanian People's Republic"¹⁷, adopted by the Assembly of Deputies, which established the People's Republic as the new form of government.¹⁸

1947 was also the last year in which the 10th of May was officially celebrated as Romania's national day in an extremely austere atmosphere, the

¹² Mihai Oroveanu, *The History of Romanian Law and the Evolution of Constitutional Institutions*, Cerma Publishing House, Bucharest, 1992, p. 295-297; Eleodor Focșeneanu, *The Constitutional History of Romania (1859-1991)*, Humanitas Publishing House, Bucharest, 1992, p. 101-115; Tudor Drăganu, *Constitutional Law and Political Institutions. Elementary Treatise*, Volume I, Lumina Lex Publishing House, Bucharest, 2000, p. 383-385; Eleodor Focșeneanu, *Two Dramatic Weeks in the History of Romania (17-30 December 1947)*, EIKON Publishing House, Bucharest, 2019, p. 60-126, Ivor Porter, *Michael I of Romania: King and Country*, Allfa Publishing House, Bucharest, 2013, p. 169-180.

¹³ Alexandru Muraru, "On the road of no return. How King Michael was forced to abdicate (12 November - 30 December 1947): preliminaries, unfolding, disavowal", in, Alexandru Muraru, Andrei Muraru (coord.), *The King, the Communists and the Crown: The True History of the Abdication of Michael I*, Polirom Publishing House, Iași, 2017, p.186-236; Ioan Stanomir, "Subminarea constituționalismului și tranziția la totalitarism: august 1944 - December 1947", in, Alexandru Muraru, Andrei Muraru (coord.), *op.cit.*, p. 237-249; Radu Carp, "The Act of 30 December as a coup d'état: uniqueness, constitutionalism, comparative context", in, Alexandru Muraru, Andrei Muraru (coord.), *op.cit.*, p. 250-259; Cornel Jurju, "Ziua abisală - 30 December 1947. De la România regală la republica <paradiziacă>", in, Alexandru Muraru, Andrei Muraru, *op.cit.*, p. 341-368; Andrei Muraru, "What, how much and where do we know? Sources and historiography of the abdication of King Michael I, in Alexandru Muraru, Andrei Muraru, *op.cit.*, p. 369-418.

¹⁴ Cristian Ionescu, *Treatise on Contemporary Constitutional Law*, C.H. Beck Publishing House, Bucharest, 2019, p. 764-766, 836-837; Dan Claudiu Dănișor, *op.cit.*, p. 33-38.

¹⁵ Linguistic, legal and ceremonial analysis of the act of abdication, in Marina-Cristiana Rotaru, "Towards a discourse of abdication. A linguistic perspective on the text of the abdication act of King Michael I of Romania", in, Al. Muraru, A. Muraru (coord.), *op.cit.*, p. 260-282; Cristian Ionescu, *op.cit.*, p. 836-837, Eleodor Focșeneanu, *Two Dramatic Weeks*, *op.cit.*, p. 66-69.

¹⁶ Royal Decree no. 1786 of 8 June 1884, published in the Official Gazette of Romania, no. 51 of 8/20 June 1884.

¹⁷ Published in the Official Gazette, No. 300 bis, of 30 December 1947.

¹⁸ Analysis of the (un)constitutionality of Law no. 363 of 30 December 1947, in Eleodor Focșeneanu, *Constitutional History...*, *op.cit.*, p. 107-114; Idem, *Two dramatic weeks...*, *op.cit.*, p. 72-86, Cristian Ionescu, *op.cit.*, p. 836.

beginning of the ideological assault to delegitimize the national holiday celebrating the form of government and the Sovereign taking place since 1945 in several ways, including the imposition of new reference dates for the calendar of the new regime, which mainly aimed to "eclipse the past".¹⁹ From this point of view, the relationship that has been established between the forms of government in Romania and the country's national day calls for an examination of the constitutive elements of the distinct festive socialities²⁰ that have instituted, organised and developed the respective celebrations, analysing their celebration in their complex relationship with rituals, ceremonies, festivities and other forms of manifestation (such as official historical and ideological justification) in relation to the particularities, degree of representativeness and legitimacy of each political regime.

In the case of 10 May, it marked first the date of the proclamation of Prince Charles I as King (1866), then the date of the proclamation of Romania's state independence (1877) and finally the date of the coronation of Prince Charles I as King of Romania (1881), following Parliament's decision to unify these three meanings of the day under the auspices of what was to become King's Day for 66 years.²¹

Moreover, the yearning of this celebration, its national representativeness, the favourable season and, last but not least, the involvement and voluntary participation of the population triggered a new festive phenomenon from 1895 onwards, namely an urban feast, namely the "flower fight on Calea Victoriei".²²

By comparison, in terms of ceremonial importance, 30 December, although it played a founding role in the political construction of the communist regime²³, has always remained in the shadow of 23 August²⁴, which has been celebrated since 1945, and since 1949 has become the national day of the Romanian people of legitimacy and, later, socialism.

In other words, in the process of founding the new type of state, the transition to the republican form of government, which was the only one compatible with the communist political regime, despite some "deviationist" opinions from the beginning of this regime, which did not necessarily see an irreducibility between monarchy and communism²⁵, had a much less symbolic value from an ideological point of view than the day of 23 August 1944. Over more than four decades of

¹⁹ Alexandra Toader, "Legitimacy, authority, popularity: the symbolic image of King Michael in 1944-1947", in, Al. Muraru, A. Muraru (coord.), *op.cit.*, p. 120.

²⁰ Mihai S. Rusu, Ismo Kantola, *op.cit.*, p. 2.

²¹ *Coronation Ceremony of King Carol I of Romania*, available online at https://ro.wikipedia.org/wiki/Ceremonia_de_%C3%AEncoronare_a_regelui_Carol_I_al_Rom%C3%A2niei, accessed on: 23.05.2024.

²² Nicoleta Neagoe, "Bătaia cu flori" de la Șosea - o forma de transfer cultural", in, *Revista Cultura*, nr. 375, May 2012, available online at: <https://revistacultura.ro/nou/%E2%80%99Ebataia-cu-flori%E2%80%9C-de-la-osea-%E2%80%93-o-forma-de-transfer-cultural/>, accessed on: 23.05.2024.

²³ Mihai Teodor Nicoară, *op.cit.*, p. 248-251.

²⁴ Cornel Jurju, *op.cit.*, p. 349.

²⁵ Alexandra Toader, *op.cit.* p. 115.

continuous celebration and legitimation, it has received the most political-historical avatars, starting from "liberation of Romania by the Soviet Army" (in 1949), then "liberation of Romania from the fascist yoke" (in 1959), to the "armed uprising of 23 August 1944" (in 1964), to its last stage of "revolution of social and national liberation, anti-fascist and anti-imperialist"²⁶ under which it was presented in the period 1979-1989.

In our opinion, the explanation of the popular democracy regime's choice of August 23 as the country's national day instead of the republic day lies in the fact that both holidays established by the new regime had for the propaganda apparatus an undesirable common denominator in the person of King Michael, who had to be delegitimized and eliminated from the historical and ceremonial equation. The Sovereign had been the main actor in both events celebrated in the new ceremonial ritual of the communist regime, only that in the ideological scenography of his contribution in the case of the act of 23 August 1944 was to be changed from a heroic one into a mere figurehead, while in the case of the forced abdication of 30 December 1947, the party propaganda had to justify the sacrifice of the main character of the previous event at the risk of transforming him, even in a more distant perspective, into a tragic hero.

For this reason, we believe that the choice of establishing 23 August as the national day of the People's Republic, later perpetuated during the Socialist Republic, to the detriment of the Republic Day, was based only on the assessment of the lowest cost in terms of the image of the regime by gradually eliminating and delegitimizing the King from the historical roles in which he has been in both roles. The difference in image costs for the regime of popular democracy results, in our opinion, from the type of participation of the Communist Party in the realization of the two historical events and, of course, their temporal sequence.

Thus, in the case of the act of 23 August 1944, the Communist Party participated to a greater or lesser extent - depending on the observer's position - on the side and together with the democratic political forces in the removal from power of Marshal Ion Antonescu's regime and Romania's removal from the coalition of aggressor states, although the efforts involved lengthy scientific and ideological endeavours spanning a period of some 40 years, the regime's propaganda apparatus only succeeded in changing the proportions of the participation of the actors involved and overturning this relationship in their favour. The celebration of 23 August began as early as 1945, and it was also then that the operation to blur the role played by King Michael in making the crucial decision, leading and launching

²⁶ Paul Opriș, "From 23 August 1944 to 22 December 1989 - Legitimizing the Communist takeover of political power in Romania", in, Gavril Preda (coord.), *23 August 1944 - evaluations and controversies. Studies and papers presented at the scientific symposium "23 August in Ploiești and the Prahova Valley"*, 23 August 2005, Evenimentul and Capital Publishing House, Bucharest, 2022, p. 169.

the entire operation that led to Romania's removal from the coalition of aggressor states began.²⁷

As for the creation of the "legend" of 30 December, according to the propaganda of the communist regime, the "abolition" of the monarchy was part of a logical path with an anticipated end of the "revolutionary struggle of the masses of the people, led by the Party"²⁸, as a result of the implacable evolution of national history from a materialist-dialectical and historical perspective. This diachronic and dialectical process was based on a "natural" perimeter of the monarchical institution, on a reaching of the expiry date of history. Therefore, in our opinion, this evolutionary consequence, which the communist party would have done nothing but put into operation at the necessary moment of history as its sole driving force, was intended to absolve the regime of popular democracy of the historical responsibility of an illegitimate coup d'état executed by dethroning a king who "had been good even for them", to paraphrase Emil Bodnaresh.²⁹

As such, in the year following the dethronement, December 30 was declared a legal holiday of the "Proclamation of the Romanian People's Republic" by Decree of the Presidium of the Great National Assembly, no. 285 of 15 October 1948, along with New Year's Day (1 January), Epiphany (6 January), the Union of the Principalities (24 January), Easter (3 days), Labour Day (1 May), Independence, Victory and Heroes' Day (9 May), Christmas (25 and 26 December) and New Year's Eve (31 December).

It can be seen that this first normative act on the official holidays of the new regime is eclectic in nature, legally enshrining both religious and political holidays, and 23 August is not mentioned among the latter, although the new ceremonial tradition had been established since 1945.

In other respects, the national day of 10 May (King's Day) has been removed from the national holidays, and the provisions of Article 4 of the Decree have repealed any provisions to the contrary. Thus, it was only after another year of reflection on the best option for choosing Romania's national day that the new regime, by Decision of the Council of Ministers No 908 of 18 August 1949³⁰, decided that it should be 23 August.

The preemption of 23 August over 30 December as a national day can be explained by highlighting the participation of the Communist Party alongside the democratic opposition and King Michael in the overthrow of Marshal Antonescu's regime and the transition of Romania to the Allied side, even if propaganda would eventually remove the sovereign from the equation in favour of the "leading role of the party". We believe that the meaning of the operation of propaganda legitimisation of the participation of the Communist Party, together with all the other democratic forces, even at their head, in the action to overthrow the Antonescu

²⁷ Alexandra Toader, *op.cit.*, p. 120-121.

²⁸ Cornel Jurju, *op.cit.*, p. 351.

²⁹ Alexandra Toader, *op.cit.*, p. 114.

³⁰ Published in the Official Gazette, No. 54 of 20 August 1949.

regime, whose initial aim was to restore constitutional democracy, was more favourable (at least in the short term) to the new regime than the assumption of the coup d'état of 30 December 1947, organised against a king who, at the time, had become "the factor on which the people had pinned their hopes".³¹

Therefore, this last event, which placed the regime of popular democracy in antithesis with the political and informal authority of King Michael in Romanian society in the years before and after 1947, was conferred by the regime of popular democracy only a status of "legal holiday" along with those listed above, deliberately reducing both its importance in the state ceremonial and its impact on the public consciousness of Romanian society.

From 1948, for exactly 40 years (if we do not take into account the "spontaneous" demonstrations of joy that took place on the very afternoon of that day³² against the background of the systematic control of the mood of the population³³), until 1988, the republican form of government was celebrated every year by official ceremonies organised by the communist authorities on 30 December. Thus, the new form of government was celebrated annually with (quite) great pomp³⁴, which placed this national holiday in the triptych of the state ceremonial of the communist regime together with the 1st of May and the 23rd of August (especially after the creation of the office of President of Romania and the amendment of the Constitution of Romania, i.e. in the period 1974-1988).

However, unlike the form of the ceremonial day of August 23, which became a state ceremony, consisting of military parades and parades of "working people from towns and villages", culminating in the 1980s with odes dedicated to the "beloved leader", the festivities reserved for the significance of December 30 were mainly in the form of "extraordinary, solemn, jubilee" meetings of the Grand National Assembly or "scientific sessions" of institutions with political-historiographical responsibilities.³⁵ On 30 December 1988, the newspaper "Scînteia" carried on its second page an editorial entitled "Our Republic - the country of the daring socialist founders", and on the fifth page, under the heading "Foreign telegrams", it reported on events dedicated to the anniversary of the republic, organised in Moscow, Paris, Brussels and Ankara.³⁶

The following year, 30 December 1989 was the first occasion that exceeded the annual series of ceremonies dedicated to the republic because the Romanian people were in a revolutionary state and, therefore, had neither time nor tonus to celebrate their form of government, although they had been gratified with it once

³¹ Alexandra Toader, *op.cit.*, p. 130.

³² Eleodor Focșeneanu, *Two Weeks...*, *op.cit.*, p. 64.

³³ Virgil Țărău, "The beginning of the end. Political arrests after the November 1946 elections", in Alexandru Muraru, Andrei Muraru, *op.cit.*, p. 149-151.

³⁴ Cornel Jurju, *op.cit.*, p. 348.

³⁵ *Ibidem*, p. 349.

³⁶ Newspaper "Scînteia", no. 14.421, Friday, 30 December 1988, available online at: http://www.bibliotecadeva.eu/periodice/scanteia/1988/12/scanteia_1988_12_14421.pdf, accessed on 23.05.2024

again on the spur of the moment - somewhat similar to the establishment of the People's Republic 42 years ago - only two days after the trial and sentencing of the dictatorial couple, by Article 1, para. 2 of Decree-Law No 2 of 27 December 1989³⁷. The last issue of the newspaper "Scînteia" appeared on 22 December 1989, and its successor, the newspaper "Adevărul" did not appear until 30 December 1989.³⁸

Surprisingly, from 1989 to the present, 34 years have passed since the republic was celebrated in our country, neither on December 30 nor on any other calendar date, and the much-vaunted superiority of this form of government in Romania was less and less talked about in the public arena in the 1990s.

3. The Revolution of December 1989 and the Second Establishment of the Republic in Romanian Constitutionalism

The current constitution is the first of Romania's constitutions to establish the exception of isolating the name of the country from the form of government, an exception taken from the "mini-revolutionary constitution"³⁹ contained in Decree-Law No 2 of 27 December 1989. As such, the Constitution currently defines Romania as a national, sovereign and independent, unitary and indivisible state, and only secondarily, in the same article, the Romanian state is configured by the republican form of government.

The question might seem like a random choice, but it has varied and possibly deeper meanings. For example, E. Focșeneanu considers that the establishment of the form of government, being a constitutional norm, could not have been issued in the revolutionary fever of December 1989 by a provisional power and that the dichotomy practiced in the aforementioned normative act had the intention of "maintaining, by a roundabout way, a dissolved form of government".⁴⁰ It should be noted that in December 1989 there is a chronology of the organisation of revolutionary power, as well as a directly proportional relationship between the process of augmentation and homogenisation of this power vertically, on the one hand, and its concern and political option for the republican form of government expressed through legal or non-legal acts, on the other.

Thus, in a first stage, of the diffuse revolutionary power, established as a de facto government between 22-26 December 1989, whose political acts were materialized in the form of communiqués⁴¹, the most important of which was the Communiqué of 22 December 1989 to the country of the Council of the National Salvation Front⁴², also known as *the Proclamation of the Romanian Revolution*⁴³,

³⁷ Published in the Official Gazette, No. 4 of 27 December 1989.

³⁸ <http://www.biblioteca.deva.eu/periodice/scanteia.html>, accessed 23.05.2024.

³⁹ Tudor Drăganu, *op.cit.*, p. 392.

⁴⁰ Eleodor Focșeneanu, *Constitutional History...*, *op.cit.*, p. 140.

⁴¹ Tudor Drăganu, *op.cit.*, p. 392.

⁴² Published in the Official Gazette, No. 1 of 22 December 1989.

⁴³ Dumitru Mazilu, *The Proclamation of the Romanian Revolution - 10 years after the 1989 Hopes* -, Lumina Lex Publishing House, Bucharest, 1999, p. 56.

contains a ten-point political programme⁴⁴, which stipulates the dissolution of all the power structures of the Ceaușescu clan and the transfer of all state power to the Council of the National Salvation Front, etc., from which references to the form of government are completely absent.

As the first constitutional act of the December 1989 government of assembly⁴⁵ (which marked the second stage of the organisation of revolutionary power), Decree-Law No. 2 of 27 December 1989, in Art. 1, para. 1 of the Communiqué of 22 December, according to which the name of the country is Romania, and in para. 2 of the same article stipulated that the form of government is the republic. We are not told what kind of republic it was, but the very lack of any adjective denotes a necessary attempt to distinguish the new power from the former versions of this form of government in Romania, i.e. popular and socialist, which are usually the labels of totalitarian regimes.

If we systematically interpret the provisions of the aforementioned Decree-Law, we can deduce the existence of some basic landmarks or conditions of an essential or genuine republic, as provided for in current constitutional doctrine: sovereignty belongs to the people (we can consider that the *de facto* government and assembly of December 1989 represented a direct exercise of sovereignty by the people); any form of personal power is prohibited ("election of all political leaders for one or, at most, two terms. No one can claim power for life". - paragraph 3 of the Decree); powers are temporal and separate ("organisation of free elections in April 1990; separation of the legislative, executive and judicial powers in the State"); equality conceived in freedom as a constitutive element of it (the preamble of this normative act states as its purpose "to ensure and protect the fundamental rights of man and citizen").⁴⁶

By stipulating that "all power structures of the former dictatorial regime shall remain dissolved", the first normative act issued by the revolutionary power proceeded to replace the main provisions concerning the organization of the state with others, which established new bodies, namely: the Council of the National Salvation Front, which, among other things, had the prerogative to appoint and dismiss the President of the Supreme Court of Justice and the Attorney General "of the Republic" (according to Art. 2, letter c, of the Decree-Law); the Executive Bureau of the C.F.S.N., the President of the C.F.S.N., to whom were conferred a number of powers specific to the President of the Republic.

As Professor T. Drăganu, these provisions "do nothing more than establish new fundamental political bodies in place of the old (power - *n.a.*) liquidated structure"⁴⁷, but not - in our opinion - the form of government. Clearly, the Decree-Law only concerned the repeal of a series of unpopular regulations from the

⁴⁴ Ibidem, p. 56-60; Tudor Drăganu, *op.cit.*, p. 391-392.

⁴⁵ Tudor Drăganu, *op.cit.*, p. 392-393.

⁴⁶ Dan Claudiu Dănișor, *op.cit.*, p. 37.

⁴⁷ Tudor Drăganu, *op.cit.*, p. 392-393.

previous era and none before 1965, the year N. Ceausescu took power⁴⁸, as Professor M. Bălan pertinently pointed out. As the establishment of the republic in its popular form belonged to an even earlier era, which was much less known to the 1989 generation, what had dissolved in the matter of the form of government, if we are to take E. Focșeneanu's expression, was only the ideological form of the republic established by the Constitution of the Republic of Romania in 1965.

It must be admitted that in the manner described above, i.e. a somewhat 'natural' succession - hence its unquestionable and intangible status for the provisional power of December 1989, but also for that installed after the May 1990 elections - the republican form of government implicitly survived the overthrow of the political regime and all its power structures in December 1989, just as the state itself had not collapsed. This was not the purpose of the December 1989 revolution, let alone the change of the form of government. In this respect, the absence of slogans about the form of government from the slogans shouted in public during the revolutionary events was symptomatic. In other words, no one shouted "Down with the Republic!" during the revolution. or "Long live the Republic!".⁴⁹

This inheritance, the legal and cultural status of which leaves no room for any reservation or doubt, was also propagated and cultivated by Decree-Law No. 92/1990 for the election of the Parliament and the President of Romania⁵⁰, which, while not dealing with the form of government of Romania (this had already been established by Decree-Law No. 2 of 27 December 1989), established the electoral rules for the supreme office in a republican-type state. The legislative epic of the form of government ended with the adoption by secret ballot by the Constituent Assembly in 1991 of the republican form of government of the contemporary Romanian state⁵¹ and the ratification of the Romanian Constitution by referendum on 8 December 1991.

4. The ideological foundations of the republic in Romania's constitutions

The constitutions of the communist regime are ideologically obvious in terms of the forms of the republics they establish, their actual sources, how they are established and who benefits from them. Thus, the Constitution of the Romanian People's Republic of 1948 states in Articles 1 and 2 that "Romania is a people's,

⁴⁸ Marius Bălan, "Considerații privind natura giuridică a Conselho Frontului Salvării Naționale și caracterul giuridic al actelor acestuia (comunicato către țară, decrete, decrete-lege)", in, Anneli Ute Gabanyi, Alexandru Muraru, Andrei Muraru, Daniel Șandru, *Revoluția din 1989: învinși și învingători*, Editura Polirom, București, 2020, p. 545.

⁴⁹ Dumitru Mazilu, *op.cit.*, p. 26.

⁵⁰ Published in the Official Journal, No 35 of 18 March 1990.

⁵¹ Dumitru Ioncică, Olivia Stângă, Valentin Puîu, *The Genesis of Romania's 1991 Constitution: the works of the Constituent Assembly*, Regia Autonomă "Monitorul Oficial", Bucharest, 2008, p. 113.

unitary, independent and sovereign state and came into being through the struggle of the people, led by the working class, against fascism, reaction and imperialism."

The 1952 Constitution, the only one with a preamble, entitled "Introductory Chapter", states that "The Romanian People's Republic was born as a result of the historic victory of the Soviet Union over German fascism and the liberation of Romania by the glorious Soviet Army, liberation which enabled the working people, led by the working class under the leadership of the Communist Party, to overthrow the fascist dictatorship, to destroy the power of the exploiting classes and to build the state of popular democracy, which fully corresponds to the interests and desires of the Romanian masses."

The 1965 Constitution of the Socialist Republic of Romania stated that "Romania is a socialist republic and is a sovereign, independent and unitary state of working people in towns and villages. There are some similarities and differences between the three constitutions⁵², which are not the subject of our study, but from the perspective of the form of government, we note only that its ideological foundations differ in relation to the weight of the military occupation of the country and the Soviet influence on the communist regime in Bucharest. But if in April 1948, the contribution of the Soviet Union to the "making of the People's Republic" was omitted, the 1952 Constitution, adopted at the very beginning of the "dark decade", gives back to the "Caesar what belongs to the Caesar" and gives it its rightful place in the process of the "birth of the Romanian People's Republic".

On the other hand, the Constitution of the Socialist Republic of Romania, adopted on 21 August 1965, after the "April '64 Theses" ("Declaration on the position of the Romanian Workers' Party on the problems of the international communist and workers' movement") and immediately after Nicolae Ceaușescu took power within the Communist Party by becoming Secretary General of the Romanian Communist Party (renamed as such on 24 July 1965), removed any reference to the involvement of the Soviet Union in Romania's destiny, introducing in Art. 14 and the principle of "non-interference in internal affairs". As regards the form of government, the republic was given a higher qualification, becoming 'socialist', which led to changes in the 'insignia of the Socialist Republic of Romania', provided for in Title VIII of the Constitution, namely the coat of arms (Article 116), the seal (Article 117) and the flag (Article 118), the state anthem being given to the Grand National Assembly (Article 119).

In terms of official ceremonial, the status of the republic remains unchanged, with 30 December remaining the legal holiday of the form of government, while the status of the National Day of 23 August will evolve ideologically between 1964 and 1989 from "armed insurrection" to "social and national liberation revolution, anti-fascist and anti-imperialist". The real source of the celebration of the socialist republic is therefore still 30 December, which reinforces the genetic filiation between the two ideological forms of the republic during the communist regime.

⁵² Cristian Ionescu, *op.cit.*, p. 768.

The second establishment of the republic in Romania, whose primary formal source was Decree-Law no. 2 of 27 December 1989 by the National Salvation Front (given that the republican character of the December 1989 Revolution was not explicit, but only, at best, implicit, as we have shown above) had the character of a tabooed successor "given" which led to the cancellation of any critical debate on the form of government of the new state⁵³ which was to be organised on essential democratic foundations, untainted by ideological applications, as had been its two previous forms, established in 1947 and 1965.

The consequences of this approach to the question of the form of government by the provisional power also had repercussions on the "Theses of the Constitution" formulated by the Commission for the drafting of the 1991 Constitution, which also invoked the "implicit popular option for a republic", which had been expressed in the elections of 20 May 1990⁵⁴ and, subsequently, on the debates in the Constituent Assembly, where all the proposed amendments were rejected.⁵⁵

Consequently, it is not at all surprising that "the meaning given by the 1991 Constitution to the notion of <republic> is the rudimentary one, i.e. the absence of a monarch"⁵⁶, as a result of reminiscences that some members of the Council of the National Salvation Front still had from the first establishment of the republic in our country in 1947 and which were reflected in the majority option of the Constituent Assembly, later taken up in the constitutional norm. Ceremonially and festively, the failure to discuss the legal and cultural status of the form of government of the new contemporary Romanian state led to the non-assumption of the creation of a new type of republic, despite the constitutional provisions that dissociated itself from its socialist predecessor, so that after 1990 it was not celebrated at all, neither formally nor informally.

5. The real, formal and doctrinal sources of the republican tradition in Romania or the birth of the Romanian republic

During the work of the Constituent Assembly in 1991, the renowned professor of constitutional law Ion Deleanu (1937-2014), as rapporteur of the Commission for drafting the Constitution, made two controversial statements that required some reflection and adjustments. Firstly, he made a dichotomy "between the formal tradition, constituted by the succession of the three Romanian Constitutions prior to 1947, and the tradition as a product of Romanian political and

⁵³ Cristian Preda, *Political Modernity and Romanianism*, Nemira Publishing House, Bucharest, 1998, p. 48.

⁵⁴ Alexandru Muraru, *How does the monarchy survive in a republic? King Michael, Romanians and Royalty after 1989*, Curtea Veche Publishing House, Bucharest, 2015, p. 47.

⁵⁵ See amendments proposed by MEPs K. Gabor, A. Marton, C. Zăinescu and I. Rațiu. in, *The Genesis of the Romanian Constitution 1991: the Works of the Constituent Assembly*, op.cit., p. 74, 90, and 113-115.

⁵⁶ Dan Claudiu Dănișor, op.cit., p. 36.

philosophical thought" in favour of the republic as Romania's form of government, to which the Constitutional Commission would be attached "with the overwhelming majority of its members"⁵⁷. The statement contains in itself a presumed contradiction between the monarchical constitutions of Romania, as options of the legislative power formally constituted for the purpose of their adoption, and the idea of republic in the national political and philosophical thought, as a vocation of organization of the Romanian people and state, which would not have been possible to be fulfilled until a certain moment of national history, probably due to different domestic and international contexts that would not have allowed the achievement of this political desideratum.

The second statement of Professor I. Deleanu in the same speech refers to some formal sources of the republican form of government, which are invoked in support of the option of the Commission drafting the 1991 Constitution. More specifically, it is incomprehensible today the opinion of Professor Deleanu⁵⁸, as an expert in constitutional law, as well as the lack of reaction of the deputies and senators of the Constituent Assembly, not even from the opposition, who did not protest against the invocation of Law no. 363 of 30 December 1947 as a legitimate formal source of the republic in Romania or, as I have already pointed out in this paper, on the (non)constitutionality and (non)legitimacy of this law, as expressed in the meantime with irrefutable arguments by reputed contemporary Romanian constitutionalists⁵⁹ and, at the same time, an expert in the analysis of political discourse on the lack of substantive and formal conditions of the abdication act and its political-legal and dynastic effects.⁶⁰ In another order of ideas, recourse to Decree-Law No 92/1990 as a contemporary formal source of the republican form of government is also unfounded because, in our opinion, it did not enshrine the republic *expressis verbis* (in this case, the *sedes materiae* being Decree-Law No 2 of 27 December 1989), but only the electoral rules for the election of the President of Romania as the fundamental institution of the republic, in other words, the function that determines the corresponding form of government in this case was invoked.

In any case, Professor I. Deleanu's opinion, however, refers to a necessary *sine ira et studio* evaluation of the local republican current, starting from E. Lovinescu's observation on the formation of traditions in general: "Tradition is not a unitary and indisputable force but a complex and controversial force. In the past

⁵⁷ *Genesis of the Romanian Constitution 1991...*, *op.cit.*, p. 64.

⁵⁸ Professor Ion Deleanu's statement is reproduced in full: "But this option should not ignore the fact that Law no. 363 of 30 December 1947 took note of the abdication of the King for himself and his descendants, that Decree-Law no. 92 of 1990, the republican form of government was established, that some political parties, by nominating candidates for the presidential office, seem to have recognized it as such, that, finally, the new Constitution is expected to be ratified by a referendum", *apud*, *Genesis of the Constitution of Romania 1991...*, *op.cit.*, p. 64.

⁵⁹ Eleodor Focșeneanu, *Two dramatic weeks...*, *op.cit.*, p. 60-126, Cristian Ionescu, *op.cit.*, p. 836-837, Radu Carp, *op.cit.*, p. 250-259, Ioan Stanomir, *op.cit.*, p. 237-49.

⁶⁰ Marina Cristiana Rotaru, *op.cit.* p. 272-279.

of every people there are several strands which, viewed in part, could form the basis of a national tradition. In support of their political conceptions, French royalists start from the tradition of royalty, eight times secular, and of monarchical despotism; in reality, however, democracy can also find a tradition"⁶¹, a statement in which the republic is defined as a democracy, i.e. a political regime in which sovereignty belongs to the people.⁶² At a first glance, the problem that arises is not to deny the "republicanism" of S. Bărnăuțiu or the "Romanian republic" that he saw in the course of our history⁶³, but to critically revive one of the political ideas of Romanian thought, which has fallen into disuse in the last 35 years despite its sublimation into an imperative norm of positive constitutional law, after the ideological tribulations during the communist regime.⁶⁴

In another vein, starting from the choice made by the government in 1990 regarding Romania's National Day, expressed in Law no. 10 of 31 July 1990, by which not only the republic was left in the background (as it happened in 1949), but it was not even recorded among the legal holidays, being stubbornly omitted, we tried to review the historical events that could have been the real sources of this form of government in our country, capable of triggering the tradition of a periodic celebration representative for Romanian society.

In chronological order, *the Islaz Proclamation*, as the "inaugural act of the revolution", adopted by popular ratification on 9 June 1848 and officially sanctioned by the ruler Gheorghe Bibescu on 11 June 1848, thus becoming the *de facto* Constitution of the provisional revolutionary government, had the potential to be a real source of Romanian republicanism, if we consider that by the regulations on the election of the ruler, the reduction of his salary, his responsibility and the limitation of the duration of the mandate to exercise the supreme function in the state, the revolutionaries would have sought "the de facto establishment of a republic".⁶⁵

The next event that meets all the elements of a real source of the native republican tradition took place on August 8, 1870 and entered the common language as the "Republic of Ploiesti."⁶⁶ Even if "the event has nothing heroic in itself" (as the distinguished author of the monograph herself expresses it), it is

⁶¹ Eugen Lovinescu, *History of Modern Romanian Civilization. The Laws of the Formation of Romanian Civilization*, Volume III, Minerva Publishing House, Bucharest, 1992, p. 124.

⁶² Dan Claudiu Dănișor, *op.cit.*, p. 33.

⁶³ Radu Pantazi, *Simion Bărnăuțiu. Opera și gândirea*, Editura Științifică, Bucharest, 1967, p. 131.

⁶⁴ See Gheorghe Ghimeș, *The Idea of Republic in Romania*, Editura Științifică, Bucharest, 1972 and *Antimonarchic and Republican Social-Political Thought in Romania* (anthology, introductory study and notes by Gh. Ghimeș), Editura Științifică și Enciclopedică, Bucharest, 1979.

⁶⁵ Valeriu Șotropa, *Draft Constitutions, Reform Programmes and Petitions for Rights in the Romanian Countries in the 18th Century and the First Half of the 19th Century*, Editura Academiei, Bucharest, 1976, p. 182.

⁶⁶ Silvia Marton, *"The Republic of Ploiesti" and the beginnings of parliamentarianism in Romania*, Humanitas Publishing House, Bucharest, 2016, p. 9.

revealing both for the republican current of the time⁶⁷, and especially - as far as we are concerned - for the explanation of the "historical destiny" of that day in the public consciousness and in the festive allegory of the republican regimes that succeeded each other in our country.

During the work of the Constituent Assembly in 1991, the deputy Stefan Cazimir made the following statement: "The French are in their fifth republic. We Romanians are only at the second, established by the people on 22 December 1989; today it is the framework of its existence and the source of legitimacy of our institutions."⁶⁸ The statement represents an attempt to legitimize the republican character of the Revolution of December 1989, which leads us to consider this important social and political event from the perspective of our study, which in the meantime has become a real source of Romanian constitutionalism in the sense of Art. 1, para. 3, of the Romanian Constitution revised in 2003, as well as a real implicit source of the republican form of government.

We are talking about an attempt to legitimize the republican ideal because it is not to be found in the programmatic documents of the days of 17-22 December 1989 in Timisoara⁶⁹ (even going as far as the "Timisoara Proclamation" of 12 March 1990⁷⁰ and Bucharest, nor among the demands or popular slogans during those events⁷¹, (the form of government being specified only by Decree-Law no. 2 of 27 December 1989).

As regards the formal sources of the republic in Romania, these remain, at the constitutional level, the Constitution of the Romanian People's Republic of 1948, the Constitution of 1952, the Constitution of the Socialist Republic of Romania of August 1965 (for the popular and socialist republic), respectively, Decree-Law No 2 of 27 December 1989 of the Council of the National Salvation Front and the Constitution of Romania of 1991 for the current republic. If the formal sources of the popular and socialist republics have become obsolete and no longer offer any occasion for celebration, neither have the formal sources of the contemporary republic acquired this ceremonial status.

⁶⁷ *Ibidem*.

⁶⁸ *Genesis of the Romanian Constitution 1991...*, *op.cit.*, p. 143.

⁶⁹ *The December 1989 Revolution in Timisoara*, available online at, https://www.enciclopediaromaniei.ro/wiki/Revolu%C5%A3ia_din_Decembrie_1989_%C3%AEn_Timi%C5%9Foara, accessed on: 23.05.2024.

⁷⁰ Lucian-Vasile Szabo, "The Proclamation of Timișoara as part of the 1989 Revolution", in, Florian Mihalcea, Viorel Marineasa, Cătălin Regea (editors), *History seen from the street: the Proclamation of Timișoara*, Brumar Publishing House, Timișoara, 2019, p. 92-102, available online at: https://www.researchgate.net/publication/347952640_PROCLAMATIA_DE_LA_TIMISOARA_CA PARTE A REVOLUTIEI DIN_1989, accessed on: 23.05.2024.

⁷¹ Dumitru Mazilu, *The Proclamation of the Romanian Revolution - 10 years after the 1989 Hopes* -, Lumina Lex Publishing House, Bucharest, 1999, p. 26.

Conclusions and research openings

The establishment of the Romanian People's Republic on 30 December 1947 remains the only real source of the republic decreed a legal holiday in our country and celebrated as such by the communist regime for 40 years.

None of the other real historical sources of the republic in our country that I have mentioned above has managed to establish itself in the public consciousness or has been designated by any of the republican political regimes that have succeeded in power from 1947 to the present either as a legal holiday or as a National Day. The causes of this lack of adherence of an official holiday of the republican form of government in the collective mind of Romanian society, - not to mention its stubborn omission under the Constitution in force from the luxuriant list of current legal holidays⁷² - are at once historical, political and geopolitical, sociological, even psychological and, of course, contextual.

Completing the spectrum of questions that remain following the treatment of this subject with the evidence of the second (de)fall of a contemporary republican day among the choices of the rulers in 1990 for Romania's National Day on 1 December, (this was established by Law no. 10 of 31 July 1990, on the proclamation of Romania's National Day⁷³), we consider that this study involves its continuation through an interdisciplinary study, which explains the inability of Romanian society, but especially of the Romanian state to have a celebration of its form of government.

However, in Romanian history there is another establishment of a republic, less assimilated by the republican tradition, whose national representativeness gives it the legitimacy of a real source of this form of government. Towards the end of the First World War, after the break-up of the Russian Empire, on 27-28 October 1917, the Ostars Congress in Chişinău decided on the autonomy of Bessarabia and the convocation of the National Assembly of the Country Council "for the administration of all the affairs of autonomous Bessarabia".⁷⁴

On the basis of this autonomy, on 2 December 1917 the Basarabian Country Council adopted a Declaration on the proclamation of the Moldovan Democratic Republic (still within the Russian Democratic Republic, as "a party with equal rights").⁷⁵ On 24 January 1918, the Parliament of the Moldovan Democratic Republic proclaimed the separation from Russia and the independence of this republic, and later, on 27 March 1918, the Council of the Country, meeting in solemn session, voted the act of uniting Bessarabia with the Kingdom of Romania,

⁷²List of public holidays in Romania, available online at: https://ro.wikipedia.org/wiki/S%C4%83rb%C4%83tori_publice_%C3%AEn_Rom%C3%A2nia, accessed on: 23.05.2024.

⁷³ Published in the Official Gazette, Part I, No 95 of 1 August 1990.

⁷⁴ I. Guceac, *The Constitution at the crossroads of millennia*, 2nd edition, revised and added, Romanian Academy Publishing House, Istros Publishing House, "Carol I" Museum of Braila, Bucharest-Braila, 2016, p. 281.

⁷⁵ *Ibidem*.

and on 27 November/10 December 1918, the same supreme representative body declared the unconditional union of Bessarabia with Romania.⁷⁶

This republic was legitimately established between 2 December 1917 and 27 November/10 December 1918, and its composition and democratically adopted resolutions fully recommend it as the real source of the republic in Romanian history.

Therefore, one of the relevant dates in the existence of this state formation could be declared as an official holiday of the republic in Romania, as the other real sources I mentioned above are either not relevant enough or not legitimate enough to be marked festively.

The second establishment of the republic in Romania took place implicitly through the Revolution of December 89, and its formal source is to be found in Decree-Law no. 2/27 December 1989. This was later supplemented by Decree-Law No 92/1990 on the election of the President of Romania and the 1991 Romanian Constitution, which declared the republican form of government non-revisable. Neither of these dates became a legal holiday of the republic, and the political regime established by the 1991 Constitution designated 1 December as the country's National Day.

The consecration of the National Day of 1 December as a state symbol, as an original symbolic element of the Romanian Constitution in force, coupled with the stubborn omission of a republican holiday from the luxuriant list of legal holidays of the current political regime denotes an intentional adumbration of the contemporary form of government or, more precisely, of the reasons for its celebration. More specifically, 30 December has tacitly lost its status as a legal holiday after 1990, having been ignored by the authorities that have succeeded one another in power until now, but it has not been explicitly repudiated and replaced by another calendar date intended to celebrate the form of government of the contemporary Romanian state.

On the other hand, civil society has not felt the need for an official celebration of the republic in the last 34 years, although it is argued in recent constitutional doctrine that "the republic has, however, entered the consciousness of several generations"⁷⁷, or this inertia - not to say lack of collective enthusiasm - denotes a clear lack of legitimacy of the real sources of the republic in our country, both in terms of state ceremonial and, above all, in terms of the collective mind.

The final paradox is that the Republic of Romania currently celebrates Monarchy and Independence Day on 10 May, but does not celebrate its form of government at all, which validates the view that "the Republic is acutely lacking

⁷⁶ *Ibidem*, p. 287.

⁷⁷ Cristian Ionescu, *op.cit.*, p. 836.

strong symbols, having to 'borrow' from the Monarchy."⁷⁸ We tend to agree with this opinion, all the more so as the borrowing of monarchic symbols in the panoply of republican heraldry continued with the modification of the Romanian coat of arms in the sense of the return of the Crown of Steel on the head of the golden eagle located on its large shield on blue, according to Law no. 146/2016⁷⁹, which amended Law no. 102/1992, on the coat of arms of the country and the state seal, which is likely to produce new effects on the constitutional category formed by the democratic traditions of the Romanian people.

On the other hand, the fact that the establishment or declaration of the republic did not become the national day of the political regime established after the Revolution of December '89 and developed under the 1991 Constitution remains atypical also in relation to the state ceremonial of other countries, which at some point in their history adopted the republican form of government, which became the national day of these countries in the sense of assuming state identity by celebrating this form of government.⁸⁰ But this comparative research may constitute a second direction for the continuation of the present study in a broader context, which would include, first of all, the establishment of this form of government in the whole south-eastern region of Europe, but also in other geographical areas, because, as it results from the definition of "National Day", the adoption of this form of government represents one of the most important events in the history of a state, which may constitute the common denominator of a national holiday.

What emerges with certainty at the end of this study is that the current Romanian Republic does not have an authentic birth certificate, nor does it have founding fathers. The lack of a national celebration of the form of government demonstrates, on the one hand, a reluctance bordering on guilt on the part of the rulers regarding the birth certificate of the current republic or the lack of assumption of its filiation from its previous forms. On the other hand, the passivity of Romanian society, which does not feel the need for such a celebration, may signify the lack of sufficient assimilation of this institution in the collective consciousness, or the illegitimacy of the real source or sources that imposed it on our constitutionalism. In this sense, in our older constitutional doctrine it was pointed out that: "These institutions are regarded as something alien, as something to which no special attention and care should be given. People tolerate them because they exist; they

⁷⁸ Ion Luca Vlad, *Do we know our national days? An incursion into the world full of surprises of the 51 official holidays*, available online at <https://www.romaniaregala.ro/jurnal/ne-cunoastem-z-ilele-nationale/>, accessed on: 23.05.2024.

⁷⁹ Published in the Official Journal, Part I, No 542 of 19 July 2016.

⁸⁰ See the political-historical significance of the national days of Italy, (https://ro.wikipedia.org/wiki/Proclamarea_Republicii_Italiene), Turkey, (<https://www.trt.net.tr/romana/programe/2016/10/29/29-octombrie-ziua-republicii-turcia-599259>) and India (https://www.a-dotrip.com/ro/event-detail/independence-day#google_vignette).

put no passion into their preservation and maintenance, and when they disappear, they regard them with indifference."⁸¹

Fully understanding the importance of the legality and legitimacy of the creation of the institutions of the new Romanian state, whose form of government should have been deeply rooted in the traditions and aspirations of the Romanian people, Ion Ratiu formulated the following amendment during the work of the Constituent Assembly in 1991: "the form of government of the Romanian state shall be decided by referendum." His argument, from which we have also derived the motto of this work, was as follows: "So the Constitution must be for us our birth certificate. And if we, our democracy is born today through this Constitution that sanctifies it, it began to be born with the Revolution, but if this is the purpose, we must prepare for it, not only prepare the beautiful work done by this drafting committee, but we must prepare the people to receive it. (...)." ⁸²

The amendment was rejected, with only 55 votes in favour. The votes were counted by Senator Dan Joseph.

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