

Developments of the Romanian State and Law in the Period of Communism



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ABSTRACT: The establishment of the communist regime in Romania began in the immediate aftermath of World War II, with the seizure of power by the Romanian Communist Party (PCR) and the elimination of political opposition. The communist regime imposed a totalitarian ideology based on full state control over all aspects of social, economic and political life.

During the communist period, the Romanian state was transformed into a totalitarian state with an authoritarian and centralized regime. Political power was concentrated in the hands of the Communist Party and the state became an instrument of its control. State institutions were subordinated to the party, and the separation of powers in the state was abolished in favour of an executive power dominated by Communist leaders.

As far as the legal system is concerned, the communist period brought significant changes in legislation and judicial procedures. The law was used as a tool to control and suppress political opposition and all forms of dissent. Judicial proceedings were politicised and the independence of the judiciary was undermined in favour of the political interests of the communist regime.

KEYWORDS: foreign policy, communist regime, totalitarianism, effects of constitutions, restriction of freedoms.

GENERAL CONSIDERATIONS

The process of establishing communism in Romania was not a singular phenomenon, on the contrary, it was multiplied, moreover, on the scale of the whole Central and South-Eastern Europe, within a vast scenario of "Finlandization" of the area by the Soviets with the tacit consent of their allies. Direct, brutal involvement in domestic politics and the imposition of friendly governments was by definition a violation of constitutional principles of sovereignty, invalidating "people's democracy" regimes from the outset.

It is well known that the main objective of any totalitarian regime is to confer legality on its government, which is in most cases apparent, and to annihilate even minor forms of opposition that might call into question the legitimacy and legality of 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 in no way attempt to deny itself in this respect. This is why it is all the more interesting and important to find out just how genuine, in the representative and legal sense of the term, the Romanian communists' seizure of power was, especially as it is presumed to have been carried out in the name of popular legitimacy, seen and understood through the prism of communist political doctrine, which is also questionable in terms of the possibilities of successfully translating the theory into practice.

Legal and constitutional governance within the rule of law, correlated with the existence and exercise of fundamental human or citizen rights and freedoms, implies for totalitarian parties and groups a restricted space for manoeuvre in the struggle for political power. That is why, being able to use terror only to a rather limited extent, these centres of power are forced to share with the other political parties - which follow democratic principles - the need to win adherents through propaganda, an instrument that can penetrate the subconscious of the masses but also of the elites (*Gheorghe, 2010*).

The geopolitical context in which Romania found itself at the end of the Second World War would allow the Soviet Union to have direct decision-making power through the Allied Control Commission set up under the Armistice Agreement by the Allies. This allowed the process of establishing "people's democracy" regimes on the borders of the USSR to be precipitated, and as a result Romania was forced to change its political regime and eventually even its form of government. Thus, during the period studied, Romania experienced constitutional monarchy (23 August 1944 - 30 December 1947) and republic (30 December 1947 - 22 December 1989) (*Dariescu, 2010*).

THE MAIN LEGISLATIVE AND POLICY MEASURES TAKEN UNDER THE 1948, 1952 AND 1965 CONSTITUTIONS

Once the communists came to power, the first legislative measure was to adopt another constitution to enshrine the new form of government. This is the way to abandon the traditional democratic regime of the period when the Constitution of 1866 and the Constitution of 1923 were in force.

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The proclamation of the Romanian People's Republic on 30 December 1947 was an important moment in the process of socialist transformation of Romania according to Soviet prototypes and instructions. Initiated in a brutal and unscrupulous manner, this process aimed at destroying the "bourgeois-nationalist" legacy at all social, economic, cultural and especially political levels. The eradication of the past, ordered by Stalin and carried out by the Romanian Communist Party (PCR), began in the first part of 1948 and was to be completed *de facto* by 1952.

The 1948 Constitution marks a new stage in the history of the Romanian people, when a new regime - the communist regime - was installed at the head of the country. On the basis of the Constitution, the Romanian People's Republic was proclaimed and the supreme organs of state power were established: the Great National Assembly and the People's Councils.

Even if the Constitution has admitted the existence, within certain limits, of private ownership of the means of production, in particular of small peasant properties, it has provided that when the general interest requires, the means of production, banks and insurance companies which are private property of natural or legal persons, may become the property of the State, i.e. the property of the whole people, under the conditions established by law. With this provision, the constitution created the legal framework for the nationalization or expropriation of the main means of production in private ownership (*Neagu, 2014*).

The traditional political parties were outlawed, their prominent members were arrested and sentenced, led by Iuliu Maniu. Military commanders, famous generals who had participated in the reintegration of the nation were imprisoned and declared war criminals for having taken part in the anti-Soviet war.

From the period after August 23, 1944 until the early years of the sixth decade, the Soviet army was stationed on the territory of our country as a security measure for the implementation of a regime alien to the spirit of the Romanian people, the communist regime. The Presidium of the Grand National Assembly was established, and in 1962 the State Council, a collective body made up of representatives elected from among the members of the Grand National Assembly and directly responsible to the Grand National Assembly for the measures entrusted to them. The first President of the Presidium of the Grand National Assembly was C. I. Parhon; in 1952 he was succeeded by Dr. Petru Groza, and after his death in 1948 Ion Gheorghe Maurer became President. In 1961 Gheorghe Gheorghiu Dej became the President of the State Council and the first secretary of the Romanian Workers' Party (*Scurtu, 2005*).

In 1952, a new constitution was adopted, whose role was to give legal form to the much stronger single party in the leadership of the country. The Grand National Assembly became the supreme organ of state power and the country's sole legislature. It is the only body able to adopt the state plan, the country's budget and foreign policy.

Although the 1952 Constitution enshrines the existence of three social-economic formations within the national economy - the socialist formation, the small commodity production and the private-capitalist formation - it explicitly recognises that one of the fundamental objectives of the people's-democratic state is the policy of consistently restricting and eliminating capitalist elements, i.e. wealthy households, private commercial enterprises, small non-nationalised industrial enterprises based on the exploitation of wage labour.

As for the ever-expanding socialist state property, it included all kinds of subsoil wealth, mines, forests, waters, natural energy sources, communication routes of all kinds, rail, river, sea and air transport, post, telephone, telegraph, radio - declared state property - as common property of the people by the 1948 Constitution and the main means of production of culture and art, nationalized in the period 1948-1952, namely factories, factories, banks, printing presses, cinema and theatre, agricultural farms and machine and tractor stations, communal enterprises and the nationalized part of town houses.

On the civil law side, the provisions of Book I of the Civil Code on persons, marriage, divorce, paternity, filiation, adoption, guardianship and emancipation have been repealed. With the repeal of these provisions, the Family Code was implemented on 1 January 1954 by Law No. 4 of 4 January 1954 amended by Law No. 4 of 4 April 1956 (*Albu, 1975*). The Family Code was inspired by the Soviet legislation and was later supplemented by the following normative acts: Decree No 31 of 30 January 1954 on natural persons and legal persons (amended by Law No 4 of 4 April 1956); Decree No 32 of 31 January 1954 for the implementation of the Family Code; Decree No 278 of 28 July 1960 on civil status documents (*Filipescu, 1989*).

In addition to the forced collectivisation measures in force throughout the country, the peasants were also granted by law a right of personal ownership of their income and savings from work, of their dwelling house and the auxiliary household next to the house, as well as of their household goods and objects of personal use, rights "protected by law". Inevitably, the right to individual ownership, especially of immovable property, is being restricted to the point of elimination.

Religious cults have not been omitted either; various normative acts have taken measures to transfer to state ownership the immovable or movable property, as the case may be, owned by churches, congregations or other religious establishments.

The criminal legislation of those times was particularly important for maintaining state order and removing the old remnants of exploitation or those who opposed the regime. The repressive apparatus was perfected, a number of acts were considered new offences by special criminal laws, and the penalties were particularly severe. The prisons of Jilava, Poarta Albă, the Danube-Black Sea Canal, Sighet and Aiud were the main places where many opponents of the communist regime, including representatives of the historical parties, were held.

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Romania was under Soviet occupation, the Soviet system of implementing repressive measures became the main instrument in strengthening the communist regime in Romania. The repressive apparatus is always subject to perfection through physical and mental measures of the most terrible kind, with Soviet advisors or Romanian personnel trained in Moscow as its main mentors.

After the death of Gheorghe Gheorghiu Dej, Nicolae Ceausescu was appointed as the first secretary of the Romanian Workers' Party on 19 March 1965. On the legislative level, in 1965 a first measure was the adoption of the Constitution, which, although a number of democratic rights and freedoms were inserted, in reality (*Negoiață, 2013*), through special normative acts were restricted or removed.

The 1965 Constitution changes the name of the country from the Romanian People's Republic to the Socialist Republic of Romania and the Romanian Workers' Party becomes the Romanian Communist Party, the only ruling force in the state, headed by its general secretary Nicolae Ceausescu.

From this period until 1989 Nicolae Ceausescu engaged the country in making huge investments in all areas, making unnecessary expenditures, restricting the rights and freedoms of citizens, the individual peasantry being practically non-existent, its place being taken by the members of the Collective Agricultural Households (G.A.C.) which later became Agricultural Production Cooperatives (C. A. P.) and those who worked in State Agricultural Enterprises (I.A.S.).

According to Article 7 of the Constitution, the goods which, due to their importance, are the exclusive property of the state are: land, dwellings from the state housing and building fund, means of transport, means of industrial production. Smaller industrial enterprises are mentioned in the Constitution as being subject to the right of cooperative ownership or, as the case may be, to the right of personal ownership. However, later special laws restrict, and in some areas definitively strangle, the right of personal property (*Ionașcu & Brădeanu, 1978*).

Article 36 of the Constitution reads as follows: "*The right to personal property shall be protected by law. The right of personal property may be the object of income and savings derived from work, the dwelling house, the household next to it and the land on which they are located, as well as goods for personal use and comfort*".

In addition to state socialist and cooperative ownership, peasants in non-cooperative areas were recognised as having the right of ownership of the land they and their families worked, of the tools used for this purpose, as well as ownership of work and production animals, and the right of ownership of craftsmen of their workshops.

It was also stated in various legal acts, including the constitution, that the right to personal property is protected by law and that the income and savings from work, the dwelling house, the household next to it and the land on which it stands, as well as goods for personal use and comfort, may constitute the object of this right.

The above constitutional regime has been repeatedly violated by administrative measures or by various laws. In 1974, two laws were passed under which the right of ownership of land belonging to individuals was transferred to the State. These were Law No 58/1974 on the systematisation of the territory and urban and rural settlements (*B.O, 135/1974*), and Law No 59/1974 on the land fund. According to Art. 30 para. 2 and 3 of L.58/1974 and art. 45 of L.59/1974, land passes into state ownership in case of sale of or other legal operations transferring ownership, the owner having the right only to 250 sqm (*Neagu, 2014*).

By Law No 5/1973 on the management of the housing stock and the regulation of relations between owners and tenants, new rules were laid down in addition to the provisions of Law No 4/1973. According to Article 60 of Law No 5/1973, the regulation of personally owned dwellings inhabited by the owner and his family became a compulsory measure. When determining the housing needs, it was taken into account that each member of the family should be provided with a room to live in, and the owner was obliged to rent out rooms exceeding the needs of his family. In case of refusal, the executive committee (bureau) of the People's Council had the right to order the rental measure.

According to Article 13 of Decree 223/1974 on the regulation of the situation of certain assets, land of any kind and buildings may be owned only by persons domiciled in Romania. Persons who have applied for permanent departure from the country are obliged to dispose of the buildings they own in

R.S. Romania, to the State, with payment. The buildings of persons who have fraudulently left the country or who, having gone abroad, have not returned by the time the deadline for their return has expired, become the property of the State without payment, together with the land they own.

The legislative examples are telling, we believe, to highlight the communist orientation with regard to the restrictions imposed on personal property rights and the brutal violation of individual rights and freedoms. At the basis of all legislative provisions were Nicolae Ceausescu's reports to the Congresses of the Romanian Communist Party, speeches and party plenaries put into practice.

By promoting the cult of personality, Nicolae Ceausescu became detached from reality, ignoring the realities of Romanian life, drastically lowering the standard of living, violating the most basic rights and fundamental freedoms of citizens, identifying the achievements of the Romanian people with the presidential couple, generated a strong mood of discontent among the population of the country. This phenomenon gradually occurred in the other communist countries as well, with discontent reaching a critical point in 1989.

Nicolae Ceausescu's regime started with a series of measures to restore national pride, such as renaming the country Romania instead of Romania.

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Nicolae Ceausescu continued Gheorghiu-Dej's policy, especially as regards industry. The five-year plan for 1966-1970, whose directives had been established at the 9th Congress, focused on heavy industry. His dream was to turn Romania into a machine exporting country. At the same time, he began building vast oil refining capacity. Ceausescu argued that modernisation of the Romanian economy could be achieved more quickly under centralised rule.

In the field of foreign policy, the early years of the Ceausescu regime were a period of Romanian diplomatic initiatives that would integrate Romania into the international community. Ceausescu not only continued the course initiated by Gheorghiu-Dej, but also engaged in several actions that strengthened his prestige in a lasting way. Thus, on the external front, the Romanian state promoted during this period a policy of imposing the principles of full equality of rights, respect for national independence and sovereignty, non-interference in internal affairs, mutual advantage, non-use of force or the threat of force, and the right of each people to be masters of its own destiny. On this basis it has concluded bilateral treaties of alliance and friendship with socialist states, has participated in the Warsaw Treaty since 1955, has had a Treaty of collaboration and mutual aid with several European socialist states, and has developed relations of friendship, solidarity and collaboration on all levels with other socialist states. At the same time, Romania promoted - particularly after 1965 - a policy of collaboration with other states, regardless of their social order, and at the beginning of the ninth decade it had diplomatic relations with 140 countries of the world, trade relations with 132 states, membership in 80 international governmental organisations and participation in over 700 international non-governmental organisations.

Taking into account the great commands of the time, Romania acted to extinguish the hotbeds of tension and conflict, to implement effective programmes for general disarmament, to adopt measures to stop the arms race, to limit and gradually reduce military budgets, the prohibition of the use of nuclear and other weapons of mass destruction, the liquidation of military bases on the territories of other states and the withdrawal of foreign troops to their national borders, the establishment of nuclear-free zones, the creation of conditions for the dismantling of military blocs: documents submitted to the O. The documents submitted to the UN in the autumn of 1975 contained ideas which were also given concrete form in the Final Document of the UN General Assembly Special Session on Disarmament of that year. The ten proposals presented at the Madrid Meeting in 1980 were intended to contribute, together with those of other countries, to stimulating the process of détente and security inaugurated in Helsinki, and the resolution: Settlement of disputes between states by peaceful means proposed by Romania at the UN in 1980 was unanimously approved.

CONCLUSIONS

The process of the establishment of communism in Romania was not a singular phenomenon, on the contrary, it was multiplied on the scale of the whole Central and South-Eastern Europe, within a vast scenario of "Finlandization" of the area by the Soviets with the tacit consent of its allies. Direct, brutal involvement in domestic politics and the imposition of "friendly governments" was by definition a violation of constitutional principles of sovereignty, invalidating "people's democracy" regimes from the outset. The party concentrated all power because it rejected the bourgeois principle of the separation of powers in the state. This attitude was motivated by the fact that the party was the representative (read leader) of the working people. Under such conditions, the CPR acted to reorganise the state apparatus in order to make it subservient to its political interests. The abdication of King Michael did not imply, under the given constitutional conditions, the overthrow of the constitutional order or the change of the form of state, all the more so as in such situations, the monarch could not leave the Romanian people such a diligence, since they already possessed by the Constitution (according to art. 33). The conditions of the Armistice Agreement, coupled with the introduction of a transitional regime of judicial organisation, generated serious and painful dysfunctions in the Romanian legal system and led to the elimination of many valuable magistrates from the ranks of the Romanian judiciary, the remaining ones being forced to submit to the executive and political powers. Romania's post-war, communist-inspired constitutions will not recognise any of the Romanian constitutional traditions in terms of legislation and its application according to the bodies and institutions legally and legitimately appointed to do so. In many respects the legislative role of the Grand National Assembly was taken over by the Council of State until its disappearance in 1989.

In criminal matters, the new Criminal Code and the Code of Criminal Procedure were adopted in 1968. The communist regime paid attention to crimes against the state, and the new Penal Code increased the number of offences, with particularly severe penalties. Throughout the period, the communist regime was concerned with broadening the criminal framework through new legislation and increasing the penalties for existing offences.

On the domestic front, the collapse of the communist system in Romania led to a gap between the rulers and the governed, stagnation and then economic regression in industry and agriculture. Fictitious reports and unrealistic announcements about the economic achievements of the population when, in reality, the situation for the whole people had become particularly critical; the lack of consumer goods (food cards, energy rationing, voluntary agricultural work) and the restrictions imposed by the regime were the spark for the popular movement that began in Timișoara, with the aim of overthrowing the communist regime. Street movements against the communist regime and in solidarity with the demonstrators in Timisoara and the surrounding towns immediately followed: Lugoj, Arad, Reșița, followed by the other major cities of the country, led by Bucharest.

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The revolutionary movement ended in Bucharest with the removal of the communist regime from power, the Ceaușescu couple was arrested and sentenced to death in Târgoviște.

During the communist regime, civil rights and freedoms were severely restricted or even abolished. Freedom of expression, freedom of the press and freedom of association were suppressed and criticism of the communist regime was severely punished. Political repression and persecution of the opposition were defining features of the communist regime.

The communist period in Romania was a dark period in terms of the development of the state and law. The communist regime imposed totalitarian domination over society and state institutions, suppressing all forms of opposition and dissent. The transformations of this period left deep scars on Romanian society and their impact can still be felt today, despite the fall of the communist regime in 1989.

REFERENCES

- 1) Albu I., Family Law, Ed. Didactica e pedagogica, Bucharest, 1975, p. 28.
- 2) Dariescu Cosmin, 2010. History of the Romanian State and Law in Contemporary Times, C.H. Beck Publishing House, Bucharest, Romania, p. 92
- 3) Filipescu I., Treatise on Family Law, Academiei RSR Publishing House, Bucharest, 1989, p. 32;
- 4) Gheorghe Stefan (2010) History of Romanian Law, Danubius University Publishing House, Galati, pp. 112-113
- 5) Ionașcu Tr., Brădeanu S., (1978) Main rights in rem in the RSR, Academiei RSR Publishing House, Bucharest, , p. 25.
- 6) Marcu Liviu (1997) History of Romanian Law, Lumina Lex Publishing House, Bucharest, pp.258-261
- 7) Neagu, Ion (2014) History of Romanian Law, Nagard Publishing House, Lugoj, pp. 163-167
- 8) Negoită, Florin (2013) History of the Romanian State and Law, Universul Juridic Publishing House, Bucharest, p. 342
- 9) Nicolau Ingrid Ileana, (2022). Constitutional Law. General theory. Fundamental rights and freedoms, PRO Universitaria Publishing House, Bucharest, pp. 142-145
- 10) Sălăgean Marcela, (2013), Introduction to the contemporary history of Romania / Introducere în istoria contemporană a României, Presa Universitară Clujeană Publishing House, Cluj-Napoca, pp. 202-203
- 11) Scurtu, Ioan 2005, Contemporary History of Romania (1918-2005), Romania of Tomorrow Foundation Publishing House. Bucharest, pp. 59, 91 and 104
- 12) Tinu Andrei, Boboc Cătălin (2022), History of the Romanian State and Law. 3rd edition. Revised and added, Hamangiu Publishing House, Bucharest, pp. 206-208.



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