

# THE PROVINCES UNITED WITH ROMANIA AND THE REUNIFICATION CONSTITUTION (1923)

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## Abstract

*The end of the First World War (1914-1918) was to completely change the face of Europe. Empires fell apart and from their ashes and new states were born based on the liberal "principle of nationalities". Other countries, including Romania, completed their national state by uniting with provinces previously belonging various imperial crowns. From a constitutional point of view, the situation in these territories was quite confusing, at least until the drafting of the 1923 Reunification Constitution.*

*The present study aims to research the constitutional architecture of Bessarabia, Bucovina, and Transylvania after the war, to analyze the necessity of adopting, at the time, the new constitutions, and to present the circumstances in which Romania's new fundamental pact was issued by the contribution of the post-war political class.*

**Keywords:** *Romania, Unification, Constitution, Law, Parliament*

## 1. Europe at the border between two centuries

At the turn of the 19<sup>th</sup> and 20<sup>th</sup> centuries, Europe was an agitated continent, seething with political ambitions, nationalism, chauvinism, and revisionism. Germany increasingly resembled an empire, consolidating its geo-political position, becoming not only a state with an enviable demographic situation, but also the center of gravity of the entire European political sphere. By their highly performing heavy industry, by their modern and dynamic trade, and by leading a way of life in which discipline was the order of the day, the Prussians also established themselves as the first rank military force of the continent. The western powers England and France seemed to be more concerned with colonial policies, but the latter could not forget that it had a revenge to take against Germany, which had humiliated it at Sedan by stealing important territories from it.

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The center of the continent was showing signs of an increasingly visible instability as the peoples subject to the Habsburg Crown increasingly claimed the right to self-determination in their national projects. The Balkan area has been facing the decline of the Ottoman Empire for several centuries - the so-called "Oriental question" and was in constant turmoil. However, the great danger for the young South-Eastern European states was Tsarist Russia, which, in the name of the mythical testament of Peter the Great and their declared Orthodox Pan-Slavism, was threateningly approaching the Straits (Dardanelles and the Bosphorus) after having emerged triumphant from the war of 1877-1878.

A major European conflict seemed inevitable, prompting the Great Powers to build political-military alliances. In 1882, Germany, Austria-Hungary, and Italy, which were central European powers with common interests, formed the Triple Alliance to which other states, including Romania, joined. At the same time, two countries located at the opposite poles of the continent, England, and France, joined hands with Russia over an increasingly troubled Europe to form a second alliance called the Triple Entente or The Entente. The moment the two blocs of antagonistic states were created, war was predictable. The assassination, in Sarajevo, of the crown prince of Austria-Hungary Franz Ferdinand by the Serbian patriot, Gavrilo Princip, on June 28, 1914, was the spark that triggered the first world conflict. Europe mobilized quickly, alliances were strengthened by the accession of those European states that had not opted for neutrality, governments formulated declarations of war, garrisons in the colonies were alarmed, the entire economic life was put to the service of supporting the military effort, and large masses of population were enlisted in the armies, while human civilization had to face, for the first time in history, the specter of its disaster.

The "Great War" was supposed to last, in the politicians' view, a rather short time, *i.e.*, just a few weeks. But, after an exciting beginning, in which immense material and human resources were mobilized, the war expanded, the fronts stabilized, which was a sign that the two camps had entered a confrontation that was to last for a long time. Buried in the trenches, the soldiers experienced the inferno of a war of attrition, also called a "war of positions", which seemed to never end<sup>2</sup>. At the end of three years of bloody confrontations, the belligerents fully felt the fatigue, and desertions were multiplying especially in the Austro-Hungarian army. In Germany, Italy, and France, left-wing groups campaigned for peace, demonstrating in the main urban centers. In Est, disturbances and riots also broke out in the Tsarist camp.

Accused by the Russian liberals of ineffective management of the social problems generated by the war and the great famine of the winter of 1916-1917, but also reluctant to any attempt at reform, Tsar Nicholas II Romanov was forced to abdicate in favor of his brother Mikhail. The prince refused the crown, which caused an

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<sup>2</sup> Serge Berstein, Pierre Milza, *Histoire de l'Europe*, Editions Hatier, Paris, 2014, p. 298.

*interregnum* during which the Russian revolutionaries took over the power but proved incapable of governing the country during wartime. This was the moment when Vladimir Ilyich Lenin's Bolsheviks entered the scene and staged a *coup d'état* on November 7, 1917. But even Lenin could no longer control the centrifugal tendencies of those nations that had been subjugated for centuries in the Tsarist Empire - Finns, Estonians, Latvians, Lithuanians, Poles, Bessarabian Romanians and Ukrainians - while the Decree on Peace (October 26, 1917) adopted by the Second Congress of the Soviets of Workers, Soldiers, Deputies, and Peasants created another political-legal basis, in addition to the Wilsonian points, for the establishment of national states in the eastern part of Europe.

The first measure taken by the communists was to take Russia out of the war. The armistice and then the peace signed by the Russians in Brest-Litovsk (March 3, 1918) created favorable conditions for tilting the balance in favor of Germany and her allies, who could concentrate more on the western front. But in 1917, the United States of America entered the scene alongside the Entente forces, and this has literally cancelled the imbalance caused by the withdrawal of the Russians from the theater of operations. General Ludendorff's bloody offensive in the spring of 1918 was only the "swan song" of the powerful German army, which had to retreat with heavy losses towards the Rhine area as it was thrown beyond the Marne.

In 1918, the Central Powers showed more and more signs of weakness, foreshadowing the end of the conflagration. The peoples of Austria-Hungary also rose, aspiring to the creation of their own national states. That is why the promises of peace formulated by the American president W. Wilson in "The 14 Points" and the echoes of the Bolshevik Revolution created havoc in all the empires on the European continent as the belligerents were moving towards an armistice. At the same time, in Berlin the republic was proclaimed, and Emperor Wilhelm II left the throne and left the country falling into chaos. In these circumstances, on November 11, 1918, the representatives of the provisional government of Germany, led by the social-democrat Ebert, signed the armistice in Compiègne. The Great War was over!

## **2. The romanian people and the new Europe**

Europe emerged profoundly changed from the unfortunate experience of the bloodiest conflict in human history. The outcome was the fall of the continental empires – Austro-Hungarian, Ottoman, Tsarist, and German – which also had their form of government and their social-political structure changed or were canceled as states altogether. On their ruins the new states founded on the principle of liberal essence, of nationalities, were born Czechoslovakia, Hungary, Austria, Finland, Estonia, Latvia, and Lithuania. Poland "resurrected" from her disparate parts, Romania perfected

her national state, Italy as well, and the South Slavic peoples freed from Ottoman and Habsburg prisons formed the Kingdom of Serbs, Croats, and Slovenes, *i.e.*, the future Yugoslavia. Europe was thus turning from a continent of empires to one of sovereign nations that were guided by the constitutional principles of modern, western inspiration. The new nation-states of Europe were recognized by the treaties of Paris (1919-1920)<sup>3</sup>.

Romanians from the Bessarabia Governorate – considered Russian citizens – were subjects of the Tsar and their territory was subject to the provisions of the first Russian Imperial Constitution of April 23, 1906, also known as the Fundamental Laws, which, among other things, stated that *the supreme autocratic power is vested in the Tsar to all Russians. It is God's commandment that this authority be obeyed not only out of fear, but also out of conscience*. The State Duma, Russia's parliament, was subordinate to the tsar, who retained the title of autocrat and total control over the armed forces and foreign policy<sup>4</sup>. The events in the empire, against the background of which the Bolsheviks took power, would lead to its disintegration and its gradual transformation into the USSR (1922).

The situation in Bessarabia became dramatic at the beginning of 1918 when the Russian troops, out of control, would commit acts of robbery and terror, especially in the capital Chisinau. In those moments, the newly declared Moldavian Democratic Republic proclaimed its independence, on January 24 (a date that was already a great symbol of unity for the Romanian people!), and two months later, on March 27, 1918, in the name of “the people of Bessarabia”, the Council of the Country (*Sfatul Țării*) – the national representation – decreed: *The Moldavian Democratic Republic (Bessarabia) in her borders between the Prut, Dniester, Danube, Black Sea and the old borders with Austria, torn by Russia a hundred and more years ago, from the body of the old Moldavia, in the power of historical right and the right of the nation, based on the principle that the people alone decide their fate from now on and forever, unites with her mother Romania*<sup>5</sup>.

In the Austro-Hungarian monarchy – an experimental, dualist state – there was no common fundamental law, as it would seem normal to us today, but just a set of laws with constitutional value that were applied both in Cisleithania (Austria and her countries including Bucovina), as well as in Transleithania (the old Great Hungary along with Transylvania, Banat, Crișana, Sătmar, and Maramureș). This is about the “Pragmatic Sanction” (*Pragmatica Sanctio*, 1713), which ensured the successional access of female heirs to the throne, the “Law of the Constitution”, also called the

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<sup>3</sup> *Ibidem*, p. 336.

<sup>4</sup> Paul Dukes, *A history of Russia: Medieval, Modern, Contemporary, 882-1996*, Duke University Press, Durham, 1997, p. 112.

<sup>5</sup> Keith Hitchins, „The Russian Revolution in the Rumanian Socialist Movement, 1917-1918” in *Slavic Review*, vol. 27, nr. 2, 1968, pp. 268-289.

“Law of Delegation”, which entered into force on the date of the establishment of the dualism, December 21, 1867, and the “Agreements of the Customs and Commercial Union” of 1878. In Transleithania the “Constitution Law” had been introduced into the legislative field by “Law No. XII/1869”, which was later modified and supplemented<sup>6</sup>, the Romanians beyond the Carpathians being subject to its authority.

In response to the manifesto "To my faithful peoples" of Emperor Carol I of Habsburg (October 3, 1918), the Romanian deputies from Bucovina in the Vienna Parliament were to constitute the Romanian National Council (CNR). On the initiative of Sextil Pușcariu on October 14, 1918 the "Constituent Assembly" was convened in Cernăuți, which proclaimed *the union of entire Bucovina* with the other Romanian provinces. The National Council would ask the Romanian government for military intervention, which was approved on October 23, 1918, as a measure to counteracting the pressures of Ukraine, which also claimed this territory of the old Moldavia. On November 12, 1918, the CNR voted the “Provisional Law on the powers of Bucovina Land”, setting up a Legislative Council and a Government led by Iancu Flondor. On November 15, the General Congress of Bucovina voted unanimously, with the support of the German and Polish residents, in favor of the union with Romania.

In Transylvania, the Central Romanian National Council based in Arad took initiative in the fight for the emancipation of Romanians and the realization of national aspirations. The resolution of the Great National Assembly (*Marea Adunare Națională*) from 1 December 1918 in Alba Iulia decreed *the union of those Romanians and all the territories inhabited by them with Romania. The National Assembly especially proclaims the inalienable right of the Romanian nation to the entire Banat between the Mureș, Tisa, and Danube rivers*<sup>7</sup>. Practically, at the time of the dissolution of the Tsarist and Austro-Hungarian empires and the disappearance of their statehood, the fundamental laws on which they were built were abrogated *de jure* and *de facto*. Their territories would become, for the most part, nation-states, which were to have different forms of government and different constitutional laws.

### 3. Constitutional „hiatus” or extension of the 1866 Constitution in the united provinces?

Barbu B. Berceanu believes that through the Acts of the Union of 1918, the Constitution of the (Romanian) “Old Kingdom” *has been explicitly extended to the new provinces as a granted constitution*<sup>8</sup> (to the extent that the Act of Union was not conditional, and its application did not impose or provide for transitional rules). If we

<sup>6</sup> Michael Cronin, „The Austro-Hungarian Constitution” in *An Irish Quarterly Review*, vol. 6, nr. 21, 1917, pp. 35-47.

<sup>7</sup> *Rezoluția Adunării Naționale de la Alba Iulia din 1 Decembrie 1918*, <https://centenarulromaniei.ro/rezolutia-adunarii-nationale-alba-iulia-1-decembrie-1918>, accessed: 17 March, 2023

<sup>8</sup> *Constitution octroyée*.

do not identify such provisions in the documents of the Union of Bessarabia and Bucovina, according to the Alba Iulia Resolution, the territories separated from Transleithania (Hungary) received, based on Alienation II, *provisional autonomy until the meeting of the Constituent Assembly elected based on universal suffrage*<sup>9</sup>. In addition, certain provisions – i.e., fundamental principles – make the Resolution a document with a constitutional role or constitutional value, which are provisions that we will encounter, in whole or in part, included in the corpus of the Romanian Constitution from 1923, too<sup>10</sup>. Finally, the same solemn act stipulated in its last paragraph some transitional norms: *For the further management of the affairs of the Romanian Nation in Transylvania, Banat, and Hungary, the National Assembly decides to establish a Great Romanian National Council, which will have all the right to represent the Romanian nation, anytime and everywhere in front of all the nations of the world, and to take all such dispositions as he shall find necessary in the interest of the nation*<sup>11</sup>. In other words, a Transylvanian parliament was organized – the Great National Council (*Marele Sfat Național*), who had Gheorghe Pop de Băsești as elected president – and, later, a government called the Governing Council (*Consiliul Dirigent*), which was led by Iuliu Maniu –, and these institutions were meant to administer the province until full unification was achieved. Thus, in our opinion, while in the case of Bessarabia and Bucovina we have either a “constitutional hiatus” or a *de jure* extension of the Constitution from 1866, in the provinces separated from Austria-Hungary we can discuss a document with provisional constitutional value in force until the moment of the drafting of the Reunification Constitution (1923).

<sup>9</sup> It was about the foreshadowed elections in Greater Romania and the formation of the Constituent Assembly that was to give the state a new fundamental act meant to enshrine the new realities (Barbu B. Berceanu, *Istoria constituțională a României în context internațional comentată juridic*, Editura Rosetti, București, 2003, p. 302).

<sup>10</sup> The resolution of the Great National Assembly stipulated:

1. *Complete national freedom for all cohabiting peoples. Each people will educate, administer, and judge in its own language through individuals from its own bosom and each people will receive the right of representation in the legislative bodies and in the government of the country in proportion to the number of individuals that comprise it.*

2. *Equal entitlement and full autonomous confessional freedom for all denominations in the State.*

3. *The perfect implementation of a clean democratic regime in all areas of public life. Public vote, direct, equal, secret, on communes, proportionally, for both sexes, aged 21 years for representation in communes, counties, or parliament.*

4. *Complete freedom of the press, association and assembly, free propaganda of all human thoughts.*

5. *Radical agrarian reform. There will be a conscription of all properties, especially large properties. Based on this conscription, abolishing the fidei-comis and based on the right to reduce the latifundia as needed, it will be possible for the peasant to create a property (plough, pasture, forest) at least if he and his family will be able to work his. The guiding principle of this agrarian policy is, on the one hand, the promotion of social leveling, on the other hand, the enhancement of production.*

6. *Industrial workers are guaranteed the same rights and advantages, which are legislated in the most advanced industrial states in the West (Rezoluția Adunării Naționale de la Alba Iulia din 1 Decembrie 1918, <https://centenarul.romaniei.ro/rezolutia-adunarii-nationale-alba-iulia-1-decembrie-1918>, accessed: 17 March, 2023).*

<sup>11</sup> *Ibidem*.

The constitutional situation at the time of the Great Union was rather confusing. The end of the First World War had left unfinished the constitutional action started in 1914, while the activity of the Revision Assemblies had been interrupted both by the disastrous course of the war and by a series of non-conforming procedural aspects during the Marghiloman government. Given the influence of the dramatic moments that the country was going through – nearly all Romania was occupied by the armies of the Central Powers – the Basic Law was forcibly amended in 1917 by decree law and contained some contradictory provisions in its text.

The constitutionalists of the time posed the question of whether, in the new historical circumstances, it was necessary to draft a new fundamental act or only a revision of the 1966 Constitution, which, for half a century, had proven its viability. There was a precedent from 1884 when, by “Additional Act No. 133”, it was decided to apply the Constitution, through special laws, on the territory of Dobruja, a province annexed to the Old Kingdom by the Peace of Berlin (1878) following the War of Independence. A comparative analysis led to the conclusion that, while the territory was much smaller at the time (only two counties), with a predominantly rural and culturally “backward” population, the three provinces united in 1918 – Bessarabia, Bucovina, and Transylvania – had a territory and a larger number of inhabitants than existed in Romania before the war. Thus, the effects of the fundamental pact could not simply extend to new citizens (a rich urban population and a strong industry), with a higher level of culture, who had not taken part in its conclusion: the Constitution of July 1, 1866, represented exclusively the will of the political class and the residents of the Outer Carpathian (Old Romania) state and was intended for a specific purpose – the consolidation of the Little Union<sup>12</sup>. In addition, Romania also chose a rich dowry of national minorities (among the most numerous: Hungarians – 7.9%, Germans – 4.1%, Jews – 4%, as well as Serbs and Ruthenians in smaller percentages) and of new religious confessions (Greek-Catholic, Roman-Catholic, Calvinist-type Protestant, Lutheran, and Unitarian) previously negligible as a weight in the Old Kingdom, for which the peace treaties had required the Romanian state to guarantee their rights. Here, therefore, the new social, economic, cultural, and political situation required the adoption of a new fundamental pact<sup>13</sup>.

For three years after the war, Greater Romania faced political instability, a period in which six governments succeeded one after other (three of which were led by professional military officers) and encountered great difficulties in solving numerous internal problems, including those related to the integration of the new provinces. On January 19, 1922, Ion I. C. Brătianu received from King Ferdinand I the fourth mandate

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<sup>12</sup> Ioan Vida, Ioana Cristina Vida, “Influența Marii Uniri asupra evoluției constituționale a României”, in: *Universul Juridic*, 3 January 2020, <https://www.universuljuridic.ro/influenta-marii-uniri-asupra-evolutiei-constitucionale-a-romaniei/2>, accessed: 21 March, 2023.

<sup>13</sup> Keith Hitchins, „Romania”, in *The American Historical Review*, vol. 97, nr. 4, 1992, pp. 1064-1083.

as prime minister, in which he proposed the dissolution of the legislative bodies and the organization of elections for the National Constituent Assemblies. The electoral act of March 1922, by which the Legislative Bodies were convened as a Constituent Assembly, was contested by a good part of the political class who accused *methods that ensured to all subsequent governments the enslavement of universal suffrage put at the service of gang interests* (through evasion of the Electoral Law and by fraud)<sup>14</sup>. In protest, the People's Party led by Marshal Alexandru Averescu refused to take part in the works of the Constituent Assembly and broke all ties with the Brătianu government.

In a tense atmosphere, on March 27, 1922, the session of this high legislative forum opened, and it would work until the drafting of the new fundamental act was reached. The technical drafting part of the project would be entrusted to a Great Constitutional Commission that included members of the parliament, members of the government, and high-value jurists. The document was then submitted, according to the procedure, to the Parliament, on March 5, 1923. The debates in the assembled chambers then followed. The opposition formed by the Romanian National Party (*Partidul Național Român*) led by Iuliu Maniu, the Peasant Party (*Partidul Țărănesc*) of Ion Mihalache, which was joined by Pantelimon Halippa and Mihai Popovici representing Bessarabia and Transylvania, challenged the competence of the assemblies, arguing that they do not really represent the Romanian nation.

Maniu accused from the rostrum of the Parliament: *the Constitution itself in its origin can only originate from an express delegation given by the Nation to a Constituent: either we are under the regime of the Constitution of 1866 and (this) must be revised according to Art. 128<sup>15</sup>, or a newly born state from the Union of the Old Kingdom with the emancipated provinces, [and then] the composition of the settlement cannot be done otherwise than by delegation given by the Nation to a Constituent*. And Ion Mihalache declared on February 10, 1923: *taking power by usurpation and against constitutional norms, manufacturing a parliament by violating the national will and by fraud, the first concern of the liberal government was to ensure its political dictatorship through a surrogate of constitution imposed on the Country by armed force*<sup>16</sup>.

The protest of the Peasant Party leader, that of Maniu and the passivism of Averescu were in vain, because the National Liberal Party and its allies had a comfortable majority in both assemblies, meaning that the discussions on the articles and their voting began at a fast pace (on March 17 in the Senate and on March 20 in the Chamber of Deputies). King Ferdinand I sanctioned and promulgated the Constitution

<sup>14</sup> Barbu B. Berceanu, *op. cit.*, p. 305.

<sup>15</sup> *The present Constitution can be suspended neither in its entirety nor in part* (Constituția Principatelor Unite din 30 iunie 1866, Art. 128, <https://legislatie.just.ro/Public/DetaliiDocument/26844>, accessed: 14 March, 2023).

<sup>16</sup> Barbu B. Berceanu, *op. cit.*, p. 305.



on March 28, 1923, and the next day it was published in the “Official Gazette” (*Monitorul Oficial*) No. 282 of March 29, 1923, to be applied throughout the territory of Greater Romania.

If we consider the fact that the fundamental pact has kept intact no less than 87 articles and has revised 21 of the 133 articles of the ancient constitution of 1866, adding 27 new ones<sup>17</sup>, the activity of the Constituent Assembly seems to us more like a revision than a new law. Moreover, it was drafted quite expeditiously, and we do not quite understand the haste with which the legislatures acted. The external political situation was probably considered: a Europe still agitated after the war, military conflicts, and revisionist neighboring states. Contested at the time of its adoption, the constitution was nevertheless accepted by the political class and society, including the Romanians from the provinces united with the country, especially given that the contestation did not particularly concern the text of the document but the adoption procedure which would not have guaranteed, according to the opposition, the representation of the free will of the members of the nation. The Constitution enshrined the existence of the unitary Romanian national state (71.9% Romanian) and contributed to the consolidation of the Union.

Analyzed from a historical-political perspective, the Constitution of Reunification, as an expression of the balance of forces in the post-war period, represented the main legal establishment on the basis of which the fundamental institutions of Greater Romania functioned, and gave the Romanian state – a modern nation and a country capable of facing the other countries in a European and international competition – the monarchical form of government, based on a parliamentary-constitutional democratic regime, until the promulgation of the Authoritative Constitution (1938) of King Charles II.

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<sup>17</sup> A total of 132 articles, and following the merging and renumbering, the Constitution finally had 130 substantive articles and 8 transitional provisions, a total of 138.