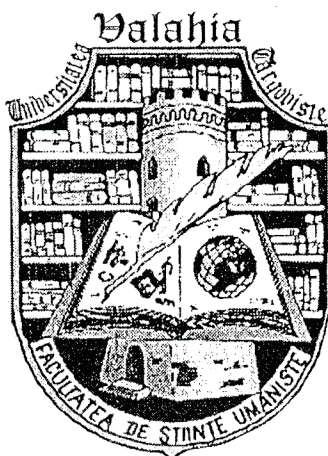


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THE CONSTITUTION OF 1923 AND THE RÉGIME OF RELIGIOUS DENOMINATIONS A NEW HISTORICAL ASSESSEMENT

*Liviu Al. Stan**

The legislative framework of Romania after 1918 revolved around Royalty and especially around the State Constitution worked out and adopted in 1923. This new Constitution has a particular formulation, but at its basis lays the Constitution of 1866. Following the adoption of this new legislative framework there appeared new laws in the State of Romania aiming at the implementation of the provisions of the new Constitution, and which led to a new reorganization and strengthening of the national statal unity.

The new Romanian State between the years 1918 and 1919 lived through a very intensive political life with many ups and downs, achievements and failures with no precedent in the development of Romania, owing may be to the context of an Europe just coming out of the aftermath of the War, but also to the great number of government that succeeded one after another at the leadership of the country, namely 38 governments all shortlived and unstable. Among the best known political figures who headed these governments must be mentioned: Ion I. C. Brătianu, Alexandru Averescu, Alexandru Marghiloman, Constantin Coandă, Artur Văitoianu, Alexandru Vaida-Voievod, Take Ionescu, Vintilă Brătianu, Iuliu Maniu, Nicolae Iorga, Constantin Argetoianu, I. Gh. Duca, Gheorghe Tătărăscu, Armand Călinescu.

The governments of Romania and the political leaders strove to secure an institutional structure adequate for the new demands of democracy, based on the Constitution adopted in 1923, a fact also allowing free expression for all the religious Denominations in the country. Changes of a religious nature came to the surface, followed by unique events in the life of the Religious Denominations, with positive and negative effects deeply felt even today. Such were the raising of the Romanian Orthodox Church to the rank of Patriarchate (4th of February 1925), particular efforts in the relationships between Romania and the Vatican State, the setting up of a Vatican Embassy (nuntiature) in Bucharest, and the concluding of a Concordat (signed on the 10th of May 1927 and ratified on the 7th of July 1929 in Rome), while through the Constitution of 1923 the other religious Denominations found themselves in a new constitutional frame, and in 1929 in a legislative one provided by the Law of religious Denominations (Legea Cultelor) establishing the general régime for them, with rights and obligations towards the Romanian State.

1. The meaning and core of the Constitution

The historical context of the adoption of the new Constitution was slightly agitated since the new party in the government, the Liberal party, proclaimed the Legislative Chambers as Constitutional Assembly, thus the parties in the opposition showed themselves discontented, though without preventing the Liberals and King Ferdinand from embarking on the elaboration and re-discussion of the draft of the Constitution.

The draft of the Constitution was introduced for debates within the Assembly of Deputies on the 5th of March 1923, but the real work on it began on the 19th of March 1923. The parties in opposition The National Party and the Country-side Party nickname it "a null and void one" using as a justification the fact that the disposition of ratification provided by the Constitution of 1866 had been broken, before even being applied though they refused to take part in the discussions, the Constitution was voted upon by the Assembly of Deputies on the 26th of March 1923, with 247 votes in favor, 8 against and 2 abstentions ("Monitorul Oficial" of 29th of March 1923, under the No. 282). Also called the "Constitution of the Unification" ("Constitua Unificării") it represented a revision of the text of the Constitution of 1866, promulgated during the reign of King Charles I of Hohenzollern, of which text unchanged remained 76 articles out of the total of 138 contained. ("Monitorul -- Jurnal Oficial al României". No. 142 of 1/13 June 1866).

In this Constitution there are particular modifications, such as art. 64 referring to the Assembly of Deputies. It was established that the apportioning of the mandates usually based on the principle of minority be carried out through an apportioning done on the principle of proportionality, a fact sanctioned in the constitutional modifications of 1917-1918, but under the aspect of its formulation, the Constitution as modified in 1923 is better structured and encompasses more corresponding formulations."(Negoiță 2002: 386).

* Doctorand, Universitatea „Valahia” din Târgoviște, Facultatea de Științe Umaniste, Catedra de Istorie, str. Lt. Stancu Ion, nr. 34 - 36, Târgoviște, 130105, Dâmbovița

The Constitution of 1923 is made up of 8 basic titles, 10 chapters and 9 sections of several articles, being divided up in articles, as follows: Title I. „On the territory of Romania”(arts.1-4); Title II “On the rights of Romanians” (arts.5-32); Title III, “On State Powers” (arts.33-108) and the chapters: “On National Representation” (arts.42-76), Section 1 “On the Assembly of Deputies” (arts.64-66), Section 2 “On the Senate” (arts.67-75), Section 3 “On the Legislative Council” (arts.76); Chapter II, “On King and Ministers” (arts.77-91), Section I: “On the King” (arts.77-91); Chapter III “On Ministers” (arts. 92-100); Chapter IV “On Judicial Power” (arts.101-107); Chapter V, “On County and Communal Institutions” (arts.108); Title IV, “On Finances” (arts. 109-118); Title V, “On the Armed Forces” (arts. 119-123); Titlul VI, “General Dispositions” (arts. 124-128); Titlul VII, “On Revision of the Constitution” (arts.129-130); “Transitory and supplementary Dispositions” (arts.131-138). (“Monitorul Oficial” of 29th of March 1923, No. 282).

It has been said that “the way in which the structure of the Senate had been conceived of shows that the leadership of Romania and the classes they were serving had embarked upon decisive actions and taken measures aiming at the devoiding the right to vote of as much as possible of its real content. According to the provisions of the Constitution the Senate was made up of rightful senators and it was decided the increasing their numbers with people who were holding high up positions in the State (in the heir of the throne from the age of 18, the Metropolitan of the Country, the heads of the officially recognized in the Senate Religious Denominations, under certain conditions, the president of the Romanian Academy, along with former State dignitaries, former Prime Ministers with a service of 4 years, former Ministers in Governments with at least 6 years of service in various governments, former senators and deputies of at least 10 legislatures, Army generals in reserve and retired, and so on) and elected senators, dispositions being provided whereby universality of rights was bluntly broken. In the process of implementing the provisions of the Constitution modified in 1923 regarding the exercise of the right to vote the Electoral Law was elaborated in 1926, which by its dispositions even further devoided the universal vote of its real content (Negoiță 2002 386).

In article 6, paragraph 2 there appears a matter of principle which discriminates against women constituting an inequality for them as compared to men (Uglean 1996: 82). In article 5 it the individual right to religious affiliation was proclaimed without any special reference to Christian Orthodoxy, Roman Catholic, Protestant or other religious groups wherefrom resulted a basic principle of living together religiously and democratically. Certainly, this democratic structure already existed in the life of the Religious Denominations.

Special provisions for the general régime of Religions in Romania are listed in article 22:

Freedom of conscience is absolute.

The state guarantees equal freedom and protection to all the (recognized) Religious Denominations in as much as their exercise does not infringe upon public order, good morals and the laws of State organization

The Romanian Orthodox Church and the Greek Catholic one are Romanian Churches. The Romanian Orthodox Church being the religion of the great majority of Romanians is a dominant Church in the Romanian State, while the Greek-Catholic one has priority before regards the other Religious Denominations.

State-Church relations shall be regulated by law (Muraru & Iancu 1995: 66-67)” „Freedom of conscience is absolute”, freely assumed through the fundamental constitutional concept giving every citizen of Romania the right to choose his/her own religion or confession of faith without any meddling of the State into that.

In article 22 of the 1923 Constitution special clarifications are introduced as regards the Roman Catholic Church considered as having priority by right before the rest of the other Religious Denominations. There is a specification related to the relationships between the other Faiths and the State. The Denominations must stay within the strict context of the law of the State, a fact which obliged the State to play the role of a referee in what concerned inter-faith or individual manifestations.

2. Opinions and speeches on the Constitution of 1923

Historian Nicolae Iorga and Minister Alexandru Lapadatu, in addition to politicians and men of great cultural stand involved themselves in the political life and dedicated themselves in all seriousness especially to what concerned the promulgation and adoption of the new Constitution. Neither the other Religious Denominations stayed away from the interests of the politicians and of the hierarchs of the Romanian Orthodox Church benefiting from an attention at least equal among themselves, yet not raising up to the level of the National Church, a fact noticed even by the illustrious politician and man of culture Nicolae Iorga, who wrote in “Neamul românesc” his opinion on the two greater Churches deploying an ever growing religious activity. “Between a Church belonging only to us and a Church belonging also to the Pope we prefer the first one.” („Neamul Românesc”. Newspaper of 16 D).

For the achievement of the final goal almost entirely satisfactory for the Church, to a great extent also contributed the decided, dignified stand, full of energy, deployed by the defenders of the church interestes” (Bidoianu1923: 452). On the front line of the newspapers that came into the defense of the Church was

„Universul.” To this work deployed in the writing were added public meetings summoned by the clergy, at which a motion was voted upon and then handed over to the Prime Minister and to the President of the Legislative Bodies by an elected delegation. Telegrams of homage were sent out at the same time asking support for His Majesty the King and His Royal Highness the Prince heir of the Throne” (Biserica Ortodoxa Româna March 1923: 453).

The most appreciated speeches backing up the political attitude of the time concerning democracy and the unitary status of the Country belonged to His Eminence the Metropolitan Miron Cristea (Telegraful Român, Nr. LXXI, Sibiu 3/16 March 1923) - as of 1925 the Patriarch of the Romanian Orthodox Church: “Democracy and nationalism, is what I see laying at the foundation of the draft of the Constitution, and this is why the Church, in behalf of which I am speaking, will bless Your work for a good end”(Telegraful Român, year LXXI, Sibiu 7/20 March 1923). This direct and real implication of the the Romanian Orthodox Church through its High Metropolitans could seem a non-democratic factor and a mixture thereof above the political and decisional factors, and leadership of the Country telling upon the good succession of the events and bringing profit in what concerned the private interests of a number of personalities of the time. This would mean a devaluation of universal vote and an obstruction of the freedom hardly won through blood-sacrifice and concretized in the Great Union of the 1st December 1918 (Telegraful Român, year LXXI, Sibiu 10/23 March 1923, nr. 22).

3. The regime of Religious Denominations

The Constitution of 1923 and the aforementioned laws called the Romanian Orthodox Church „dominant in the State”, and the Greek-Catholic Church was considered to be a Romanian National Christian Denomination having a „priority status before the rest of the other Religious Denominations”. This fact proves a discrimination the goal of which was the flattering of and the speculation of the hierarchs in the aforementioned Churches by playing with the national feelings thereof. The historical proof is that the Romanian Orthodox Church has never been a dominant Church in Romania after the voting of the Constitution of 1923. If the Romanian Orthodox Church had had a dominant character then the other Churches and Religious Denominations would have had to be dependent of the decisions thereof and not to stay under the authority of the Minister of Religious Affairs. Besides the Romanian Orthodox Church were recognized also the following Religious Denominations called „historical Religious Denominations”, i.e. the Greek-Catholic, the Catholic (together with its other rites) the Reformed (Calvinist), the Evangelical Lutheran (Confessio Augustana), the Unitarian, the Gregorian Armenian, the Jewish and Islamic Faiths (Costescu 1931: art. 21). The other Religious formations were called religious associations, most of them being derived from or organized under the aegis of the recognized Religious Denominations.

In August 1933 part of the religious associations were banned, while others were admitted (Adventists, Baptists, and Christians according to the Gospel), while others still began to be persecuted. This decision was being implemented by the liberal government, and in April 1937, namely by the government led by Gheorghe Tătărăscu

During the Gheorghe Tătărăscu government the implementation of the decision and even the taking of drastic measures against the „cults” („sects”) fell under the direct competence of the administrative offices of the police, without any implication of the Parliament or Justice.

This way of looking at things arrived at a specially grave point during the dictatorship of Charles II, it becoming a principle of government. In January 1938 and in June 1939, two decisions were adopted coming to sustain the new attitude taken against the unrecognized religious denominations (cults or sects) and against the liberty of manifestation thereof. The administrative and police bodies intervened prohibitively whenever they decided to do so by hitting certain religious denominations of the kind, a fact which denotes a period of time tributary to an arbitrary practice and of displaying the proper will of those who were detaining the power. The direct implication of the executive bodies of the Romanian State in the internal religious life of the Romanian Orthodox Church is indicative of a special characteristic of the time pointing to the fact that all the religious formations were to stay within the framework of the legal structures of the State, including even the Romanian Orthodox Church. The climax of the persecutions directed against a number of religious denominations is considered the moment when general Ion Antonescu took severe measures against them, dissatisfied by the decisions that had been adopted even since the passing of the Law for the Régime of Religious Denominations in 1928. More exactly, he tried to change art. 22 of this Law. The new religious denominations were not recognized by the State if their confession of faith and their moral religious principles were contrary to public order, good morals, and the laws of the State, if their system of organization, leadership and administration were not concordant with the provision of the present Law.

The Romanian State signed a Concordat with the Vatican in 1927, considered utterly important by King Ferdinand and the Catholic circles having common interests and supported by the Averescu government with the final goal of concluding the concordat with the papacy.

The Law for the Régime of Religious Denominations allowed a number of denominations dependence of foreign church authorities: such will be regulated through a special agreement:" (Costescu 1931: Art 7).

This anti-constitutional article was percolated by Iuliu Maniu, it giving him reason to ratify the Concordat in 1929. The reason for signing up the Concordat seems to have been one of both internal and external economic and missionary order, while waiting for foreign aid, a fact which determined King Ferdinand of Hohenzollern to effectively support the conclusion of the Concordat, following his own interests at the same time.

King Ferdinand possibly considered the Concordat a way of political patching up with Catholicism after he had severed his relationships with in consequence of the Baptism of his children in the Christian Orthodox Faith. Rome has never forgiven him for the gesture, and the signing of the Concordat brought to the King no redemption before the Pope, although the King was to die returned back to the Catholic faith.

A Concordat is by definition „an international convention the object of which is, on the one side the privileges the Church concedes to the State , and on the other the obligations recognized or re-assumed by the concerned State"(Ottaviani 1936: 271).

The Romanian State's Concordat with the Vatican has implied also a material feature:„The rights and obligations of patronage, of any category are and remain deleted forever, with no allowance of any kind" (C. Costescu, Art 15 of the Concordat). The word goes about huge possessions that the Catholic Church detained with a right to usufruct from the part of the Austro-Hungarian State, the property of which was coming now to the Romanian State

4. The unrecognized religious denominations and the Law of Religious Denominations

The status of the religious denominations following the First World War within the Romanian State was confused owing to a lack of information and to ignorance on the part of the Romanian State as well as of the Romanian Orthodox Church while creating for them opportunities in the development of their activities with foreign support.“The religious interdiction was achieved by the political and administrative systems through circular letters, decisions and prohibitive laws. By having central and zonal organisations regulated differently after the laws of the former states in which they had activated, a circular letter from the Ministry of Religious Affairs dated 12th of April 1921, does not recognize any central organisation of the sects, granting freedom of action only to the local communities. The Baptist sect was recognized as a denomination only in the previous provinces and received a legal status through the circular letters of the Ministry for Religious Affairs of 24 XII 1921 și 17 I 1922. Yet, there existed a number of religious groups not recognizing by the lay and state authorities, because they refused to satisfy the military service and were developing underground activities at times aiming at social disintegration. By the addresses 63836 of 15 XII 1923 and 66955 of 23 I 1924 were banned the sects of the Nazarene and of the Students in the Bible”(Cuciuc 2001: 16).

During the inter-war spell of time the Baptist denomination was admitted as a religious association because it claimed the status it had enjoyed in other territories previously, yet without putting a pressure on the political system of the time in order to receive an official recognition from the State in which to be specified its quality as a Religious Denomination. „Whatever this Baptism may be it is aggressive and dangerous, both from the national point of view and religious as well. In the wake of the War the number of the nationals following this sect were reckoned at 20.000. It seems that since then their number has seriously increased. This sect established itself especially in the regions where ethnic minorities are compact and violent.. Their main bulk is located in Ardeal or Transylvania. (Mesnard 1928: 134).

Following an investigation regarding the Baptists the following statistics was published in the “Universul” newspaper. Concerning the districts with the biggest number of communities belonging to this religious formation: in Bihor district there were 272 communities; in Arad district there were 163 communities; in Alba district there were 129 comunități; in the district of Severin there were 111 communities; in the district of Caraș there were 69 communities, totaling almost 1.000 de communities, it coming up to an overall number of approximately 35.000 Baptist faithful. (“Universul”, -The Univers of 26th February 1927).

In a situation contrary to the laws of the Romanian State found themselves also the Reformed Adventists who adopted a rigid opposition towards satisfying military service and towards the status of being Romanian citizens, a fact which entailed, and totally legally according to the new By-laws for the application of the Law of Religious denominations, the exclusion from among the denominations recognized by the Romanian State. The Seventh Day Adventists, initiated by William Miller, an American farmer (born in 1782) found themselves during the inter-war period in a situation of missionary boom, with a well fixed status within

the Romanian society, and with precise goals to follow, being supported from outside the country. Their most active missionary schedule concretized in a vast propaganda amongst the intellectual youth through the setting up of canteens for students under the aegis of Y.M.C.A. (Young Men Christian Association) (Constantinescu 1943: 49) whose center was located in New York. Therefrom came the strategies for the development of the missionary work. The declared goal of these was to "get hold of the university youth no longer interested in the traditional beliefs"(Dron 1928: 139).

Another such denomination was that of „Christians according to the Gospel”. Although legally recognized, it was not included among the accepted Religious Denominations and religious associations, because, like Baptists, would not claim this status for themselves and in addition lived in a rather loose framework.

Together with the elaboration and the implementation of the Law of Denominations of 1928, a juridical support was achieved which came in the support of religious manifestations of any kind. It also regulated the context in which was forbidden a certain kind of religious formation, be it a formerly recognized denomination or of any other kind of denomination. Breaking of the Law of Denominations was to be punished according to the Criminal Law. From among these were totally banned in conformity with the Law of Denominations of 1928 the following religious formations: the Nazarene, the international association of Students in the Bible, Millemnarians, the Reformed Adventists, the Reapers, the Pentecostals and the Inokentists. Between 1934 and și 1936 it was attempted through the force of the executive power to arrest and eradicate them forbidding at the same time the missionarism and the building of places of worship. Beside these there appeared in the country the old calendar believers, with an unorganized structure and in many instances dependent of Orthodox monasteries. They were strict traditionalists as regards the adoption of the corrected new calendar, rejecting it entirely.

Beginning with 1937, the legally recognized sects could also form a community only if they numbered 100 members -men, Romanian citizens, with full political and civil rights etc.- (Cuciuc 2001: 19).

In Romania there also existed parareligious groups, totally banned, lacking a legal framework which could come to their help in order to be accepted within the legal frame, although they existed and manifested themselves in a hidden way within the high up or less important circles of the State. Among these one may mention the spiritist circles expanded sometimes even amidst intellectuals, teachers and a number of priests desiring to promote the idea of linking up with the world thereafter through practicing witchcraft and petty magic. These were not breaking away from the Church but frequented the churches in the hope to infiltrate this idea in the ranks of the faithful. The best known spiritist circle was the Spiritual Society "Bogdan Petriceicu Hașdeu" in Bucharest City.

Another Para religious grouping was the «Christian Science» revolving around the idea that it is possible to gain healing of diseases and success only through secret love of God and men. The method worked out by Mary Baker-Eddy was based upon self-suggestion. Mostly they were spread around the zones of Oradea, Alba Iulia, Brașov and Chișinău. Also within the framework of these forms of hidden religious manifestation were *theosophy* and *anthroposophy*. The former is based on the belief that all the planets except Terra are much more developed from the point of view of universal cosmic energy and this is why man must be in a continuous connection with the stars. Anthroposophy is based on the religious Zoroastrian doctrine, yet brought up to date and at the same time mixed with Buddhism. Its initiator and mentor was the former theosophist Rudolf Steiner (1861-1925). It studies man's relationship with the entire creation of Divinity and links itself expressly up to the physical and ethereal nature, including the re-incarnation theory. In Romania it has spread itself through the means of Waldorf schools..

The Law for the Régime of Religious Denominations proper (sanctioned through the Royal Decree nr.1093 of 12th Aprilie 1928 and published in the „Monitorul Oficial” nr.89 of 22 April 1928) is made up of three big chapters and 59 articles, laws, by-laws, statutes of the societies that were in connection with the Church and other denominations. The first chapter deals with „general dispositions” related to the fact that the State guaranteed freedom and protection to all the Religious Denominations not breaking the laws of organization and the provisions of the Criminal Law. At times employees and the military were due to take part in religious services in virtue of their occupation, a fact which did not represent a forced religious manifestation. Religious education was conducted and administered by each Religious Denomination individually, yet at the same time under the supervision and according to the approvals given by the Ministry for Religious Affairs.

The second chapter, "State-Church Relations" listed in its 21st article the following recognized Denominations, called "historical": a) the Romanian Greek-Catholic (uniate); b) Catholic (of Latin, Greek-Rutean and Armeniuan rites); c) Reformed (Calvinist); d) Lutheran Evangelic (Confessio Augaustana – C. A.); e) Unitarian; f) Gregorian-Armenian; g) Jewish (with its various rites); h) Islamic (Costescu 1931: 104). The status of the Romanian Orthodox Church was to be regulated by special law. The recognition of a