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How to Build a Modern Romanian Nation-State? Authoritarianism versus Parliamentarianism at Mid-19th Century*

Manuel GUȚAN**
Lucian Blaga University of Sibiu

Abstract

This paper aims to emphasize the existence, between 1859 and 1866, of a sincere fight of the Romanian political elite for the liberal constitutionalism, generally, and for the parliamentary regime, especially, that constantly aimed to eliminate or, at least, to limit the authoritarian rule of the Prince. I would like to remark the decisive contribution of Cuza's reign to the birth of the Romanian unitary and modern nation-state without turning the constitutional and political modernization into a minor issue. It is useful to notice and it is important to acknowledge the failure of the liberal constitutionalism during the reign of Cuza but, in the same time, it is important to notice that it was never abandoned, at least as ideology, by a great majority of the Romanian political elite. The liberal constitutionalism did not die with the failure of the parliamentary regime. The years following the fall of Cuza witnessed a strong ideological enthusiasm towards the principles and values of the liberal constitutionalism (although in its ethnocentric understanding). In the same time, the making of the 1866 Constitution proved a full aversion towards Caesarism and a sincere commitment with parliamentarianism as a precondition for a successful modernization of the Romanian state and society.

Keywords

Romanian nation-state, liberal constitutionalism, parliamentary regime, authoritarian regime, Alexandru Ioan Cuza

The constitutional history of the Romanian Principalities and, since 1862, of the Romanian nation-state, has been marked, from the beginning of the 19th century until 1866, by two major tendencies: on the one side, the sincere desire to modernize the Romanian political life by giving up the medieval customs and institutions supporting the monarchical authoritarianism and by embracing the principles, values and institutions of the modern liberal constitutionalism; on the other side, the desire to create and consolidate, under the Ottoman suzerainty, a nation-state unifying and protecting the Romanian ethnic nation. The liberal constitutionalism and the ethnocentric nationalism have finally produced an ideological synthesis which gave the 1866 Constitution (the first Constitution of the Romanian people) a predominant expressivist character: formally, the constitutional liberal principles, mechanisms and institutions aimed to create and protect the Romanian citizen empowered with rights and liberties but its core design was destined to consolidate the nation-state and to express the anxieties, beliefs and values belonging to the majoritarian ethnic group, the Romanian one.

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** Professor, Faculty of Law, Lucian Blaga University of Sibiu; manuel.gutan@ulbsibiu.ro.

The intellectual acclimatisation of the liberal constitutionalism has been achieved by the Romanian elites either under the direct or the indirect influence (via the Belgian constitutional model) of the French constitutionalism. However, the encapsulation of the liberal constitutionalism in the first Constitution debated and voted by a Romanian Constituent Assembly was not the outcome of a straightforward break of the liberal principles and institutions through the Romanian political thinking and life of the first six decades of the 19th century. Primarily, the international regime of the Romanian Principalities determined an internal constitutional organization negotiated by the Ottoman Empire (the suzerain power) with the neighbouring empires, especially the Russian one, and the Central-Western European powers. In two international political contexts (1831-1832 and 1858), after having decided the internal political organization of the Principalities through peace treaties, the Great Powers imposed constitutional acts (Organic Regulations and the Paris Convention of 1858) that backed away from the principles and values of the liberal constitutionalism. Secondly, the irrational legal import,¹ frequently inspired both by the prestige of the reference model and the internal socio-political needs of the Romanian society, has entailed a faithful imitation of the French constitutional institutions even from the illiberal constitutional texts. Thus, after the Romanian political and intellectual elites have tried to assume, in their political programs and constitutional projects, the principles and institutions of the French liberal constitutions made in 1791, 1830 and 1848, with a growing emphasis on the parliamentary regime, the first Prince (*domn*) of the United Romanian Principalities (Romania, since 1862), Alexandru Ioan Cuza (1859-1866), almost entirely borrowed the text of the 1852 French Constitution, in order to back up his authoritarian regime. This endeavour has caused an unprecedented political crisis in the Romanian society, leading to political tensions between the Parliament and the Prince and, finally, to the forced abdication of Cuza, in February 1866. As a result, for the first time in the Romanian constitutional history, two different constitutional architectures have been imported from the same constitutional model, one endorsing the limitation of the political power and the rule of law, the other one promoting the Caesarism and the arbitrary rule of the Prince. The former was meant, with high priority, to counteract the Romanian traditional monarchical authoritarianism, the latter to build and modernize the Romanian unitary nation-state. The caesarian model was successful at the end of Cuza's reign (1864-1866), and the national agenda has been realised against the principles and values of the liberal constitutionalism, defended by the great majority of the Romanian political elite.

It is important to highlight, for the goals of this paper, the dismaying interpretation given by the Romanian (constitutional) historiography to this political development, before, during and after the communist era. Those interested today in discovering and understanding the history of the Romanian liberal constitutionalism in the 19th century may be puzzled by the unbalanced scientific approach developed both by Romanian historians and legal scholars with regard the constitutional and political life during the reign of Cuza. By ignoring or justifying the constitutional and political tools used by the Romanian prince in order to build the Romanian unitary nation-state, the great majority of the Romanian historians and experts in constitutional history have emphasized and are still emphasizing Cuza's major success in reforming the Romanian society and state during his authoritarian regime (1864-1866). Albeit

¹ In this paper I shall use the concepts 'constitutional import' and 'constitutional borrowing' as synonyms, in order to capture the process of taking constitutional concepts, ideas, values, principles, institutions and norms from a foreign constitutional model and inserting them into the Romanian society. I have no intentions to approach the issues of 'legal transplant' theory, as they are developed by the (constitutional) comparative law.

it was contrasted against a parliamentary regime-centred interpretation² of the 1858 Paris Convention (the international law act which functioned as a constitution for the Romanian Principalities between 1858 and 1866) and of the Romanian political life between 1858 and 1864, the *coup d'état* given by Cuza on 14 May 1864, in order to launch his authoritarian regime, is seen by many as the true turning point for the birth of the modern Romania.³ This approach is revealing, on the one side, the primary role played, in the eyes of the mainstream Romanian (constitutional) history, by a national agenda centred on the birth of the unitary nation-state belonging to the Romanian ethnic group, and, on the other side, the insignificant role played by the constitutional and political tools used to achieve it. This approach could be understandable for the communist (constitutional) historiography. Being under the influence of the Marxist-Leninist ideology, this one has preached the democratic centralism and the ruling role of the working class against the liberal-democratic bourgeois constitutionalism. Moreover, being dominated, since the 1970s,⁴ by an ultranationalist discourse, the communist (constitutional) historiography has naturally embraced the agenda of the national unity and the building of the Romanian nation-state. Interestingly enough, in the case of the Romanian pre-communist and post-communist (constitutional) historiography, the lack of a sincere academic interest in a critical evaluation of Cuza's successful authoritarian regime against the failure of the liberal constitutionalism proves the existence of a continuous appetite for the national agenda besides a constant disdain for the liberal-democracy. In the pre-communist (constitutional) historiography's case, this angle is explained, on the one side, by the need to ideologically contribute to the Christian-Orthodox ethnocentric nationalism which dominated the interwar period and, on the other side, by the European authoritarian context in the same temporal interval. In the post-communist (constitutional) historiography's case, the perspective is explained both by the remnants of the chauvinistic nationalism practiced by Ceausescu's dictatorial regime and by the uncritical access to the interwar historical and juridical writings. While the need to recover the Romanian national identity was at stake after December 1989, the doctrinal discourse of the Romanian constitutionalists failed to revalue both the interwar and the communist periods through the lens of the liberal constitutionalism. It remained anchored in the Romanian ethnic national identity's values, hopes and beliefs which should be constantly expressed in the constitutional text and protected by the nation-state. Not even the transformation of the Article 1 paragraph 3 of the post-communist constitution (1991) into a true identity clause grounded on 'the democratic

² C.G. Dissescu, *Dreptul constituțional* (București, 1915), p. 367; P. Negulescu, *Curs de drept constituțional* (București, 1927), p. 192 ff.; Al. Al. Buzescu, *Domnia în Țările Române până la 1866*, Cartea Românească (București, 1943), p. 238; D. Ionescu, Gh. Țuțui, Gh. Matei, *Dezvoltarea constituțională a statului român* (București: Editura științifică, 1957), p. 132; L.P. Marcu, *Istoria dreptului românesc* (București: Lumina Lex, 1997, p. 188; S.L. Damean, *Instituțiile politice în perioada 1859-1918*, in S.L. Damean, D.C. Dănișor, M. Ghițulescu, Al. Oșca, *Evoluția instituțiilor politice ale statului român din 1859 până astăzi* (Târgoviște: Cetatea de scaun, 2014), p. 18.

³ C.G. Dissescu, *op. cit.*, *supra*, p. 368; P. Negulescu, *op. cit.*, *supra*, p. 206 ff.; E. Focșeneanu, *Istoria constituțională a României 1859-1991* (București: Humanitas, 1992), p. 23-24; Al. Al. Buzescu, *op. cit.*, *supra*, p. 291; P. Gogeanu, *Istoria dreptului românesc* (București, 1986), p. 84 ff.; I. Vântu, *Organizarea de stat. Dreptul constituțional*, in *Istoria dreptului românesc*, vol. II, partea a doua (București: Editura Academiei RSR, 1987), p. 66; A. Banciu, *Istoria vieții constituționale în România (1866-1991)* (București: Șansa SRL, 1996), p. 30-33; S.L. Damean, *op. cit.*, *supra*, p. 19; E. Cernea, E. Molcuț, *Istoria statului și dreptului românesc* (București: Universul Juridic, 2006), p. 248 ff. Accepting, after decades, the 'forms without substance' perspective, some post-communist authors have remarked the rationality and the righteousness of the constitutional import undertaken by Cuza at 1864, considering the limited capacity of the then Romanian society to assimilate the principles and mechanisms of the parliamentary regime. See M.T. Oroveanu, *Istoria dreptului românesc și evoluția instituțiilor constituționale* (București: Editura Cerma, 1995), p. 251 ff.

⁴ R. Cinpoieș, *Nationalism and Identity in Romania* (London-New-York: I.B. Tauris Publishers, 2010), p. 56 ff.

traditions of the Romanian people⁵ has led to a decisive change in the Romanian hermeneutical approach of the constitutional past. The weak interest in re-writing the Romanian constitutional history has never been seriously accompanied by a substantial change of the methodological paradigm. The peculiar focus of the historiographical discourse on the national unity and the preservation of the Romanian nation-state is still legitimizing today almost every political regime contributing to the fulfilment of the national desiderata. Consequently, besides a perpetual mythization of the Romanian authoritarian head of state,⁶ the Romanian authoritarian regime is legitimized by its national goals. Not accidentally, the Romanian national political pantheon was and still is inhabited, in the public's imaginary, by authoritarian figures like Vlad Țepeș (15th century), Mihai Viteazul (16th century), Al. Ioan Cuza (19th century), Carol I (19th century), Carol II (20th century), Ion Antonescu (20th century), and, recently, even Nicolae Ceaușescu (20th century). Not haphazardly, to the Romanian (constitutional) historiography the 19th and 20th centuries represent the image of a successful national agenda than the full radiography of a failing Romanian liberal constitutionalism.

The Romanian historiography, generally, and the Romanian constitutional historiography, especially, need a critical, objective, encounter with the Romanian democratic traditions, with the whole Romanian pre-communist constitutional past in its true complexity. The last one cannot acquire a certain substance only for the sake of its present constitutional status⁷ and cannot be recovered through the mythization of the interwar constitutional and political life. Without disregarding the national desiderata (after all, they belong to the history of a small nation, fighting to survive at 'the doors of the Orient'), the Romanian historiography needs a detached approach of the constitutional and political tools used to achieve and protect them in the past. It needs, above all, a reconnection to the pre-communist ideological background, especially with the Romanian thinking of the 19th century, when the ideals of national unity and the birth of the Romanian nation-state were sincerely linked with the desire to build a liberal state. The next step would be a thorough radiography of the Romanian political life and constitutional practice, meant to establish that crucial moment when the principles and values of the liberal constitutionalism have remained encapsulated in the political and doctrinal discourse while the nation-state and its modernization have become the concrete goals of the Romanian (more or less authoritarian) political regimes.

From my point of view, the reign of Al. I. Cuza represents a milestone in the Romanian constitutional and political history. Between 1859 and 1866, both the liberal constitutionalism and the ethnocentric nationalism gained their ideological maturity in the Romanian society. That period was also the moment when the Romanians have had not only the chance to express their political desiderata but also the chance to concretely follow them in the constitutional and political life, with no major interference and decisive political pressure from abroad capable to change their course and finalities. It was the moment when the political unity of the Romanians from the east and south of the Carpathian Mountains has been achieved, the Romanian nation-state has been born (1862) and, last but not the least, the

⁵ 'Romania is a democratic and social State governed by the rule of law, in which human dignity, the citizens' rights and freedoms, the free development of human personality, justice and political pluralism represent supreme values and shall be guaranteed.'

⁶ L. Boia, *Istorie și mit în conștiința românească* (București: Humanitas, 2010), p. 448 ff.

⁷ See M. Guțan, *The Weaknesses of the Romanian Constitutional Tradition or a Constitutional Present in Quest for a Constitutional Past*, in (2014) 2 *Romanian Journal of Comparative Law*, p. 281-298.

principles and values of the liberal constitutionalism have had the chance to be freely applied. In other words, it was the moment of truth for the Romanian political elite. It was the moment when it tried to build the nation-state on the principles, institutions and mechanisms of the parliamentary regime. At the end of Cuza's reign, the former was built and the latter was inexistent in the Romanian political life. This reality has deeply marked the next decades at the level of political ideas and practices.

This paper aims to emphasize the existence, between 1859 and 1866, of a sincere fight of the Romanian political elite for the liberal constitutionalism, generally, and for the parliamentary regime, especially, that constantly aimed to eliminate or, at least, to limit the authoritarian rule of the Prince. I would like to point out the decisive contribution of Cuza's reign to the birth of the Romanian unitary and modern nation-state without turning the constitutional and political modernization into a minor issue. It is useful to notice and to acknowledge the failure of the liberal constitutionalism during the reign of Cuza but, at the same time, it is important to notice that it has never been abandoned, at least as ideology, by a great majority of the Romanian political elite. The liberal constitutionalism did not die with the (temporary) failure of the parliamentary regime. The years following the fall of Cuza witnessed a strong ideological enthusiasm towards the principles and values of the liberal constitutionalism (although in its ethnocentric understanding). At the same time, the making of the 1866 Constitution proved a full aversion towards Caesarism and a sincere commitment with parliamentarianism as a precondition for a successful modernization of the Romanian state and society.

To sum up, I am aware of the Cuza's great contribution to the successful national agenda, undertaken with French authoritarian tools, but, in my opinion, the constitutional and political dynamics of the period 1859-1866 should be addressed in its ideological and factual complexity. A critical impetus taking the research beyond the mainstream national(ist) approach would be useful. Besides reintroducing the fight for liberal constitutionalism in the big picture of the Romanian 19th century, it would be also useful to develop a critical approach towards the role played by the French constitutional model in the process of the Romanian political and constitutional modernization. Without underrating neither the important contribution of the French culture to the Romanian society's modernization in the 19th century, nor the role played by Napoleon III in the process of the Romanian national political unification, I must say that not everything coming from France was really benign to the Romanian society. The fathers of the 1866 Constitution have had the same thoughts while massively importing the 1831 Belgian Constitution. This is why I believe that the French constitutional acculturation in the 19th century Romanian society should be assessed in its positive and negative consequences.

For these reasons, in the first section of the paper I shall recount more or less known aspects of the French acculturation in the Romanian political-legal thinking of the 19th century; in the second section, I shall highlight the very important role played by the French constitutional model (especially the liberal constitutionalism) in giving substance to the constitutional projects and political programs launched by the Romanian political elite in the first half of the same century; a third section will reveal the strong commitment towards liberal constitutionalism and parliamentary regime of the Romanian ad-hoc assemblies convened in 1857; a fourth section will analyse the decision of the European Great Powers, gathered in Paris in May-August 1858, to advantage the political compromises with regard to the Romanian national agenda (especially the unification of the Romanian Principalities) and

disregard the Romanian demands concerning the liberal constitutional reforms; in the fifth section I shall highlight the existence, during Cuza's reign, of a continuous competition between the logics of parliamentarianism and authoritarianism (with a prevalence of the latter after 1864), thus dismantling a long and very well settled academic approach splitting the reign of Cuza between a 'constitutional' or liberal-democratic and a 'personal' or authoritarian periods. I shall conclude by stressing the continuous attachment of the Romanian political elite to the liberal constitutionalism, despite the birth of the Romanian unitary nation-state under the auspices of the authoritarian ruling. It remained a permanent ideological benchmark and a sincere tendency in the Romanian constitutional and political life until the Second World War's eve. However, the head of state's authoritarianism did not disappear after Cuza's fall. After 1864, it became an unstoppable reality of the Romanian political life, proving not only the Romanian political elite's incapacity to fully follow the liberal project, but also the important role the Romanian monarchs continued to play in the building and modernization of the nation-state. Cuza's reign urges every scholar of the Romanian constitutional history, until the end of 1930s, to permanently consider three variables: the Romanian national agenda, centred on the creation and consolidation of the nation-state; the liberal constitutionalism and the ethnocentric nationalism, at the level of ideology; the head of state's authoritarianism at the level of the political praxis.

1. The Influence of the French Liberal Constitutionalism in the Romanian Principalities in the First Half of the 19th Century

The Romanian society of the 19th century was heavily indebted to the French culture in various aspects of its social, cultural, political and legal life. At the very beginning, the French influence has manifested indirectly, via the Russian officers that 'invaded' the Romanian aristocratic parlours during the numerous military occupations in the second half of the 18th century and the first half of the 19th century.⁸ In the same period, the French (political) literature has been present in the Romanian private libraries both in original and in translation. Thus, Romanian elites of Moldova and Wallachia have become francophone before they even meet the French society. The direct French influence was, naturally, stronger and it occurred, primarily, at the level of ideas, ideologies and institutions. These reached the Romanian Principalities through the young Romanian boyars arriving in France since the 1820s, especially in Paris, to earn a university degree.⁹ The huge interest in the legal studies has been, inevitably, associated with a gradual intellectual opening towards the values and ideals of the 1789 French Revolution. Last but not least, the presence of an important number of French emigrants, of the French secretary besides the Romanian princes and the increasing number of the French diplomats in the Romanian Principalities have also contributed to the French acculturation in the Romanian society.¹⁰

Although hesitant and entered via the Russian and Greek language literature, the ideas of the French political philosophy were already present in the Romanian Principalities at the end

⁸ P. Eliade, *Influența franceză asupra spiritului public în România. Originile* (București: Humanitas, 2000), p. 155 ff.

⁹ L. Boia, *Sur la diffusion de la culture européenne en Roumanie (XIX^e siècle et début du XX^e siècle)*, in F. Țurcanu (ed.) *Modèle français et expériences de la modernisation roumaine, 19^e-20^e siècles* (București: Institutul cultural român 2006), p. 1 ff.

¹⁰ D. Berindei, *La Révolution française et la résurrection roumaine*, dans Al. Zub (sous la direction de), *La Révolution française et les roumains* (Iași: Universitatea Alexandru Ioan Cuza, 1989), p. 53 ff.

of the 18th century. In the context of a growing discontent with the phanariot absolutist regime, some members of the Romanian aristocracy and some prominent figures of the Orthodox Church hierarchy were already interested in the ideas of Jansenism, Enlightenment and Rationalism.¹¹ Following the echoes of the French Revolution, Liberalism has arrived at the very beginning of the 19th century. Consequently, concepts like individual liberty, equality, human rights were gradually encompassed in the political programmes and constitutional projects elaborated by the upper, middle and lower Romanian aristocracy.

However, the reader should not imagine the Romanian aristocracy, the only actor of the social and political change at that time, in the absence of the bourgeoisie, turning overnight into a fighter against „the Old Regime”. The French political ideas have been initially captured and amplified at the level of a cultural discourse that switched with great difficulty to a comprehensible political discourse capable to promote a modern political order and to underpin the national resurrection against the Ottoman Empire.¹² The only political order that should have been dismantled at the end of the 18th century and the beginning of the 19th century was, in the eyes of the Romanian political elite, the Greek-phanariot one, imposed by the Turks since 1711. Besides, the only accepted revolutionary activity would have been to pass the power from the Phanariot princes’ hands into the hands of the great Romanian boyars¹³ and the only envisaged resistance against the suzerain power was aimed at the preservation of the internal autonomy recognized by the medieval treaties. As a consequence, the decision of the Ottoman Empire to give up enthroning Phanariot princes, since 1821, in the Romanian Principalities, as a response to the political resistance of the Romanian aristocracy, was rather a perpetuation of the feudal-origin political regime than a break with the pre-modern political order. The only visible change was the ethnic origin of the political actors, the prince and the boyars, which exclusively belonged, this time, to the local elites.¹⁴

Taking into consideration all these, I may say that the French revolutionary influence did not lead and could not have led to a radical, revolutionary, political change in the Romanian Principalities. The internal social-political and the geopolitical contexts hampered (at least until 1848) a radical approach to political modernization. On the one hand, the Romanian society of the first half of the 19th century was marked by the traditional dichotomy between the boyars and the peasantry, typical to the medieval society. The chances of a strong bourgeoisie to have been born amidst the urban merchants were poor, as long as they were interested in purchasing aristocratic titles and benefit from their new social status.¹⁵ A mature bourgeoisie,¹⁶ coagulated as a social class with well-defined political interests, started to significantly grow only in the second half of the 19th century, when a swift from the agrarian peripheral and manufacture economy to a relative industrialisation occurred. As a

¹¹ V. Georgescu, *Ideile politice și iluminismul în Principatele Române 1750-1831* (București: Editura Academiei RSR, 1972), p. 66-68; A. Stan, M. Iosa, *Liberalismul politic în România de la origini până la 1918* (București: Editura Enciclopedică, 1996), p. 12 ff.; E. Turczynski, *De la Iluminism la liberalismul timpuriu* (București: Editura fundației culturale române, 2000), p. 51 ff.; K. Hitchins, *Românii 1774-1866* (București: Humanitas, 1996), p. 162 ff.

¹² See C. Ploscaru, *Originile „partidei naționale” din Principatele Române. Sub semnul „politicii boierești” (1774-1828)* (Iași: Editura Universității Alexandru Ioan Cuza, 2013), p. 709.

¹³ *Id.*, p. 351 ff.

¹⁴ Gh. Platon, Al. F. Platon, *Boierimea din Moldova în secolul al XIX-lea. Context european, evoluție socială și politică* (București: Editura Academiei Române, 1993), p. 133.

¹⁵ C. Vintilă Ghițulescu, *Evgheniți, ciocoi, mojiți. Despre obrazele primei modernizări românești 1750-1860* (București: Humanitas, 2013), p. 329.

¹⁶ Al.-F. Platon, *Geneza burgheziei în Principatele Române* (Iași: Editura Universității Al. Ioan Cuza, 2013), p. 395.

consequence, the decisive fight for the social and political modernization, including the secret societies or revolutionary activities, as happened at 1848, had to wait for an ideological mutation inside the Romanian aristocracy.¹⁷ Under the influence of the French academic studies and readings, the liberalism became, to many boyars, the ideological substance of their future political projects, the ground of their own ambitions to govern and, last but not least, a perfect excuse for rapidly constructing the constitutional institutional modernity through massive constitutional transplants. Finally, the liberalism became a perfect litmus revealing the growth, among the same aristocracy, of a conservative discourse centred on the gradual, organic political modernization and interested in avoiding, as long as possible, the constitutional transplants and in promoting the Romanian constitutional traditions. These ideological and political tensions divided the Romanian aristocracy into liberals and conservatives and would dominate the entire process of political and social modernization until the First World War. On the other hand, is important to notice, as the history witnessed, the decisive role played by the Ottomans and the neighbouring empires, Russia and Austria, in the process of Romanian political and constitutional change. Every Romanian appetite for political modernization, liberal or not, had the chance to be satisfied only in favourable geopolitical contexts and having the support of the great European powers.

Despite the historical premises favourable to their simultaneous discovery, intellectual claiming and fructification, the idea of national emancipation has been advantaged against the idea of individual political emancipation backed by liberalism. The very sensitive geopolitical background characterized by the continuous fight of the Ottomans, Russians and Austrians for political control in South-Eastern Europe, the need to end the abuses of the foreign military occupations, the rise of the national consciousness, all of these have influenced this prioritization. The passage from the ‘boyars’ policy’¹⁸, advocating the perpetuation of the medieval political status-quo, to the ‘national party’, interested in the Romanian national ethnic identity, inevitably enhanced the national political project. Having no intention to eliminate it, and finally integrating it in the national agenda, the Romanian elite has subordinated the liberal political modernization to the ideals of nation-state and national unity. This explains why the French revolutionary call addressed to all subjugated peoples to free themselves from the imperial oppression had a faster echo in the Romanian society¹⁹ than the values and principles of liberal constitutionalism encapsulated in the French Constitution of 1791. From the famous French revolutionary triad ‘liberty, equality, fraternity’, the Romanian political elite cherished the first one, but stressing the liberty of the national group.²⁰ The liberal individualism, the theory of human rights, the chance to build a new society of free, responsible and equal citizens, the autonomy of the civil society from the state, all these did not represent at the end of the 18th century and in the first decades of the 19th century, a serious intellectual challenge for the Romanian political elite and, even less, the ideological back up of its political activity. As a matter of constitutional thinking, the Romanian boyars were interested either in an enlightened monarchy inspired by the Russian model and directed against the Phanariot princes or in a constitutional formula inspired by the Romanian medieval constitutional pattern but favouring, this time, the boyars against the prince (see *infra*).

¹⁷ Platon, Platon, *op. cit.*, *supra*, note 14, p. 138.

¹⁸ Ploscaru, *op. cit.*, *supra*, note 12, p. 279 și urm.

¹⁹ P. Cernovodeanu, *A doua perioadă a luptei de emancipare națională*, in P. Cernovodeanu, N. Edroiu (coord.), *Istoria românilor*, vol. VI (București: Editura Enciclopedică, 2002), p. 520.

²⁰ Al. Zub, *La final de ciclu. Despre impactul Revoluției franceze* (Iași: Institutul european, 1994), p. 60.

The whole intellectual turmoil in the first decades of the 19th century has definitely settled the Romanian social and political modernization on the road towards Europeanization. Following, the particular interest of the Romanian aristocracy in using the 1789 French Revolution as a weapon against the Phanariot ruling, has gradually turned into an interest in a possible model of social and political modernization. Both the national agenda, i.e. the building of the unitary nation-state, and the state's modernization, i.e. building a liberal state mirroring the values and principles of the liberal constitutionalism, have started and continued, especially after 1821, under the influence of the West-European political ideas. Especially, the importation of constitutional and political concepts, ideas and institutions from France constantly developed and naturally continued, considering the increasing political and juridical French acculturation. Besides the already highlighted cultural dependency, the French model of liberal constitutionalism was more ideologically appealing (comparing with the English and North-American ones) to the Romanian political elite. The existence of the nation before the constitution, the right of the former to make a re-make the latter, the citizen built as a juridical abstract entity, endowed with theoretical rights and liberties to be concretely acquired in the social and political practice, considering its moral and intellectual skills, all these ideas have been attractive to a Romanian political elite trying to build, under the Ottoman suzerainty, a nation-state where the active citizenship was reserved, in the absence of the bourgeoisie, to the aristocratic layer. Unfortunately, following the French constitutional model was not an easy endeavour (as this study will emphasize) to the Romanian political elite, considering its very sinuous development in the period 1800-1852, marked by dramatic ideological and institutional contrasts.

Modernization as social and political Europeanization, underpinned by the constitutional import from the Western Europe, did not change the priorities of the Romanian political elites. Unifying the political efforts of the whole Romanian politicians, regardless their ideological affiliation, the national agenda has remained in the centre of all political discourses and actions. Much more difficult to assimilate in a Romanian cultural context still impregnated, at the end of the 18th century and the beginning of the 19th century, by a Christian-Orthodox moral and thinking,²¹ and a Romanian society controlled by conservative boyars, the ideas of Enlightenment and the principles and values of Liberalism found with difficulty their way in the Romanian political thinking and practice. As M. S. Rusu pointed out, 'the whole age of the 19th century Romanian Enlightenment is under the sign of civic pre-nationalist patriotism, founded on a robust Christian morals.'²² The belonging to the Orthodox Christianity will appear, starting with 1848, as one of the most important objective elements of the Romanian national identity, among others (community of biological origin, territory, history, language, traditions) which will oppose more and more clearly the ethnic nation to the idea of a political community of free citizens. Thus, the increasing fight for a Romanian unitary nation state has accepted the principles and values of the liberal constitutionalism but only through the prism of the ethnocentric nationalism. As correctly emphasized a Romanian historian, while in the West the liberal thinking was born in favour of the citizen and against the state, in Romania the liberalism has been preached in favour of the community and

²¹ A. Pippidi, *L'accueil de la philosophie française du XVIII^e siècle dans les Principautés Roumaines*, in Al. Zub (sous la direction de), *op. cit. supra*, note 10, p. 213 ff.

²² M. S. Rusu, *Memoria națională românească. Facerea și prefacerile discursive ale trecutului național* (Iași: Institutul european, 2015), p. 102.

subsumed to the fight for the nation-state.²³ As a consequence, after accepting, at 1848, a civic understanding of the nation, the Romanian political thinking has reserved the national sovereignty only to the Romanian ethnic group. This explains why, after 1848, promoting and defending the national interest veiled the protection of the individual interests²⁴, protecting the ethnic national identity was more important than guaranteeing citizens' rights and freedoms, building and consolidating the unitary nation-state had priority over the limitation of the government.

2. Importing the French Constitutional Model in the First Half of the 19th Century

The fight for political modernization in the Romanian Principalities has been concentrated, at the end of the 18th century, on the Phanariot princes' absolutism. This political action has conferred political legitimacy to a multi-layered Romanian aristocracy interested in increasing its political influence and preserving its medieval privileges. Structured in distinct groups of interests ('tarafuri'), the Romanian aristocracy was interested, at that time, in perpetuating a hierarchized society and increasing their oligarchic power, grounded on the patrimonial and patronage solidarity.²⁵ This is why the returning, after 110 years, to the enthroning of Romanian origin princes in Moldova and Wallachia has been done on the backdrop of an impressive amount of political proposals, petitions and proclamations addresses by the Romanian boyars (grand, middle and lower) to the Turks and Russians, where the drastically limitation of the prince's power or even the full elimination of the prince's institution were the keystones of the new constitutional architecture. Even if the prince continued to play a central role in the Romanian politics, the political demands of the Romanian boyars promoted, until the end of 1820s, the political interests of different boyar factions and layers: the grand boyars ('protipendada') were aiming at capturing as more power as possible, to the prejudice of the prince while the middle and lower boyars were interested in obtaining equal rights and political status with the grand boyars. The influence of the French Revolution was present only sporadically, and only as long as some political and constitutional projects, coming from the middle and lower boyars, have expressed their political demands by using concepts, principles and institutions borrowed from the French political literature, doctrinal constitutional debates and constitutional acts of the revolutionary and post-revolutionary years. As a result, the Romanian constitutional and political language has been considerably enriched, in a short period of time, and the principles and institutions of the liberal constitutionalism gradually entered the Romanian political discourse. Thus, a series of political and constitutional proposals, programs and projects, ending with the famous 1822 Carvunari Constitution²⁶, started to use concepts, principles and institutions like *nation*, *liberty*, *equality*, *rights and freedoms*, *constitution*, *democracy*, *representation*, *separation of*

²³ Gh. Platon, *Liberalismul românesc în secolul al XIX-lea: emergență, etape, forme de expresie*, in Gh. Platon, *De la constituirea națiunii la Marea Unire. Studii de istorie modernă*, vol. II (Iași: Editura Universității Alexandru Ioan Cuza, 1998), p. 209.

²⁴ See also A. Janos, *Modernization and Decay in Historical Perspective*, in K. Jowitt, *Social Change in Romania (1860-1940)* (University of California-Berkley: Institute of International Studies, 1978), p. 84.

²⁵ Ploscaru, *op. cit.*, *supra*, note 12, p. 341 ff.

²⁶ The proposal or the constitution of Carvunari was written at 1822, in Moldova, by the boyar Ionică Tăutu. Using concepts, principles and institutions of liberal origin (that explain its assimilation with the Italian movement of Carbonari with whom, for the rest, it had no connection), the project has been handed to the prince Ioan Sandu Sturdza with the hope to protect the lower boyars' interests. See V. Șotropa, *Proiectele de constituție, programele de reforme și petițiile de drepturi din Țările Române* (București: Editura Academiei RSR, 1976), p. 65 ff.

powers. Despite many doctrinal and historical analyses which try to link this evolution with a radical change of political paradigm in the Romanian Principalities,²⁷ it is obvious that we are not in the presence of a crucial shift of political thinking and mentality amidst the Romanian aristocracy. Notwithstanding their association with the Italian carbonari and the accusations with regard the existence of ‘a French spirit of disobedience’, the Moldavian carvunari were not liberals and their constitutional project was not liberal either. As G. Burdeau correctly put it, ‘the liberal state is less a matter of institutions and more a matter of the spirit that vivify it’.²⁸ Far from assuming the aims of the liberal constitutionalism, the Romanian boyars used the concepts, principles of the French Revolution only to dress in the outfit of modernity the fight for their privileges while preserving the feudal substance of the political order. In the same time, the French revolutionary constitutions provided an institutional support for the limitation of the prince’s power but only for increasing the political role of the boyars.²⁹

Being under the occupation of the Russian army, between 1828 and 1834, the Romanian Principalities had a new constitutional, administrative and financial organization with the help of the Organic Regulations (1831-1832). Written by Romanian boyar commissions in each Principality, following Russian instructions and under close supervision of the Russian governors, amended at Saint Petersburg and voted without amendment by some Romanian General Assemblies, the Regulations succeeded to displease each and everyone: the princes, because the boyars, dominating the new unicameral assemblies, received too much power; the grand boyars, because the middle and lower aristocracy received too many rights; the latter, because they received only few rights compared to the grand boyars; the whole Romanian aristocracy because the princes had been granted too much power. Imposed by the protecting power (Russia), the Regulation had been inspired from the principles and constitutional architecture of the limited monarchy, very popular in Europe after the defeat of Napoleon I³⁰ and whose institutional expression seems to have been borrowed by the Russians from the French constitutional charter of 1814.³¹ Following, the Romanian princes, having their power legitimized by its divine source, were cumulating important executive, legislative and judicial powers facing General Assemblies mainly endowed with a power to block (*droit d’empêcher*) expressed, like in the French case, through ‘a technique of *avis conforme*’.³²

The stringent need to fight the authoritarian ruling of the Moldavian and Wallachian princes nominated/elected according to the Organic Regulations, had constantly decreased the political interest in institutional solutions rooted in the feudal privileges and considerably grew the interest in the French liberal constitutionalism and French constitutional model. The increasing number of the young Romanian boyars studying (law especially) in the capital of France deepened the intellectual connections of the Romanian political elite with the

²⁷ I. Stanomir, *Nașterea Constituției. Limbaj și drept în Principate până la 1866* (București: Nemira, 2004), p. 43 ff.

²⁸ G. Burdeau, *Cours de droit constitutionnel compare*, Les cours de droit (Paris V, 1953), p. 6.

²⁹ M. Guțan, *Transplant constituțional și constituționalism în România modernă 1802-1866* (București: Hamangiu, 2013), p. 158 ff.

³⁰ For the French limited monarchy, see St. Rials, *Essai sur le concept de monarchie limitée*, in *Révolution et contre-révolution au XIX^e siècle* (Paris: D.U.C./Albatros, 1987), p. 88 ff.; for the German limited monarchy, see M. Stolleis, *Public Law in Germany 1800-1914* (New York-Oxford: Berghahn Books, 2001), p. 61 ff.; J. Hummel, *Le constitutionnalisme allemand (1815-1918): Le modèle allemand de la monarchie limitée* (Paris: PUF, 2002), p. 7.

³¹ Guțan, *op. cit.*, *supra*, note 29, p. 194 și urm.

³² Rials, *op. cit.*, *supra*, note 30, p. 118-119; A. Laquieze, *Les origines du regime parlementaire en France (1814-1848)* (Paris: PUF, 2002), p. 70; M. Morabito, *Historie constitutionnelle de la France (1789-1958)*, 9^e Édition (Paris: Montchrestien, 2006), p. 172.

philosophy of the representative government. The Romanian political discourse with regard to the democracy and parliamentarianism started to be radicalized in the 1830s, even if the envisaged institutional solutions, e.g. the constitutional project written by the colonel I. Câmpineanu (1838), inspired by the 1830 French Charter, were proving that much had to be done in order to build coherence between constitutional ideas, principles and institutions.³³

The revolutionary year 1848 was the moment when the Romanian political elite in both Romanian Principalities fully adhered and consolidated the principles and values of the liberal constitutionalism. Fighting on the barricades of the revolutionary spring in Paris, many Romanian revolutionaries coming from Wallachia were determined to give a firm political and institutional expression to their liberal beliefs. The French revolutionary slogan ‘liberty, equality, fraternity’ was adapted, with this occasion, to the Romanian space, standing for ‘justice and fraternity’. This was witnessing the need of social justice in a Romanian society marked by its feudal remnants. This is why the 1848 Romanian revolution was the moment when the national agenda and liberal agenda occupied an equal place in the Romanian revolutionary desiderata. As a consequence, the national sovereignty, the making of a national constitution, the distinction between the constituent and constituted power, the supremacy of the constitution, the separation of powers, the limitation of the monarchical power, the representative government, the human rights have been subjected not only to the making of the unitary nation-state, but also to the liberty and protection of the individuals.³⁴ However, the constitutional encapsulation of these values, principles and institutions remained inadequate. This reality was caused by the preference of the Moldavian and Wallachian revolutionaries to express their political goals through different proposals and proclamations, e.g. the Islaz Proclamation,³⁵ lacking complex institutional constructions with regard, for example, the division of powers. Unfortunately, the only complex and complete constitutional project of the year 1848, elaborated by the Moldavian revolutionary M. Kogălniceanu (August 1848), was short of coherence. The explanation comes not only from the Romanian political elite's lack of ‘technical’ skills in constitutional drafting but also from the strong incertitude with regard the political regime to be designed. The strong influences from the French 1848 Revolution and the relatively uncritical constitutional import undertaken from the French constitutional models have increased the constitutional cacophony. Although one could find an increasing interest in the parliamentary regime until 1848 in Wallachia, the Islaz Proclamation elliptically asked for a unicameral parliament elected upon an intellectual census, an elected and responsible prince and governmental responsibility. At its turn, Kogălniceanu did not choose a clear institutional formula of the parliamentary regime (as long as one can talk about something like that at that time) but an eclectic political regime where an inviolable prince, elected by the parliament, was sharing the legislative power (he had a suspensive veto power and the right to promulgate) with an Assembly exclusively endowed with the right of initiative and not subject to dissolution. Notwithstanding their unclear

³³ Trying, apparently, to significantly limit the role played by the prince in the constitutional architecture, Campineanu's project was borrowing directly a series of provisions from the 1830 French Charter with the aim to regulate a parliamentary regime. Unfortunately, the project was inserting them in a completely incoherent constitutional logic that let no room for the development of a dualist (orleanist) parliamentary regime, as the French Charter did. See Guțan, *op. cit.*, *supra*, note 29, p. 223 ff.

³⁴ These aspects are clearer in the series of explanatory proposals written by the pioneers of the 1848 Wallachian revolution and addressed to the Ottoman officials and the European great powers in 1849. They were published at Imprimerie de Cosson, Rue du Four-Saint-Germain, 47, Paris, 1849.

³⁵ Considered by the Romanian constitutional historiography a true constitutional project and a proclamation of rights, the Islaz Proclamation was launched by the Wallachian revolutionaries on 21 June 1848.

institutional arrangements, the Romanian revolutionaries continued the political goal to limit the power of the Prince. This desideratum was a clear constant of the Romanian political thinking in the first half of the 19th century.

The Romanian 1848 Revolution was harshly repressed in Wallachia by the suzerain power and the neighbouring empires. In Moldova, the revolution was blocked from the very beginning by the prince Mihail Sturdza and the Moldavian revolutionaries had to flee to Austrian Transylvania. The treaty of Balta-Liman (1849) not only kept in force the Organic Regulations but, despite the Romanian political goals and protests, it considerably increased the powers of the princes. Everything turned worse from the constitutional and political point of view. However, the year 1848 was a crossroad in the Romanian constitutional history. The Romanian Revolution marked the higher level of ideological understanding and assimilation reached by the Romanian political elite with regard the liberal constitutionalism. It succeeded also to provide a modern institutional background to the fight against prince's authoritarianism. This evolution occurred due to the considerable influence of the French liberal constitutionalism and the French liberal constitutional texts. After 1848, the Romanian political discourse has been gradually indebted to the national agenda, i.e. the building of the unitary nation-state. The interest in the liberal social and political modernization has been placed on a secondary position and the considerable influence coming from the German romanticism amplified the ethnocentric nationalism and coloured the Romanian constitutionalism in the shades of illiberalism. However, the interest in limiting the monarchical power was still at stake, this is why, somehow unexpectedly, this meant to give up the French constitutional models. At mid-century, the Romanian political elite was clearly attached to the parliamentary regime and this, inevitably, meant to get away from the French authoritarian regime of the Second Empire, established since 1852. Without forgetting the French liberal lesson of the first half of the century, the Romanians became interested in the Belgian and English constitutional models, both homeland of a functional parliamentary regime and, consequently, more capable to offer the proper constitutional institutional solutions needed in the Principalities.

This evolution occurred in a particular international context that reiterated the great powers' right to establish both the international status of the Romanian Principalities, still under the Ottoman suzerainty, and their constitutional and political organization. While in 1831-1832 and 1849 the internal organization of the Principalities was negotiated by the Ottomans and Russians, after the Crimean War (1853) this process implied the great European powers (France, England, Turkey, Russia, Austria, Prussia and Sardinia), under whose collective guarantee the Romanian Principalities entered. After the Organic Regulations and the Convention of Balta-Liman had been imposed to the Principalities, the 1856 peace congress of Paris (February-March) decided to consult the Romanians with regard to their future political organization. For this purpose, elected ad-hoc assemblies, gathering the representative of all Romanian social layers, were summoned in each Principality (1857), a European commission collected, on the spot, the Romanian desiderata and presented its conclusions to the great powers' delegates reunited again, in May-August 1858, in Paris. Following very intense debates, it was adopted the Paris Convention of 1858 that played, between 1858 and 1866, the role of a common constitution for the so-called now 'The United Romanian Principalities.'

3. Did the Ad-Hoc Assemblies of 1857 Prefer the (Monist) Parliamentary Regime?!

It is not very difficult to accurately establish the external sources of inspiration, regarding the constitutional-political architecture, of the Romanian political elite at mid-19th century. Instead, it is pretty difficult to analyse the phenomenon of constitutional importation as an intellectual process of reception and adaptation of the imported values and institutions to the Romanian political and social context. Albeit the French constitutional model and, at a smaller scale, the Belgian and English ones, provided important amounts of constitutional concepts, principles and institutions to the Romanian constitutionalism, we do not have, until 1857, any critical evaluation of this process of juridical acculturation, with regard to its content and modalities. This reality is not very difficult to understand, as long as there was no Romanian doctrine of constitutional law, no specialized literature on the constitutional and political organization. Moreover, the Romanian political elite was not involved in any political and doctrinal (oral or written) thorough debates envisaging the possible constitutional architecture of the Romanian Principalities. The separation of powers was regularly approached only formally, without a theoretical interest in its causes and finalities.³⁶ Not even the considerable constitutional importation of concepts, values, principles and institutions, undertaken from the French revolutionary model of 1848 urged the Romanian political elite to debate. Instead, these have been pragmatically used to programmatically express the Romanian political goals. It seemed like the Romanian elite was interested in enthusiastically taking over principles and revolutionary goals without being capable to offer a coherent ideological and institutional support to a certain constitutional design. Beyond the obsession for the national emancipation through the making of a Romanian constitution and the continuous condemnation of the Organic Regulations as a foreign constitutional act breaking the national sovereignty, there was relatively small room for complex constitutional approaches. Significantly, the very delicate issue of division of powers was almost completely ignored.

Taking all these into consideration, the moment 1857 is very important to the history of Romanian modern constitutionalism. The sessions of the Moldavian ad-hoc Assembly has brought the first articulated public debates of the Romanian political elite with regard the internal political organization of the future (desired) unitary Romanian nation-state, in the light of the liberal constitutionalism's principles and values. Not accidentally, the division of power and the relationships between executive and legislative were highly disputed.

Both the ad-hoc assemblies' final resolutions and the Moldavian ad-hoc Assembly's debates are accurately reflecting the Romanian pattern of constitutional-political modernization in the first half of the 19th century: to the fore constantly was the unification of the Romanian Principalities in one unitary nation-state named Romania; the side-line was taken perpetually by the constitutional modernization and its liberal background. Despite this order of preference, we must be cautious in assessing the interplay between these two agendas and avoid misunderstandings. To the political generation of 1857 was out of discussion to build a unitary and autonomous nation-state beyond a political regime capable to limit the monarchical authoritarianism, at the same time, every liberal constitutional project was meant to build and consolidate the nation-state. This is a reality frequently ignored by the Romanian (constitutional) historiography that is regularly focused on the process of building the Romanian nation-state on ethnocentric grounds and scarcely interested in the liberal constitutionalism. The very strong connection between the national agenda and constitutionalism is illustrated, on the one hand, by the continuous criticism of the Organic

³⁶ V. Georgescu, *Istoria ideilor politice românești (1369-1878)* (Munchen: Jon Dumitru Verlag, 1987), p. 150.

Regulations that were symbolizing, at that time, the monarchical authoritarianism, and, on the other hand, the existence of a clear idea that the birth of the Romanian nation-state should have been done under the sign of a liberal ‘new constitution.’³⁷

The 1850s were the very moment when the typical Romanian ‘marriage’ between the ethnic nation-state and the liberal constitutionalism was conceptualized and theorized for the first time. The ethnic nation, the state and the political liberalism were the ingredients of the Romanian national-political rising and constitutional modernization but mingled in a particular ‘recipe’ of the Romanian modern constitutionalism. The liberal constitutionalism and the Western European constitutional models provided most of the concepts, values, principles and institutions necessary to constitutionally construct the Romanian state and this one was meant, at its turn, to become the juridical and political framework of the Romanian ethnic nation. The pre-eminence of the national consciousness to the nation-state and its development under the strong influence of the German Romanticism³⁸ determined a full constitutional expressivism: the Romanian unitary nation-state should have been made through the massive importation of Western European liberal constitutionalism but, above all, the desired constitution should have been the expression of the Romanian national identity. Not accidentally, the constitutional import has been sometimes hidden under a historicist discourse that was meant, more or less consciously, to place the entire national juridical and political process of modernization under the umbrella of the national identity. Consequently, liberalism met ‘collectivistic’ nationalism, democracy met authoritarianism, tolerance met intolerance, individualism met communitarianism and the citizen met the ethnic nation. Overall, the liberal constitutionalism met an ethnocentric constitutionalism meant to express and protect the values, constitutional traditions and the national Romanian ethnical self. This gave birth to the well-known mix between liberalism and illiberalism typical to the Central and Eastern Europe.³⁹ Whether the idea of liberty had a resonance with regard the Romanian nation’s liberation from the external servitudes, in the Romanian domestic political life it was discursively captured in the political tensions between the political elite and the prince, against the backdrop of a true interest in the human rights.⁴⁰

In this context, the ad-hoc assemblies of 1857 were preoccupied, above all, by the building and consolidation of the Romanian nation-state, proposing the unification of Moldova and Wallachia in one unitary state named Romania. Following a historical right entrenched by the old capitulations signed by the Romanian princes with the sultans, the fulfilment of the political unity on ethnic-national grounds was supposed to be acquired under the Ottoman suzerainty, by preserving the historical internal autonomy and by postulating a military

³⁷ L. Vlad, *Inventarea constituției. O istorie a cuvintelor*, in R. Carp, I. Stanomir, L. Vlad, *De la ”pravilă” la ”constituție”* (București: Nemira, 2002), p. 48.

³⁸ V. Neumann, *Neam și popor: noțiunile etnocentrismului românesc*, in V. Neumann, A. Heinen, *Istoria României prin concepte* (Iași: Polirom, 2010), p. 379 ff.

³⁹ B. Kissane, N. Sitter, *The Marriage of State and Nation*, in (2010) 16 *Nation and Nationalism*, p. 49-67.

⁴⁰ The Romanian pro-liberal intellectuality’s incapacity to theorize and politically impose a civic concept of the nation and the individualistic concept of the citizenship results very well from the content of different History manuals of that period. They were preaching the submission of the governed / citizens to the social body and state entity to whom they were belonging. Thus, a civic patriotism grounded on the Christian moral, that ‘was preaching a pedagogy of submission to the state power’, in the first half of the 19th century, turned, in the second half of the same century, into a herderian ethno-nationalism. See Rusu, *op. cit.*, *supra*, note 22, p. 67 ff., especially p. 103.

neutrality meant to protect the national territory against the numerous conflicts between the Turks, Austrians and Russians.

The keystone of this Romanian nation-state was supposed to be the enthronement of a foreign prince in order to found a hereditary constitutional dynasty. This was meant, on the one hand, to legitimize the young Romanian state on the European political scene and, on the other hand, to come to an end the continuous and bloody fights for the throne(s) between the Romanian ruling houses.⁴¹ Thus, the national interest has succeeded to unify around a symbol institution not only those which, at 1848, were fighting, in Wallachia, for a French-type republic,⁴² but also those cherishing the old elective-hereditary system of enthronement as a central element of the Romanian constitutional identity.

Discussing attentively the issue of the head of state was very important, in the eyes of the Moldavian ad-hoc Assembly, not only for the clarification of the future unitary nation-state's form of government, but also for the clarification of the role and place that the future foreign prince should have had in the liberal-democratic political regime they intended to establish. All deputies were conscious about the former Romanian prince's arbitrary (before and under the Organic Regulations), they were condemning the abusive behaviour of the Moldavian and Wallachian princes and were looking to settle this institution in a constitutional background.

It is important to highlight that the constitutional solutions have not been blindly imported from the Western European liberal constitutional models, especially the French one, and automatically applied. On the contrary, these were, this time, carefully selected and adapted to the Romanian political and geopolitical realities and, last but not least, to the Romanian political elite's interests. The true challenge was the necessity to coordinate the elimination of the monarchical arbitrary and abusive power (the old desiderata of the Romanian political elite) with the need to build a strong institution of the prince (of interest for a foreign prince) and, finally, with the need of the Romanian political elite to legitimize its access to the power. While giving rather an implicit attention to important issues like the source of sovereignty and representative government, the magical response to the above mentioned necessities was the separation of powers. Imported from the French constitutionalism, this constitutional principle was analysed at an unprecedented level in the Romanian history of constitutional thinking, underlying a constitutional architecture of freedom:

'Acknowledging that the separation of the executive power from the legislative one is accepted and consecrated as the strongest guarantee of liberty, because once one of these powers would concentrate both functions, then not only the limited and controlled power exists no more, but it also becomes an absolute power' [Grigore Costachi, November 1857].⁴³

In this ideological context, in the session of November 6, 1857, the ad-hoc Assembly has adopted, in majority, a unique resolution: 'The executive power and the legislative one will be separated in Romania'.⁴⁴ Following, it is pretty difficult to figure out what exactly the Moldavian deputies have meant when talking about 'separation'. At first sight, they seemed to prefer a regime of pure separation between specialized, independent and balanced powers

⁴¹ For details, see N. Vilvoi, *Problema prințului străin în istoria românilor* (Craiova: Editura Sitech, 2015).

⁴² Guțan, *op. cit.*, *supra*, note 29, p. 240-254.

⁴³ D.A. Sturdza, C. Colescu-Vartic, *Acte și documente relative la istoria renascerei României*, vol. VI, partea I (București: Institutul de Arte Grafice Carol Gobl, 1896), p. 170.

⁴⁴ *Id.*, p. 182.

(authorities). An initial amendment was proposing a head of state exclusively endowed with the executive power, assisted by his ministers, and a unicameral parliament exclusively endowed with the legislative power.⁴⁵ Finally, the principle received a pure negative meaning, reflecting the Moldavian deputies' desire to block the concentration of power either in the hands of the executive organs or of the legislative ones. They intended, on the one hand, to part with the past monarchical absolute power and, on the other hand, to avoid entrusting the legislative with considerable powers and thus transforming the institution of prince in one devoid of prestige and subordinated to the parliament.

The Moldavian ad-hoc Assembly did not intend and, finally, did not thoroughly discuss either the concrete distribution of powers or the complex relationships between executive and legislative. However, the deputies approached some issues related to the general principles of the constitutional reform voted at the very beginning, especially envisaging the limitation of the monarchical power. An equilibrium between executive and legislative powers was proposed, where the legislative and executive organs keep their constitutional autonomy but, at the same time, being capable to counterbalance the other:

'Consider that this Assembly, while having a full legislative power, must not hamper the executive power's rights, because the country needs a powerful, rightful and dignified government.'⁴⁶

The central mechanism of this equilibrium was established inside the legislative power and was related to the suspensive veto of the prince. He was receiving the right to send back to the parliament a legislative bill and appeal to the country in the case the parliament would keep the bill. If, after elections, the new parliament would also keep the bill, the prince would be obliged to sanction.⁴⁷ By transforming the prince into a partial legislative organ, endowed with suspensive veto, the Moldavian deputies have implicitly eliminated the absolute veto that was usually consolidating the constitutional powers of the monarch at that time. This amendment proves the existence of a certain tendency to design a low constitutional profile to the prince and to transform the unicameral parliament into the supreme political decision-maker. The parliament should have been, on the one hand, protected by any political interference from the executive but, on the other hand, it should have been impeded to develop an absolute power by entrusting the prince with a constitutional tool to relatively block the parliament (the suspensive veto). This explains why the MPs were forbidden to accept governmental offices. This explains also the idea of entrenching a (juridical) ministerial responsibility only before the parliament: 'the ministers to act and govern as officers of the country not as blind instruments of the prince.'⁴⁸ As a consequence, the Council of ministers itself was supposed to gain a remarkable constitutional autonomy from the prince: the former was envisaged to be 'strong, rightful and objective' while the latter inviolable and 'situated above the screams, passions and the fights between the political parties.'⁴⁹

The grand majority of the Romanian historians of Romanian constitutionalism have analysed these proposals of constitutional reform through the lens of the parliamentary

⁴⁵ *Ibid.*, p. 165. This approach was coordinated with the 5th amendment out of 5, voted by the ad-hoc Assembly on the 7 October, stating that 'the legislative power will belong to a General Assembly representing all interests of the nation'. *Ibid.*, p. 74.

⁴⁶ Sturdza, Colescu-Vartic, *op. cit.*, *supra*, note 43, p. 299.

⁴⁷ *Id.*

⁴⁸ *Ibid.*, p. 293.

⁴⁹ *Ibid.*

regime.⁵⁰ The inviolability of the prince, ministerial responsibility, the dissolution of parliament, all these represented pertinent argument in favour of this political regime. Moreover, considering the clear tendency to place the prince outside the governmental decision, strong arguments in favour of a monist parliamentary regime could have been provided.⁵¹ However, an attentive reading of the Moldavian ad-hoc Assembly's debates could provide a contrary opinion. The Moldavian deputies did not expressly discuss about the political solidary responsibility of the council of ministers in front of the parliament, nowhere was mentioned the general monarchical right of parliament dissolution (this one was expressly recognised only with regard to the suspensive veto), moreover, the MPs had no right to accept governmental offices. All these were accepted in the European doctrinal debates as certain traits of the parliamentary regime.

Trying to understand the Moldavian debates in the light of their possible external influences with regard to the constitutional organization of the nation-state is not, unfortunately, helping us to reach a firm conclusion. Because the discussions occurred at the level of principles, and, to a certain extent, unsystematically, because the deputies kept the silence with regard to the inspiring foreign constitutional models, it is difficult to establish the origin of the involved principles and institutions. The influence of the French, Belgian and English constitutional models was already remarkable in the Romanian Principalities in that period and each one could have provided useful constitutional ideas, principles and institutions. By strictly considering the principle of separation of powers, one may accept a direct influence coming from the 1848 French Constitution. However, principles like the ministerial responsibility could have belonged to any of the Western liberal constitutional models. The only certitude is about the suspensive veto whose external source seems to have been, most probably, the French Constitution of 1791.

Considering the wide social and political context of the Romanian society at mid-19th century, we may affirm with certitude that the Romanian political elite, especially the Wallachian one, was no more interested in the republican idea and was definitely attached to the hereditary constitutional monarchy with a foreign prince brought from one of the Western Europe monarchical houses. Certain was also the need to diminish and weaken the monarchical executive, legislative and judicial powers while increasing the weight of the representative government: the juridical responsibility of the ministers only in front of the parliament, the constitutional autonomy of the Council from the prince, the constitutional autonomy of the parliament from the executive by forbidding the MPs to double the parliamentary and governmental offices and, last but not least, the independence of the judiciary from the prince and the immovability of the judges. These explain the debate with regard to the monarchical inviolability and irresponsibility.⁵² Taking all these aspects into consideration, I may conclude that, despite some lacuna and overall incoherence, the Moldavian political elite was in favour of a parliamentary regime with monist accents. This ideological attitude was blatantly contradicting the recent French rejection of the parliamentary regime, of its checks-and-balances mechanisms, done by the doctrinaires of the

⁵⁰ T. Drăganu, *Începuturile și dezvoltarea regimului parlamentar în România până la 1866* (Cluj-Napoca: Dacia, 1991), p. 86 ff.; Stanomir, *op. cit.*, *supra*, note 27, p. 257 ff.

⁵¹ Guțan, *op. cit.*, *supra*, note 29, p. 301 ff.

⁵² The Wallachian central committee for political unification did not elaborate a theory with regard to the separation of powers and the balance between executive and legislative, but from its debates results the preference for a limited executive power and the responsibility of the ministers before the General Assembly. All these could theoretically imply the monarchical irresponsibility. See P. Constantinescu-Iași, D. Berindei, *Gândirea social-politică despre unire (1859)* (București: Editura Politică, 1966), p. 116.

Second Empire.⁵³ These are important aspects to keep in mind in view of the future analyses of the Romanian constitutional development of the period 1859-1866.

4. Imposing Authoritarianism: Paris Convention of 1858 and the Romanian prince's authoritarianism⁵⁴

In spite of the Romanian political desiderata, expressed by the ad-hoc assemblies, the great European powers' (France, England, Turkey, Russia, Austria, Prussia and Sardinia) representatives reunited in Paris, between May and August 1858, had a different political agenda. Discussing the constitutional organisation of the Romanian Principalities, they opted for constitutional solutions contrary to the Romanian interests. In the front line were the geopolitical delicate situation of the South Eastern Europe, the decline of the Ottoman Empire and the fight between the proponents and opponents of a new international regime for the Romanian states. These issues divided the European powers in two equally powerful sides. On the one side was the group accepting and sustaining the full unification of the Romanian Principalities, on the other side was the group preaching the preservation of their international status of separate state entities. The former group, led by the France of Napoleon III, was interested in supporting the birth of a unitary Romanian nation-state which, albeit under ottoman suzerainty, would have been capable to counteract other imperial interests in the region. The latter group, dominated by British Empire, saw in the Romanian unified nation-state a peril both to the Ottoman Empire and to the Austrian one, whose Transylvanian territory was largely inhabited by a Romanian population. Considering all these, it is not surprising that the great powers were primarily interested in negotiating and regulating a form of state that would meet both the need to keep them apart and to encourage a partial legislative and administrative unification (4.1). Consequently, regulating a certain political regime became a secondary subject matter (4.2).

4.1 *The Major Interest in a Form of State Encouraging a Partial Legislative and Administrative Unification of the Romanian Principalities*

The main challenge of the competing sides was to reach a compromise capable, on the one hand, to satisfy the national hopes of Romanians and, on the other hand, to protect the political interests of the great powers. Following a series of successive diplomatic meetings (Vienna,⁵⁵ Istanbul⁵⁶ and two in Paris⁵⁷), it was negotiated a solution that rejected the unification of the Romanian Principalities in one unitary nation-state but allowed the two

⁵³ We have never been as far from the parliamentary government wrote A. Esmein. See *Eléments de droit constitutionnel français et comparé*, 8^e edition (Paris: Recueil Sirey, 1927), p. 253.

⁵⁴ A slightly different variant of this section has been published in M. Guțan, *Regim parlamentar și autoritarism domnesc în epoca lui Al. I. Cuza. O perspectivă comparativ-juridică*, (2017) XXVIII *Revista istorică*, p. 27-63

⁵⁵ The peace conference of Vienna was held between March and June 1855 and it discussed the new European political order after the Crimean War.

⁵⁶ The conference of the representatives of the European Powers (France, Great Britain, Austria and Turkey) was held at Istanbul between January and February 1856 being exclusively dedicated to the internal organization of the Romanian Principalities. At the end, the protocol of February 11, 1856 was signed.

⁵⁷ The first peace conference was held in Paris between February and April 1856. It is important for the Romanian history due to the Treaty signed on 30 March 1856 that established the call of the ad-hoc assemblies and their consultation with regard the future constitutional organization of the Romanian Principalities. The second peace conference was held between May and August 1858 and adopted the Paris Convention.

Romanian states to step toward a deeper legislative and administrative uniformisation. In conformity with the Paris Convention's provisions, the new common constitution of the so-called 'United Principalities', the Romanian states were expected to have a common legislation with regard to various public services, e.g. the customs, the post, the telegraph, the monetary policy, the civil, criminal and procedure codes (Articles 34 and 35) etc.

Nevertheless, the real challenge of the great powers was to regulate a coherent legislative procedure capable to make effective these provisions. The most logical solution, considering the legislative efficiency, was proposed to the Turks, on 11 March 1858, by the French diplomacy.⁵⁸ In the framework of a constitutional project largely inspired by the 1852 French Constitution, the enactment was entrusted to a common unicameral parliament containing Moldavian and Wallachian deputies. This one was expected to vote the legislative projects initiated by the Moldavian and Wallachian princes, previously examined and prepared by a common State council in order to assure the identity between the two legal systems. Prepared, defended, debated and voted by the common organisms, the common legislative bills (in the limits established by the project) would have had the chance to have a rapid legislative course, without insurmountable obstacles. Moreover, in order to keep them away from the subjective will of the princes, the project was recognising them only the right to promulgate, without any veto power.

Although agreed by the Ottomans with small amendments, this institutional design was not discussed during the Paris conference. For sure, the level of constitutional integration between the Romanian states was too high to represent a ground for further negotiations. In fact, the French diplomacy gave up this project, considering the intentions of the minister Walewski (the French representative to the conference) to acquire a functional compromise between all political interests.⁵⁹ This can explain why the French project handled by Walewski, on the 5th of June,⁶⁰ to the rest of the Paris conference participants was replacing the common legislative Assembly with one unicameral Assembly for each Romanian state. In these conditions, it was absolutely logical to compensate the lack of a common parliament with a common organ and a legislative process capable to facilitate the enactment of a common legislation. As a result, this project was creating a special legislative procedure for the common legislation which completely excluded both princes. The initiative and the promulgation were reserved to a Central Committee located in Focsani (a small border town between Moldavia and Wallachia), while the two assemblies were turned into mere registration offices for their comments to the legislative bills, comments that the Committee was expected to consider 'as long as possible.' In the same time, the princes had the initiative of the local (belonging only to one of the Principalities) legislation. The right of the assemblies to debate and vote these local bills as well as the princes' right to promulgate them were implicitly regulated, while the

⁵⁸ G. Petrescu, D.A. Sturdza, D.C. Sturdza, *Acte și documente relative la istoria renascerei României*, tomul VII (București: Institutul de Arte Grafice Carol Gobl, 1892), p. 86 ff. The project was designed by the French ambassador to Istanbul, Eduard Thouvenel, and it was resuming a former project elaborated by the same ambassador on 3 November 1857. See G. Petrescu, D.A. Sturdza, D.C. Sturdza, *Acte și documente relative la istoria renascerei României*, tomul V (București: Institutul de Arte Grafice Carol Gobl, 1890), p. 780 ff. These propositions have been discussed and amended by the Ottoman Grand Vizir Ali Pasha, whose opinions, in general concordant with the French ones, were communicated by the minister Alexander Walewski to the ambassador Thouvenel on 16 March 1858. Petrescu, Sturdza, Sturdza, *Acte și documente...*, tomul VII, *op. cit.*, *supra*, p. 91 ff.

⁵⁹ Petrescu, Sturdza, Sturdza, *Acte și documente...*, tomul VII, *op. cit.*, *supra*, p. 270-271.

⁶⁰ *Id.*, p. 270 ff.

Central Committee was empowered with an explicit right to check the local bills for conformity with the general legislation.

Turning the Central Committee into a legislative super-organ was contradicting, due to its structure and powers, the principles of liberal constitutionalism but was perfectly meeting the need to unify the legislation of the Romanian states. Controlled by the Committee, the legislative process would have benefited from celerity and the enactment of the common legislation would have been easily undertaken. By letting the princes out of the right of promulgation, the project eliminated a possible serious procedural blockage. Nevertheless, this project met a huge amount of criticism, as many delegates feared that it could encourage a deeper unification of the Principalities. At this moment, the Paris conference's negotiations were blocked and its failure was considered.⁶¹

The saving solution came from Earl Cowley (Henry Wellesley), the British ambassador in Paris and delegate to the conference. On the 14th of June, he presented to Walewski a personal project of constitutional organization for the Romanian Principalities. Although it was not accepted as a starting point for further discussions (despite being endorsed by the Emperor Napoleon III), an important part of its provisions were captured in a new project presented by Walewski on the 3rd of July and discussed by the participants. Labelled now 'the common corps', the former Central Committee was transformed, on the 5th of July, in the Central Commission.⁶²

At this point, it would be important to discuss, in a wider context, the British influences upon the Walewski's final project and the possible constitutional models involved. The full merit of discovering and publishing Cowley's project for the Romanian public belongs to the Romanian historian Valeriu Stan. He also established the link between this project and Walewski's project presented on the 3rd of July.⁶³ The same historian published, after few years, another British constitutional project for the Romanian Principalities written, this time, by Lord Henry Bulwer.⁶⁴ After successfully representing Great Britain in the European Commission entrusted with the elaboration of a common report about the Romanian internal organisation and knowing very well the Romanian case, Bulwer drafted a complex constitutional project encapsulating his own perspective in that subject matter. Prepared at the beginning of 1858, the project has been forwarded to Cowley, his superior. V. Stan correctly established the strong influence exerted by Bulwer's project upon Cowley's personal project of June 14th, but they were far from being identical. The differences are important for understanding the sources and acknowledging the coherence (or lack of coherence) of the Paris Convention.

Bulwer's project was a rather strange mix between some traits of the English parliamentary regime, e.g. Legislative Chamber's right to initiate, to vote the budget, to impeach the ministers, and some institutions and/or the institutional logic of the 1852 French Constitution. Nevertheless, the project departed from the French constitution's authoritarian ethos,

⁶¹ W.G. East, *The Union of Moldavia and Wallachia, 1859* (Cambridge: Cambridge University Press, 1929), p. 153 ff.; T. W. Riker, *The Making of Romania* (London: Oxford University Press, 1931), p. 162 ff.

⁶² C. C. Angelescu, *Comisia centrală de la Focșani*, in (1980) XVII *Anuarul Institutului de Istorie și Arheologie „A. D. Xenopol”*, p. 243.

⁶³ V. Stan, *Un proiect englez de organizare a Principatelor din timpul Conferinței de la Paris (1858)*, in (1987) n° 1 *Revista de istorie*, p. 75 ff.

⁶⁴ V. Stan, *La réorganisation des Principautés Roumaines au milieu du XIX^e siècle vue par Sir Henry Bulwer*, in (1992) n° 3-4 *Revue Roumaine d'Histoire*, p. 19 ff.

advantaging the parliamentarianism. Thus, while the Romanian Principalities were kept as separate states, the legislative initiative belonged, in each Principality, to the princes and the Legislative Chamber. The princes, through their ministers, were defending the budget before the Chambers. Debating, amending and voting the bills, including the budget, exclusively belonged to the Chambers. A State Council (or Great Council), receiving the French Senate's powers with regard the impeachment of ministers, was expected to play a mediating role between the prince and the Chamber in each Principality. It had the power to decide in the moment when a majority of 2/3 deputies would have opposed the prince. As long as Bulwer was rejecting the legislative uniformisation of Moldova and Wallachia, the legislative procedure was concerning both Principalities only with regard to the a priori constitutional review. For that purpose, Bulwer was introducing a Central Committee as a common institution composed of 9 members for each Principality.⁶⁵ Certainly borrowing the 1852 French Senate's powers, this organ had the right to check, before the moment of its sanctioning, whether a bill, voted by the Chamber, was in conformity with the constitution. If not, the bill should have been returned and amended by the Chamber. This procedural step was making ineffective the prince's veto power. The prince's refuse to sanction a bill voted by the Chamber and reviewed by the Central Committee meant, at worst, to give up that bill or, at best, to resume the legislative process that was inevitably leading towards the same constitutional review undertaken by the Committee. In both cases, the constitution would have been respected.

Cowley's project, handed on the 14th of June 1858, was heavily inspired by Bulwer's project but, in a conciliatory spirit, it was borrowing from Walewski's project of June 5th. The Romanian Principalities were kept as separate state entities with their separate princes, were allowed to unify different public services and to share a common legislation with indefinite content and, above all, they were expected to share the same constitution. A general survey of the project proves the particular interest of Cowley in the legislative uniformisation of Principalities and the legislative process behind it: the project was regulating only this process, ignoring any reference to other constitutional issues. For sure, the solid parliamentarianism proposed by Bulwer was losing ground in Cowley's project: each Legislative Chamber (one for each Principality) was empowered to debate and vote the local (of interest only for a Principality) and general (common) bills, including the budgets, but they were losing the initiative. This one was exerted by the princes inside two different legislative procedures that have already been proposed by Walewski: one for the local legislation and one for the general (common) legislation.

However, Cowley's and Walewski's projects were separated by some important provisions. On the one hand, Cowley was keeping the State Council proposed by Bulwer and, on the other hand, it was significantly weakening the Central Committee's powers as they were proposed by Walewski on the 5th of June. As a consequence, in the case of local legislation the prince had the initiative and the resulting bill had to be reviewed by the Central Committee to ensure conformity with the constitutional provisions; in case of unconstitutionality, the bill had to return to its initiator in order to be accordingly amended; the reviewed and (eventually) amended bill was debated by the Chamber and voted; the voted

⁶⁵ It is very possible that minister Walewski could have known Bulwer's project before the Paris conference. The first project of Walewski, handed on 5 June, was including a common organism named also Central Committee and composed, like in Bulwer's project, of 9 members for each Principality. Most probably, there was a certain influence between the two projects. See Guțan, *op. cit.*, *supra*, note 29, p. 315 ff.

legislative bill had to be reviewed by the Committee with regard to its constitutionality. At this moment of the legislative procedure it is not clear which role had to play the State Council preserved by Cowley from Bulwer's project. Cowley was envisaging a consultative role for this organ in the case the prince and the Chamber were disputing 'a measure adopted by the legislative body.' In this case, the prince had to consult the Council before deciding to veto but it is not clear whether this procedural moment was included or not in the ordinary legislative procedure. At the same time, the legislative process was different (from Walewski's) in the case of the common legislation. The initiator was not specified, but, probably, the initiative should have belonged to the princes. For certain, the bills had to be approved by the Committee (probably for reasons of constitutionality), debated and voted by the Chambers. At the end, the Committee was charged with the conciliation between the two Chambers, in case of disagreement over the bills, without having the right to impose a final solution. Generally, Cowley's project was considerably weakening the power of the parliaments, was significantly increasing the role of the princes in the legislative process and was transforming the Central Committee in a consultative organ in the process of common enactment. His project was far from meeting the expectations of those seeing in the Central Committee a legislative laboratory pursuing the legislative and (why not) political unification of the Romanian Principalities.

Cowley's project was ignored by the Paris conference delegates (it was considered, for good reasons, extremely complicated and, I may say, incoherent) but it inspired the project presented by Walewski on July 3rd.⁶⁶ We do not have its text but, for sure, it was not very different from the final text of the Paris Convention. The executive power was entrusted to the princes and the legislative power was divided between two princes, two Elective Assemblies and a common central Commission located in Focsani. With regard to the legislative process aiming at unification the Romanian Principalities' legislation, the Paris Convention preserved the anti-parliamentarian solution (the Elective Assemblies were still stripped of the power to initiate), kept the central role of the princes in the legislative process (they had the right to initiate the local legislation, absolute veto power and sanction power) and turned the Central Committee (re-named Central Commission) into a real and powerful constitutional tool of legislative unification in a wide range of legislative matters. The Convention established a middle way between the very powerful Central Committee proposed by Walewski at June 5th and the weaker one proposed by Bulwer and Cowley. The State Council disappeared and some of its attributions were entrusted to the Central commission, following a constitutional arrangement inspired by the 1852 French Constitution. The two different legislative procedures, one for the local legislation and one for the general (common) legislation were thoroughly regulated. In the first case, the initiative belonged to the princes, the bills were debated and voted by the Elective Assemblies with or without the presence of the ministers, at the end the bill was reviewed by the Central Commission for reasons of constitutionality. Finally, the prince was sanctioning and promulgating the bill or was exerting his absolute veto power. In the second case, the princes had the right to propose a legislative policy, the effective initiative belonged to the Central Commission and the bills were debated and voted by the Elective Assemblies. Should the last ones adopt divergent amendments, the Commission was empowered to elaborate a final bill that the assemblies could only approve or reject. If identical amendments were made by both assemblies, the Commission was obliged to accept them.

⁶⁶ Petrescu, Sturdza, Sturdza, *Acte și documente...*, tomul VII, *op. cit.*, *supra*, note 58, p. 279 ff.

Overall, the Paris Convention settled, on the one hand, the juridical framework of the Romanian Principalities' necessary constitutional integration, guaranteed by the a priori constitutional review done by the Central Commission, and, on the other hand, the limits of a long desired process of legal unification, done with the decisive contribution of the same Commission. Unfortunately, this institutional design was defective and difficult to apply in practice. The constitutional review was functioning only in the case of local legislation. As regards the constitutional review of the common legislation, the Convention was silent. It is hard to have a teleological interpretation of the conventional text in this case, as long as we do not know the clear intentions of the great powers' ambassadors. Yet, if divergent amendments would have been made by the assemblies, the final bill made by the Commission would have been, probably, already reviewed for constitutionality. However, if identical amendments would have been made by the assemblies, it is not clear why the bill was excepted from the constitutional review. Two possible explanations exist: on the one hand, we can accept the idea of assemblies' self-restraint, i.e. their capacity to discern the unconstitutional provisions after making some sort of self-constitutional review; on the other hand, it could have been accepted the political advantage to enact a common legislation, despite its potential unconstitutionality. In this context, Bulwer's project was more coherent with regard the constitutional review. Looking now at the Convention's possible inefficacy, it is obvious that it was regulating a very complicated legislative procedure, opened to perpetual gridlocks.⁶⁷ Whether a common bill would have had the chance to be initiated, debated, amended, voted and reviewed for constitutionality with no great difficulties, the moment of sanction and promulgation could have brought great surprises. The Convention has disempowered the Commission and empowered the princes with sanction, absolute veto power and promulgation. Thus, not only each Romanian prince had to sanction the bills but also each one had the power to veto with no explanations. The Convention offered no solution for the case when one or both princes were refusing to sanction and were appealing to their veto power. In these conditions, the chances of a bill to become a law and be promulgated would have depended on princes' capacity to come to a compromise. In another train of thoughts, this institutional design was more capable to meet the hopes of those opposing the political and legislative unification of the Romanian Principalities.

4.2. *The Lack of Interest in the Political Regime*

Considering the topic of the conventional political regime I may say, following Riker, that 'the great powers' representatives were guilty of ignoring the relationships between executive and legislative.'⁶⁸ Instead, as proved in the above pages, the European diplomats were primarily interested in regulating the legislative process with declared purpose to enhance (for some) or to hamper (for other) the legislative uniformisation of the Principalities. However, we cannot say that the executive, as a distinct constitutional matter, was neglected by the international acts, the political proposals and constitutional projects written in that period. Still, these were more interested in addressing the princes' enthronement process, in close relation to the clarification of the Romanian Principalities' form of state.⁶⁹ The solutions oscillated between a unique prince or one for each Principality, a Romanian-origin one or a

⁶⁷ For details, see *Memoriile Principelui Nicolae Suțu* (București: Editura Fundației Culturale Române, 1997), p. 315.

⁶⁸ Riker, *op. cit.*, *supra*, note 61, p. 169.

⁶⁹ See also N. Corivan, *La question de l'union dans les projets européens d'organisation des Principautés Roumaines (1855-1857)*, in (1970) n° 6 *Revue Roumaine d'Histoire*, p. 963 ff.

foreign one, between an elective prince or a designated one, between a hereditary monarchy or a non-hereditary one.⁷⁰ Finally, the Paris Convention regulated two Romanian-origin princes, one for each Principality, elected by the assemblies for their lifetime.

Yet, it is puzzling the European diplomats' lack of concern to systematically and coherently address the constitutional role and place of the princes. General formulas like 'a system of government as close as possible to the monarchical type' meant 'to guarantee authority and abidingness' written in the Vienna conference's memorandum of 26 March 1855⁷¹ were not very helpful. Having in mind the French and British diplomacy interest in eliminating the arbitrary rule of the Romanian princes under the Organic Regulations,⁷² some would have expected to see the considerable power of the prince firmly limited by the new constitutional act. The Article XXVI of the final Protocol of the Istanbul conference held in January 1856 let us understand the necessity to install an equilibrium between the executive and legislative by regulating a representative chamber capable to effectively control the acts of the administration (i.e. the executive) along with a Senate composed of notabilities.⁷³

In spite of these European tendencies, the conventional text regulated a disequilibrium of powers in favour of the executive. The prince was entrusted with the executive power and was empowered to govern with the help of his responsible ministers named by himself. It seems that a lot was clearly stipulated but this is not true. The Convention did not expressly declare the person of the prince as inviolable (implicitly irresponsible) as did any liberal constitution of that time⁷⁴ and, as a consequence, the parliamentary regime was out of discussion. In the absence of the prince's responsibility, the act of ministerial countersigning and the juridical responsibility of the ministers had no normative relevance to the existence of the above mentioned regime.⁷⁵ Moreover, the Convention has stripped the Elective Assemblies of any

⁷⁰ The discussions started already at 1855, at Vienna peace conference (March-June 1855), see G. Petrescu, D. Sturdza, D. C. Sturdza, *Actes et documents relatifs à l'histoire de la régénération de la Roumanie*, tome II (Bucarest: Imprimerie Charles Gobl, 1889), p. 624; 641 ff., and continued at Istanbul in January 1856. *Idem*, p. 917 ff.

⁷¹ *Id.*, p. 642.

⁷² The British ambassador in Istanbul has remarked, in a diplomatic memoir from 2 December 1855, that the Organic Regulations proved to be inefficient to come to an end the abuses and arbitrary of power'. See V. Stan, *Preliminarii diplomatice ale unirii Principatelor: două memorii ale lui Stratford Canning, ambasadorul englez la Constantinopol*, in (1989) n° 1 *Revista de istorie*, p. 34.

⁷³ Petrescu, Sturdza, Sturdza, *op. cit.*, *supra*, note 70, p. 920.

⁷⁴ The French Constitution of 1830, the Belgian Constitution of 1831, the Greek Constitution of 1844, the Netherlands' Constitution of 1848, the Danish Constitution of 1849 are relevant examples. Technically, the inviolability / irresponsibility of the monarch was expressly mentioned before the ministerial responsibility and ministerial countersigning and all three represented a logical and institutional unit underpinning the parliamentarianism. See J.J. Thonissen, *La Constitution belge annotée*, 3^e édition (Bruxelles: Bruylant-Christophe & Co Editeurs, 1879), p. 195 ff.; C. Grewe, H. Ruiz Fabri, *Droits constitutionnels européens* (Paris: PUF, 1995), p. 376-377.

⁷⁵ In a diplomatic address sent to the French ambassadors in Europe, dated 20 August 1858, the minister Walewski was noticing the winning French legal culture and the French constitutional model in the fight for the constitutional organization of the Romanian Principalities. Particularly, he remarked a series of French revolutionary principles of 1789, the ministerial responsibility included, amidst the conventional provisions. See Petrescu, Sturdza, Sturdza, *Acte și documente...*, tomul VII, *op. cit.*, *supra*, note 58, p. 337. However, it is difficult to use this assumption to back up the existence of a parliamentary regime in the Paris Convention. Indeed, this principle, as it was understood by the modern constitutional law, was present in the constitutional debates of the French revolutionary but was captured in the French constitutional texts of the first half of the 19th century, including the 1852 Constitution, without being necessary linked to the parliamentary regime. The presence of the ministerial responsibility beside the monarchical inviolability in the French Charter of 1814 did

legislative initiative, letting no room for parliamentarianism and making any reference to the Belgian Constitution of 1831 inappropriate.⁷⁶ Actually, what exactly could have determined the delegates of the great powers to propose a parliamentary regime for two small Principalities situated under Ottoman suzerainty as long as, excepting Great Britain, the other European powers did not practice it at 1858?! Furthermore, the ambassador Thouvenel was noticing to Walewski, on 11 March 1858, his fears about using the concept of 'senator' in the constitutional project discussed with the Turks for this one could have determined the Queen of England to impose a parliamentary regime in the Romanian Principalities.⁷⁷

We can ask, in these conditions, which were the exact intentions of the Paris conference delegates? For sure, as regards the place reserved in the constitutional architecture for the elected prince, we have to exclude any influence from the French Constitutions of 1848 and 1852 that both have regulated a responsible chef of state.⁷⁸ At the same time, we are not in the presence of an implicit irresponsibility of an absolute monarch, as long as the conventional text was consecrating the national sovereignty and the prince was expected to act as a governing representative of the people. A pertinent explanation could be found in some European great powers' intention to make a new constitution for the Principalities by simply modifying the Organic Regulations, still in force.⁷⁹ Even Thouvenel's project from March 11th 1858, was mentioning, in its variant amended by the Grand Vizir Ali Pasha, the right of the prince to govern along a council composed of 3-5 members, an institution existing already in the Organic Regulation under the name of Extraordinary Administrative Council. Although the European great powers' delegates, gathered in Paris between May and August 1858, did not expressly envisage a mere amendment of the Organic Regulations,⁸⁰ the latter seem to have been implicitly considered to regulate the relationships between the executive and legislative. Finally, Article 47 of the Convention stated that the Organic Regulations' provisions that were not contradicting the conventional ones were to be kept in force. Beyond the Regulations, the impact of the 1852 French Constitution cannot be ignored. Almost all French and British constitutional projects for the Principalities acknowledged the constitution of the Second French Empire as a constitutional model. Besides the Central Commission, an institution clearly endowed with attributions borrowed from the French Senate and State Council, a bunch of conventional provisions, especially those regulating the prince's powers, have been inspired by the French Constitution.

not represent an institutional expression of the parliamentary regime in a constitutional background settling the limited monarchy. See Laquieze, *op. cit.*, *supra*, note 32, p. 68

⁷⁶ Many Romanian constitutional historians have found the Convention's external sources in the Belgian Constitution of 1831. See A. Rădulescu, *Influența belgiană asupra dreptului român*, in *Pagini din istoria dreptului românesc* (București: Editura Academiei RSR, 1970), p. 192-193. The Paris Convention includes some liberal principles and institutions and some elements of the parliamentarianism that could have been imported from the Belgian Constitution (in the same measure they could have been imported from the French Chart of 1830) but from them to the parliamentary regime is a long way. See Guțan, *op. cit.*, *supra*, note 29, p. 313 ff.

⁷⁷ Petrescu, Sturdza, Sturdza, *Acte și documente...*, tomul VII, *op. cit.*, *supra*, note 58, p. 97.

⁷⁸ Some kind of responsible prince proposed also Lord Bulwer in its constitutional project realizing, under the influence of the 1852 French constitution, a strange mix between the parliamentary regime and the presidential one.

⁷⁹ Petrescu, Sturdza, Sturdza, *Acte și documente...*, tomul VII, *op. cit.*, *supra*, note 58, p. 270 ff.

⁸⁰ In the session of 5 June, the Austrian delegate (Barron of Hubner) had a dispute with the French delegate (minister Walewski) with regard the relevance of the Organic Regulation for the conference. The former, recalling the content of the Paris Treaty of 1856, was emphasizing the necessity to transform the amendment of the Organic Regulation in the principal goal of the conference. The latter permanently defended the contrary. At stake was the political and legislative unification of the Principalities, an objective endangered by the mere amendment of the Regulations. See Petrescu, Sturdza, Sturdza, *Acte și documente...*, tomul VII, *op. cit.*, *supra*, note 58, p. 271-272.

Considering the abovementioned constitutional incoherence and institutional vagueness, taking into consideration the conventional relationships between executive and legislative and their possible constitutional models, I may say that we are in the presence of a moderate authoritarian regime,⁸¹ inspired by the French Constitution of 1852⁸² and the Organic Regulations of 1821-1832. However, it was neither about the borrowing the French Constitution's ethos,⁸³ nor about empowering the Romanian prince with the full constitutional powers of the Napoleon III. It was rather about a constitutional design that, considering the numerous borrowings made from the French Constitution, have conferred to the Romanian prince a central constitutional place and impressive powers relatively similar with those reserved and entrusted to the French emperor. The comparison with the French Constitution of 1852 is even more pertinent as it was inspired by the Constitution of 1799 (the revolutionary year VIII), which juridically backed the authoritarian power of Napoleon I. The latter Constitution has remained in the history of constitution and constitutionalism due to its capacity to primarily 'disguise the consolidation of power in the hands of a dictator behind a constitutional façade.'⁸⁴ Using the principles and institutions of the French liberal constitutionalism enshrined in the Constitutions of 1791, 1793 (year I) and 1795 (year III), especially the national sovereignty, human rights, representative government, separation of powers, ministerial responsibility, the Constitution of 1799 (year VIII) has underpinned the authoritarian powers of the First Consul following two institutional-constitutional techniques: on the one hand, it recovered the unity of the executive by meting the ministers in close dependence on this one, on the other hand it placed him in the centre of the legislative process, by stripping the legislative corps by the right to initiate.⁸⁵

This kind of institutional design (or constitutional camouflage) seemed to shape also the Paris Convention. However, this one was completed with an Organic Regulation's provision that, in the conventional context, was actually meant to limit the prince's power. Unlike the French Constitution of 1852, which was subordinating the bicameral parliament to the head of state and was letting the legislative corps without an effective power to amend the legislative bills, the Convention took from the Organic Regulations unicameral Elective Assemblies (one in each Principality) endowed with the effective power to block (not to change) the governmental agenda. Thus, despite their lack of legislative initiative, the Elective Assemblies

⁸¹ I approach the concept of 'authoritarian regime' through the lens of the French (and not only) constitutional historiography and political theory's understanding, i.e. the concentration of power in the hands of the chief of state using a constitutional (liberal) camouflage but actually being in contradiction with the values and principles of the liberal constitutionalism. See, for example, G. Burdeau, *Traité de science politique, tome V: Les régimes politiques* (Paris: JGDJ, 1985), p. 391 ff.; M. Deslandres, *Histoire Constitutionnelle de la France* (Paris, 1932), p. 461; H. Dippel, *Modern Constitutionalism, An Introduction to a History in Need of a Writing*, in (2005) 73 *The Legal History Review*, p. 153.

⁸² For the nature of the political regime under the Constitution of 1852, see M. Deslandres, *op. cit.*, *supra*, p. 461 ff.; Ch. Zorgbibe, *Histoire politique et constitutionnelle de la France* (Paris: Ellipses Editions, 2002), p. 229. J.J. Chevallier, *Histoire des institutions et des régimes politiques de la France de 1789 à 1958*, 9^e édition (Paris: Dalloz, 2001), p. 257.

⁸³ The French Constitution of 1852 intended to give institutional expression to the French First Empire' Caesarism (Bonapartism) in a political context defined by the unpopularity of the parliamentary regime. See Chevallier, *op. cit.*, *supra*, p. 250 ff.; M. Ganzin, *Droit et pensée politique. Le juriste R. Th. Troplong, théoricien du Second Empire*, in *Du césarisme antique au césarisme moderne* (Aix-en-Provence: PUAM, 1999), p. 98 ff. Instead, the great powers intended to realise, in the Paris Convention, a proper balance between a strong prince and a parliament endowed with minimum powers to limit the head of state's authority.

⁸⁴ Dippel, *op. cit.*, *supra*, note 81, p. 161.

⁸⁵ Morabito, *op. cit.*, *supra*, note 32, p. 143 și urm.

not only had the amendment power but also their identical amendments to the same bill would have been compulsory to the Central Commission (the equivalent of the French Conseil d'Etat at this stage of the legislative procedure).

All these are allowing us to canvas the big picture of the conventional princes' remarkable powers. The prince was entrusted with the executive power and was governing with the help of ministers that he had the right to appoint and revoke at will, on the grounds of their political responsibility. The ministerial countersigning was only a formal confirmation of the prince's act while the ministerial juridical responsibility was supposed to function outside the balance with the prince's inviolability/irresponsibility. The prince had the power to establish the internal and external policies of the country and his ministers, although reunited in a Council of ministers, were expected to act more as the prince's agents than as an autonomous cabinet. Last but not least, the prince had the right to make the regulations necessary to have the laws applied, and he was appointing in all public offices. He also had important legislative powers. Albeit the prince was sharing the legislative power with the Elective Assembly and the Central Commission, he was inevitably becoming, due to its constitutional powers, a master of almost entire legislative process, a *maître de la loi*⁸⁶ resembling the French emperor Napoleon III. Thus, he was the only initiator of the local interest legislation, he had the right to propose legislative policies with regard the common legislation, he was preparing and defending through his ministers the local legislative bills, the right to sanction or to veto the legislative bills voted by the Elective Assembly, while the constitutional review realized by the Central Commission had rather the value of an advisory opinion.⁸⁷ Even assuming that the prince would have been compelled to obey a negative evaluation of the Commission, he would have had, after a presumable amendment of the legislative bill (the Convention was silent about the steps to be followed after a legislative bill was evaluated as unconstitutional) the power to sanction or not this legislative bill. At the same time, he had a power of sanction and an absolute veto in the case of the common legislation, without interfering with the constitutional review (which was not regulated in this matter). The Central Commission itself,

⁸⁶ M. Prélôt, *La signification constitutionnelle du Second Empire*, in (1953) n° 1 *Revue française de science politique*, p. 38.

⁸⁷ Considering the logic of the constitution's supremacy, it would have been necessary that the legislative projects of local interest, found unconstitutional by the Central Commission, to be excluded from the prince's sanction. The Convention was not expressly regulating neither the obligation to return the legislative project to its initiator or to the Elective Assembly, nor the prince's obligation to refuse his sanction. However, we should avoid sophisticated juridical analyses through the lens of the contemporary constitutional review and, in the same time, we should avoid the temptation to overestimate the goals of the a priori constitutional review regulated by the 1852 Constitution and, finally, borrowed by the Paris Convention. As already shown, the French constitutional review aimed at legitimating the governmental origin legislation with the help of a juridical review undertaken by a political organ (the senate) playing an apparent role of a counter-power. See A. Ashworth, *Le contrôle de la constitutionnalité des lois par le Sénat du Second Empire*, in (1994) n° 1 *Revue du droit public*, p. 85-87. The conventional text was unclear about the goals of the constitutional review. On the one hand, a grammatical interpretation of the Paris Convention would not oblige the prince to refuse the sanction of an unconstitutional legal project. Article 37 of the Convention was stating the right of the Central Commission to juridically *evaluate* (a *prejui*) the compatibility of the common (general) legislation with the conventional provisions. This sounds like emitting a mere opinion. By comparison, Article 26 of the 1852 French Constitution was stating the right of the senate *to oppose* an unconstitutional legal project. On the other hand, a teleological interpretation would compel the prince to obey a negative evaluation of the Commission. However, this was not supposed to happen in order to limit the prince's power and to guarantee the supremacy of the constitution. Considering the Commission role to guarantee and enhance the constitutional (and legal) unification of the Principalities, it was not a counter-power. This would explain why the common (general) legislation was excepted from the constitutional review and the local legislation not. Following this logic, a negative evaluation of the Commission should have been opposable to the prince.

created to boost and enhance the constitutional and legislative unification of the Principalities was not properly speaking limiting the prince's power.⁸⁸ On the other hand, it is true that the prince had no constitutional power to determine the final content of a bill amended and voted by the Assembly and only few influence in the presence of a politically hostile parliament. However, he was the only one having the power to decide whether a bill would become a law or not. We may say, as M. Prélôt put it in the case of the 1852 French Constitution, the prince's power was very similar the power of the monarch in a limited monarchy.⁸⁹

The prince was also endowed with important powers with regard the functioning of the Elective Assembly. Although this one had to be elected for a 7-years mandate, its functioning was not permanent. The unicameral parliament was sitting during ordinary short sessions lasting three months. The prince had the right to summon, to prorogue and to proceed to its dissolution at will. The Moldavian or the Wallachian prince had also the possibility to considerably influence the Central Commission's activity whether one of the 4 members recruited and appointed by him would have been elected to head this common organ. Last but not least, the prince had important judicial powers: the justice had to be done, in his name, by judges appointed by him, having very uncertain future chances to become immovable.

In synthesis, I may say that, far from approving the full unification of the Romanian Principalities in one nation-state named Romania and ruled by a foreign hereditary prince, the great powers have regulated an association of states, with distinct Romanian origin elected princess, in the framework of a constitutional design that was labelled by the minister Walewski himself as the Paris 'monstrosity'.⁹⁰ Besides, instead of a parliamentary regime aiming at drastically limiting the monarchical power (monism), the great powers have established, in each Principality, an authoritarian regime headed by a prince endowed with considerable powers. In the absence of the legislative initiative and in the presence of a monarchical absolute veto power, a politically hostile Assemble could have only debated, amended and voted the legislative bills in contradiction with the governmental agenda and block its fulfilment.⁹¹ Probably, this was the Assembly's power to equilibrate the authority of the executive, mentioned by Walewski in his address from 20 August 1858. After January 1858, the election of the same person as prince of the United Principalities, the disappearance

⁸⁸ The minister Walewski was clearly stating this aspect in his address of August 19th 1858. See Petrescu, Sturdza, Sturdza, *Acte și documente...*, tomul VII, *op. cit.*, *supra*, note 58, p. 337.

⁸⁹ Prélôt, *op. cit.*, *supra*, note 86, p. 38.

⁹⁰ S.M. Catalan, *Le processus de l'unification politique et administrative de l'Etat national roumain (1859-1866)*, in (1989) XXVIII *Revue roumaine d'histoire*, p. 419.

⁹¹ However, the Romanian political life after 1858 will emphasize the differences between the French and Romanian authoritarian regimes. The relationships between the conventional prince and the Elective Assembly(ies) were quite different from the relationships between the French Emperor and the bicameral parliament regulated by the 1852 French Constitution. Following the antiparliamentary spirit of the epoch that was aiming at recovering the Bonapartism, the French legislative corps was not meant to be a real counterweight of the imperial power. Having an 'intuitu personae delegated sovereignty', responsible only to the people, entrusted with the supreme governing of the country in the frame of a powers division that has subordinated the parliament to the executive, having constitutional leverage against an activist legislative corps, Napoleon III encountered no political resistance in the first decade of his ruling. The situation will be different in Cuza's case. Elected by both Elective Assemblies, following a political compromise around the national agenda between the Moldavian and Wallachian political factions, in a political climate dominated by the Romanian political elite's desire to limit the prince's power, without having been entitled 'head of state' and sharing the legislative power with the assemblies and the Central Commission, the Romanian prince have had small chances to politically control a hostile parliament. See S. Caporal, *Le césarisme dans les constitutions françaises*, in *Du césarisme antique au césarisme moderne*, *op. cit.*, *supra*, note 83, p. 152-154; Guțan, *op. cit.*, *supra*, note 29, p. 327-328.

of the possible cross-limitation of power between the Moldavian and Wallachian princes have significantly increased the risk of power's personalisation and opened the Romania political life to an authoritarian ruling.

5. Importing Authoritarianism: The Statute Amending the Paris Convention (1864)

After the entry into force of the Paris Convention, the Romanian Principalities were expected to apply them effectively. Naturally, the organization of the state's main organs had priority. In spite of the great power's desire to keep the Principalities as separated as possible, and in flagrant contradiction with the conventional provisions, the Elective Assemblies of Moldova and Wallachia successively elected, as the prince of both Romanian states, the colonel Alexandru Ioan Cuza (January 1859). Thus, applying the policy of the '*fait accompli*' the Romanian political elite succeeded to obtain *de facto* what they could not have *de jure*: a common prince. The subsequent diplomatic negotiations and the very strong political support coming from France led the great powers to a compromise, i.e. the common prince was accepted but only during the life of Cuza. Thus, an association of states was born, situated somewhere between a 'real union' and a 'personal union', having in common both the prince and the Central Commission but separate unicameral parliaments and governments.

A former judge with a French legal education, former public officer with a military career, former revolutionary at 1848 and a moderate liberal, Al. I. Cuza took very seriously his mission to build the foundations of modern Romania. His task was really difficult, considering the constant external political tensions, the claims of the suzerain power (the Ottoman Empire), the constraints of the Convention and the opposition of the Romanian conservative elites. The expectations of the Romanian society were huge and primarily focused on the building of the Romanian unitary nation-state and its international legitimization. This is why, Cuza has constantly been under a strong pressure coming, on the one hand, from those that, ignoring the conventional provisions, were demanding the immediate and full political unification of the Romanian Principalities and, on the other hand, from those considering the foreign prince the only decent chance for the Romanian political emancipation. While the first desideratum was accomplished in January 1862, when Moldova and Wallachia gave birth to a unitary nation-state named Romania, the fulfilment of the second one had to wait for Cuza's abdication, in the night of 22/23 February 1866.

Following his agenda of social and political modernization, Cuza intended to impose a very ambitious reforms programme centred on making the peasants land-owners, extending the right to vote towards the lower and poor social layers, the secularisation of the huge monastery estates, the modernization of the public administration, the building of a modern, well equipped army, the enactment of new codes (Civil, Criminal and Procedural). These modern objectives, their scope and the necessary means to have them accomplished were very disputed by the Romanian political elites. The latter not only contested these reforms' internal and external opportunity or the existence of the necessary social and cultural resources but also challenged Cuza's constitutional right to impose this governmental agenda. Against the backdrop of Convention's lack of clarity and the large popularity of the parliamentary regime, these controversies led to very intense political debates with regard the constitutional relationships between executive and legislative.

One single question was on everyone's lips: did the Convention establish an authoritarian regime giving to the prince a central place in the constitutional architecture or its provisions could have been interpreted with the lens of the parliamentary regime? Different public statements, oral or written, occurred both in the favour of the first alternative (mainly from the governmental zone⁹²) and in the favour of the second one (mainly from the parliamentary zone). Having in mind the Moldavian ad-hoc Assembly's debates and the strong desire of the Romanian political elite to limit prince's power, the second view was, from afar, more popular (see section 6). These contradictory interpretations of the conventional text were the growing of a harsh political tension between, on the one hand, the prince and his governments and, on the other hand, the parliamentary majorities of both Moldova and Wallachia (5.1). The birth of the unitary nation-state in January 1862 (still under Ottoman suzerainty) did not extinguish/solve the conflict arisen, this time, the unique government and the unique unicameral parliament. On the contrary, the political tensions continued to grow (5.2) and ended, in May 1864, with Cuza's *coup d'état* and the plebiscite on the Statute developing the Paris Convention (5.3).

5.1 *The Institutional Disequilibrium in the Constitutional Life*

The unclear provisions of the Paris Convention regarding the nature of the political regime, the considerable powers of the prince in executive and legislative matters, as well as the modest role, of a mere "brake", of the parliaments in the constitutional architecture, made difficult the launch of a functional parliamentary regime, may it be dualist (orleanist or of double confidence) or monist. By regulating an imbalance of powers in favour of the executive, the Convention was giving the prince the decisive role in establishing the parameters of the constitutional-political life. Elected prince of both Principalities and then being prince of the unified Romania, Al. I. Cuza tried, from the very beginning, to affirm as the main decision-maker. Assuming, on the one hand, the authoritarian character of the prince's power and accepting, on the other hand, some mechanisms of the parliamentary regime (e.g. the vote of no confidence), he has permanently intended to impose his political will before the Elective Assemblies of the United Principalities and, since January 1862, before the unique unicameral parliament of Romania.⁹³ This attitude determined a perpetual political conflict with the parliament and inevitably has brought the blockage of the governmental reforming agenda.

The conflict between the executive and legislative was not only the outcome of a different way to understand the content of the Paris Convention but also the result of a particular political composition of the Elective Assemblies. During the whole reign of prince Cuza, the Romanian political elite was dominated by the old aristocratic elite which, after being stripped of its medieval-origin privileges and titles (the Convention has expressly abolished the boyar titles) continued to control the political and administrative life of the Principalities. Their wealth, underpinned by large and prosperous real estates, was the source of their political power. The growing bourgeoisie was poorly represented at the level of political decision. The modern political parties were inexistent (the National Liberal and Conservative parties will be formally constituted only in 1880s) and the political scene was populated with different political groups of interests, political coteries and ephemeral political alliances coagulated around some conjectural political ideas and economic interests. The only idea that sincerely

⁹² Drăganu, *op. cit.*, *supra*, note 50, p. 106

⁹³ Hitchins, *op. cit.*, *supra*, note 11, p. 371-372.

brought the great majority of the Romanian politicians under the same flag was the national interest. Almost the entire Romanian political elite was primarily fighting for the unitary nation-state and the enthronement of a foreign prince. Differences existed only regarding the rhythm and the moment of their accomplishment. Nevertheless, a remarkable polarisation existed with regard the internal social, economic and political agenda. Everyone was acknowledging the need of Romanian society to be modernized but radically opposite political views have occurred with regard the scope, objectives and rhythm of modernization. On the one hand, the conservatives (the political right or ‘the whites’), backed by the grand land-owners, were preaching organic and gradual reforms, meeting the Romanian culture and legal traditions. On the other hand, the liberals (the political left or ‘the reds’), whether radicals or moderates, were in favour of a rapid top-to-bottom modernization with the help of a new legislation imported from the Western European legal models. Very tense debates have been caused by the liberals' intention to make the peasants land-owners on the grand private real-estates and the widening of the electorate. The conservatives were interested in protecting their lands against the peasantry's demands. In the same time, they appreciated the limited right to vote (conditioned by wealth), regulated by Convention, as the proper legislative context for preserving the aristocratic parliament of the Organic Regulations⁹⁴, as perfectly reflecting the political and economic development of the Romanian society and, last but not least, as the perfect tool to control the liberal oriented governmental agenda. As to the liberals, settling the peasants as land-owners was a gesture of social justice and a legal platform for their political and economic emancipation.

As a moderate liberal, prince Cuza had a wide political agenda to be fulfilled with the help of a modern legislation inspired by the Western European legal models (especially the French one). The election of one single prince instead of two, as stipulated by the conventional text, seemed to have opened an easier path towards (legal) modernization. However, despite his important legislative powers, considerably increased after the Central Commission was removed from the legislative procedure, following the birth of the unitary nation-state (January 1862), the governmental agenda has been constantly blocked. Becoming the only initiator of the legislative bills and having abolished the constitutional review did not help Cuza to reach his legislative goals. The main cause was the political composition of the assemblies between 1859 and 1864. According to the conventional electoral provisions, the deputies had been elected on the basis of a very high wealth qualification.⁹⁵ As a consequence, all assemblies of this period included a large conservative majority dominating a small liberal minority. Moreover, inasmuch as the radical liberals have noticed Cuza's disregard of the social and national agenda and his appetite for authoritarianism, they joined the conservative's efforts to overthrow the prince. Using his right to debate and vote the legislative bills, the conservative majoritarian parliaments had frequently blocked the governmental initiatives. In these cases, prince Cuza had no constitutional and political leverage to have his legislative bills voted. Dissolving the parliament and going to the people was scarcely a working constitutional solution.⁹⁶ The motive was simple: as long as the

⁹⁴ A. Stan, *Grupări și curente politice în România între Unire și Independență* (București: Editura științifică și enciclopedică, 1979), p. 124-125.

⁹⁵ In Moldova had the right to vote only 1724 electors, including only 879 primary electors for a population of 2.000.000 inhabitants. In Wallachia had the right to vote only 2372 electors, including only 1259 primary electors, for a population of 2.500.000 inhabitants.

⁹⁶ Following his authoritarian logic, Cuza decided to dismiss the parliament also in cases where the political conflict between the government and the parliament was missing. This was the case of the first Elective Assemblies of Moldova and Wallachia, dissolved by Cuza in order to increase his parliamentary support. The rest were meant to settle the conflict between the government and the parliamentary majority, e.g. the dissolution

government did not, regularly,⁹⁷ interfered with the parliamentary elections, the conventional electoral provisions have determined not only the election of the same conservative majority, but also the election of almost the same conservative deputies.

Unfortunately, the unification of January 1862 and the suspension of the Central Commission increased not only prince's powers but also the role of the parliament in the legislative process. While the vanishing of the local interest legislation and the Central Commission had eliminated the constitutional review from the legislative process, the new unified parliament got the last word with regard the legislative bills before them being sanctioned and promulgated. As Cuza himself noticed, the disappearance of the Central Commission had eliminated the buffer-institution between the executive and legislative⁹⁸ letting a very powerful prince in front of an Assembly powerful enough as to oblige him either to sanction the voted legislative bills or to veto them.

Although deprived by the constitutional tool of parliament dissolution, Cuza did not surrender in front of the conservative's political pressures and pursued his reforming agenda. For this purpose, he almost constantly refused to recruit his ministers from the members of the parliamentary conservative majority.⁹⁹ He was neither attracted by the collaboration with the radical liberals as they were too anxious to fulfil the national agenda, risking to compromise Cuza's prudent diplomacy. Consequently, he regularly entrusted the ministers to moderate liberals. Inevitably, this approach gave birth to a series of personal governs of the prince and increased the tensions with the parliamentary conservative majority. Cuza's policy of ministerial appointment has been theorized and intensively backed by the government as a constitutional right of the prince.¹⁰⁰

It is obvious, from the above, that the ministerial appointment was not, between 1859 and 1864, a political bargaining between the prince and the parliament. The witnesses of the epoch tell us that Cuza was rather ready to consult Victor Place, the French ambassador in Moldova, with regard his ministers than the parliamentary conservative majority.¹⁰¹ Frequently, Cuza chose his ministers from outside the assemblies¹⁰² thus strengthening their political bounds with the prince. Calling the ministers, with different occasions, 'my council' or 'my minister' clearly reflects the princes' state of mind. The ministers themselves have defended in front of the assemblies their status of prince's representatives and have remarked the futility of the formal parliamentary confidence. At the same time, the negotiation of the

of the Wallachian Assembly in February 1861, after its vote of no confidence against the Epureanu government (February 1861). Contrary to the parliamentary spirit, the same government has dissolved the newly elected Assembly before it resigned. The last dissolution occurred in May 1864, with the occasion of *coup d'état*.

⁹⁷ C.C. Angelescu, *Proiectul de Constituție al lui Cuza Vodă de la 1863* (București: Tipografia Libertatea, 1935), p. 8. In fact, even if it tried once to seriously manipulate the parliamentary elections, the government got the same composition of the parliament. See A.D. Xenopol, *Domnia lui Cuza Vodă*, vol. I (București: Editura Elf, 2010), p. 153.

⁹⁸ The explanatory address sent by Cuza to the Romanian ambassador at Istanbul, C. Negri, dated June 27th 1863. See S. Neagoe (ed.), *Cuza Vodă. România* (București: Machiavelli, 2009), p. 228.

⁹⁹ Only four councils out of 24 existing in the period 1859-1864 were conservative and they generally stayed only short terms in power. For example, the conservative council led by B. Catargiu in Moldova governed only 12 days (starting with 30 April 1861). See Drăganu, *op. cit.*, *supra*, note 50, p. 140.

¹⁰⁰ *Id.*, p. 140-141.

¹⁰¹ I. Hudiță, *Franța și Cuza Vodă* (București: Tipografia Carpați, P. Bărbulescu, 1941), p. 20.

¹⁰² In Moldova this approach was determined by a formal incompatibility between the ministerial and parliamentary mandates enshrined, in the spirit of the ad-hoc Assembly's debates, in the Moldavian Assembly's internal regulation.

governmental agenda with the parliamentary majority has never been a real and constant political concern for Cuza. Its content was usually established by Cuza and assumed by the council of ministers. In return, he tried to group and regroup the various political orientations with the aim, on the one hand, to build his own political party and, on the other hand, to broke his opponents.¹⁰³ Moreover, despite the relative political autonomy of his councils, the prince continued to be deeply involved in the act of government, especially in the external policy. He expressly adhered to the principle of ‘the king rules and govern.’¹⁰⁴ Besides the conventional provisions that underpinned this approach, Cuza’s political behaviour was driven also by the Romanian constitutional and political tradition of the Romanian princes’ arbitrary and authoritarian ruling, by controlling the internal and external political agendas.¹⁰⁵ It would have been very difficult to have overnight, after 1859, a strong change of mentality and a prince with no interference with the act of government. As a consequence, the constitutional and political life between 1859 and 1864 was far from establishing neither a political harmony between the prince, the council of ministers and the parliament, as requested by the proponents of the dualist parliamentary regime, nor a relationship of political confidence and political collaboration between the executive and the parliament, as expected by the proponents of the English monist parliamentary regime.

Despite the strong political bond between the prince and his council of ministers, the constitutional and political life did not know, as some would have been expected, a political responsibility of government only before prince Cuza. We may notice, for this period, both in Moldova and Wallachia and, since January 1862, in Romania, the application of some parliamentary mechanisms allowing the assemblies to pursue the political responsibility of the government, e.g. the parliament’s message to the throne, ministers’ interpellation, the refusal to vote the budget and, last but not least, the motion of no-confidence. As a consequence, some governments have resigned. However, some should not overestimate the assemblies’ role in deciding the political fate of the council. At the end, the political decision has been in Cuza’s hands. Interestingly enough, Cuza did not forced the preservation of his governments, after the vote of no confidence given by the conservative parliamentary majorities. Taking into consideration the inefficacy of parliament’s dissolution constitutional mechanism and his desire to not escalate the political conflict with the parliaments,¹⁰⁶ Cuza regularly¹⁰⁷ accepted his governments to fall, after receiving a vote of no confidence. In one case, following the

¹⁰³ Stan, *op. cit.*, *supra*, note 94, p. 158 ff.

¹⁰⁴ Drăganu, *op. cit.*, *supra*, note 50, p. 108.

¹⁰⁵ After a Romanian Middle Age, where the Romanian princes had a remarkable political authority over the boyars, the Ottoman practice (starting with 1711) to directly enthrone Phanariots in the Romanian Principalities has established an oriental type of the absolutist monarchy, dominated by despotism and arbitrary. At their turn, the Organic Regulations (1831/1832-1858) have established very powerful princes in a constitutional design inspired by the Western European limited monarchy.

¹⁰⁶ In the first years of his reign, Cuza could not rely on some political party’s loyalty and, at the same time, he did not get enough personal prestige and popularity to afford an open war with the parliaments. See V. Stan, *Regimul parlamentar în anii 1859-1864*, in *Istoria parlamentului și a vieții parlamentare din România* (București: Editura Academiei RSR, 1983), p. 127 și 134; Drăganu, *op. cit.*, *supra*, note 50, p. 124. Moreover, his election was not due to his personal visibility in the Romanian political life but to the compromise reached by the Moldavians and Wallachian around a seemingly unambitious military unwillingly to hamper the project of the foreign prince. Cuza was aware that his election was the outcome of a parliamentary vote. All these determined Cuza to accept his councils of ministers to resign after the parliamentary vote of no confidence but did not deter him to follow his authoritarian political logic.

¹⁰⁷ After a vote of no confidence, in Moldova, the following governments fell: V. Sturdza (March 1859) and M. Kogălniceanu (January 1861); in Wallachia, the governments: I. Filipescu (March 1859), I. Ghica (May 1860) and Șt. Golescu (July 1861), the last one only after being kept in power by Cuza until the end of the parliamentary session.

same logic of the parliamentary regime, he accepted his government to fall only after dissolving the parliament and calling for new parliamentary elections.¹⁰⁸ Nevertheless, Cuza did not hesitate to act in the logic of authoritarianism in other cases. Thus, in February 1863 he did not accept the fall of his council after the Assembly refused to vote the budget (considered an equivalent of a vote of no confidence) and, in the same time, he did not appeal to the dissolution of parliament.¹⁰⁹ The most prominent example occurred in May 1864 when, facing the imminence of a vote of no confidence against his government, Cuza dissolved the parliament and gave to the country the Statute developing the Paris Convention.

Yet, the vote of no confidence did not have the decisive part in the council's dismissal. In the (authoritarian) spirit of the Convention, the great majority of the councils (15 out of 24) fell after the prince manifested his own political distrust.¹¹⁰ Emblematic is the fall of the conservative council of ministers led by Barbu Catargiu (June 1862) which, although strongly backed by the conservative parliamentary majority, had to resign after Cuza vetoed one of its main legislative bills. Overall, if we take into account the two councils of ministers resigning in January 1862, when the unitary nation-state was born, only 7 governments have fallen following the vote of no confidence. Finally, the assemblies succeeded neither to impose their governments to the prince nor to break the strong political bond between Cuza and his ministers.

5.2 *The Premises of the Coup d'Etat of 14 May 1864*

For certain, the entire constitutional and political activity of prince Cuza, between January 1859 and May 1864, proves his lack of a real and constant interest in launching and consolidating the parliamentary regime in Romania, despite a considerable popularity of this political regime amidst the Romanian political elite (see section 6). Accepting a compromise with the parliamentary majority with regard the ministerial appointment and the governmental agenda would have meant to give up or to significantly slow down the rhythm of the envisaged reforms. This is why Cuza refused to realise it. As a Romanian historian put it, 'the majority's reactionary character and Cuza's radicalism were irreconcilable.'¹¹¹

However, it was precisely Cuza's ambition to appoint personal governments and his desire to pursue a personal governmental agenda that have considerably compromised his reform programme. Assuming their right to amend and vote the legislative bills, the assemblies have succeeded to deter important reforms like the peasants' land ownership and the right to vote.¹¹² Several times, Cuza had to use his veto power to block bills initiated by the government but suffering significant changes of their scope and aims after the vote of the parliament. Likewise, he had to oppose the bills initiated by the government, in the short

¹⁰⁸ It was the case of M.C. Epureanu council of ministers which has resigned in April 1861 after the new parliamentary elections have produced the same conservative parliamentary majority.

¹⁰⁹ It was the case of N. Crețulescu council, who resigned, finally, only in October 1863.

¹¹⁰ The immediate consequence of these political developments was the considerable high number of the councils of ministers in a relatively short period of time. Thus, between January 1859 and January 1862, Wallachia knew 11 councils and Moldova 9. After January 1862 until May 1864, Romania had 4 councils of ministers.

¹¹¹ Hudiță, *op. cit.*, *supra*, note 101, p. 12.

¹¹² The magnitude of the legislative blockage is perfectly illustrated by the pure legislative production of the parliamentary session 1862-1864: from 68 legislative projects presented by the government only 7 have passed. See C. Preda, *Rumâniile fericiți. Vot și putere de la 1831 până în prezent* (Iași: Polirom, 2011), p. 93.

periods of time when he attempted a governmental collaboration with the conservatives. As already noticed, he had to veto the law for settling the peasants as land-owners elaborated by the conservative government led by B. Catargiu (June 1862). The impossibility to obtain pro-governmental majorities after the parliamentary elections made the conservative majorities even stronger and aggressive. The refusal to prorogue the parliament, convened annually for a session of three months, was only a temporary solution to avoid the parliament's hostility but the political crisis lasted. Accepting the overthrow of his governments by the conservative majorities, occasionally allied with the radical liberals, did not offer the prince considerable political benefits as long as the conflict with the assemblies continued to grow. His appeal to political collaboration and his belief in a political compromise with the parliaments did not materialize, as long as he had no serious intentions to abandon his political agenda.

Besides, a series of inconveniences related to the very complicated and cumbersome legislative procedure regulated by the Convention occurred. Thus, the vote on the common legislative bills was delayed or even blocked when the two assemblies lacked coordination. Sometimes, a legislative bill voted by the Wallachian Assembly was prevented from becoming a law because the Moldavian Assembly perpetually delayed the vote. At the same time, in the presence of many members having no legal education,¹¹³ coming from the conservative parliamentary majority,¹¹⁴ and lost in useless debates, the Central Commission failed to meet its essential role designed by the great European powers.¹¹⁵ Many times, Cuza had to manage the legislative vacuum by using his decree-power in the long periods between the sessions of the assemblies.¹¹⁶

In this political and legislative context, Cuza not only got accustomed with the considerable power of the prince, as it was regulated by the conventional text, but also he gradually started to believe that the only viable solution for having Romania modernized was to increase and consolidate the prince's authority over the parliament by amending the Convention. Accordingly, the electoral legislation was supposed to become the keystone of the entire process of constitutional amendment. Against this background, a parliament having a larger electoral basis was not primarily meant to increase the democratic legitimacy of the parliament but to confer to Cuza his long-expected parliamentary support. Strongly backed by his political fellows¹¹⁷ and having in mind the authoritarian ruling of Napoleon III, Cuza seemed to have accepted since the summer of 1860¹¹⁸ the necessity to overthrow the conventional constitutional order. As Riker puts it:

¹¹³ C.C. Angelescu, *Unificarea legislației Principatelor unite române sub domnia lui Alexandru Ioan Cuza*, în L. Boicu, Gh. Platon, Al Zub (coord.), *Cuza Vodă în memoriam* (Iași, Junimea, 1973), p. 366 ff.

¹¹⁴ Al. Lapedatu, *Viața politică internă*, în Alexandru Ioan Cuza 1859-1866 (București: Universitatea Liberă, 1932), p. 6.

¹¹⁵ With the exception of the elaboration of a constitutional project (1859) which Cuza refused to sanction, the Central commission has succeeded to prepare, during 3 years of functioning, only 6 legislative projects. Five of them have had only 3 or 4 articles and the Law for the Court of Cassation, the largest, had 91 articles. See Angelescu, *op. cit.*, *supra*, note 113, p. 366-368.

¹¹⁶ M. Mihalache, *Cuza Vodă* (București: Editura Tineretului, 1967), p. 105.

¹¹⁷ On 14 May 1863, N. Cretulescu, the president of the Council of ministers, has formally asked Cuza to proceed to a *coup d'état*.

¹¹⁸ Cuza's idea to settle a dictatorial regime was already attested in May 1859 by a letter sent to Napoleon III asking for permission to establish a strong regime, with the aim of fulfilling the political unification of Romanian Principalities. Gradually, the authoritarian regime seemed to be also a good idea for pursuing his modern reforms. See V. Stan, *Câteva considerații în legătură cu "monstruoasa coaliție" și durata existenței ei*, în (1991) *II Revista istorică*, p. 386. According to some opinions coming from Cuza's contemporaries, the idea

Military in his antecedents, and an intense admirer of Napoleon III, he had no doubt a prior prejudice against parliamentary institutions, and the experience he has already acquired as a ruler convinced him that the constitutional government was not adapted to the level of civilization which his countrymen has attained. (...) Cuza was determined that the Principalities should become a compact nation with a workable government, disturbed as little as possible by legislative restrictions.¹¹⁹

The tensions between the executive and legislative came to a peak in 1863, when Cuza started to spread in the diplomatic circles its intentions to radically change the course of the constitutional and political life by drastically amending the conventional provisions. Accusing the extreme instability of the Romanian political life, devoid of strong political parties and dominated by a political elite incapable to correctly apply the parliamentary regime, the prince saw, in June 1863, the solution in an authoritarian regime with a strong executive, unchained by the constraints of the representative government:

It is absolutely necessary to fortify the country with the help of a powerful and respected administration and, for this purpose, it is necessary to completely free the executive power. After the bad experience we have had during the last four years, I must say that the uncertain tools I have are absolutely unsatisfactory for coming to an end the reorganization of the United Principalities. The only solution, in my opinion, is to temporarily suspend the Elective Assembly.¹²⁰

In this temporary constitutional design, the Assembly was replaced by an Administrative Council composed of politicians and public personalities appointed by the prince and entrusted with the legislative powers of the former Assembly.

This constitutional project was difficult to defend in an internal climate concerned about the prince's despotism and an external one worried about Cuza's appetite to launch an 'absolutist reign.'¹²¹ Keeping the idea of a *coup d'état*, Cuza relinquished his intentions to make a new constitution and followed the more moderate and workable idea to amend the Paris Convention. This approach was meant, on the one hand, to subordinate the legislative to the executive and, on the other hand, to increase his chances to have the amendments accepted by the European great powers. In August 1863, Cuza launched a constitutional project which eliminated the radical solution proposed before but considerably consolidated prince's power. Hastily made by Cuza's French secretary, Baligot de Beyne,¹²² the constitutional project was almost fully borrowed from the 1852 French Constitution.¹²³ Cuza's admiration for Napoleon

of a *coup d'état* against the Romanian political disorder was actually born in April 1859 when the Moldavian government of I. Ghica has fallen after a vote of no confidence. See Xenopol, *op. cit. supra*, note 96, p. 102.

¹¹⁹ Riker, *op. cit., supra*, note 61, p. 258-259.

¹²⁰ Letter addressed to Romanian ambassador in Istanbul, C. Negri, on 27 June 1863. See Neagoe, *op. cit., supra*, note 98, p. 244.

¹²¹ Hudiță, *op. cit., supra*, note 101, p. 73. Each great power has reacted following its political interests. After recommending, initially, a compromise between the prince and the Assembly, advocating the necessity of a government appointed from the members of the parliamentary majority, the British was sticking, in 1863, to their geopolitical interests. Lord Bulwer was encouraging Cuza's dictatorship as a guarantee of Ottoman Empire's survival. Last but not least, being very well accommodated with the conventional provisions, Bulwer acknowledged that the conventional constitutional architecture was deeply vitiated. See B. Marinescu, V. Stan, *England and Prince Cuza's coup d'Etat of May 2/14 1864*, in (1993) XXXII *Revue roumaine d'Histoire*, p. 55 ff.

¹²² Hudiță, *op. cit., supra*, note 101, p. 73.

¹²³ I. C. Filitti, *Un proiect de Constituție inedit al lui Cuza Vodă la 1863*, in (1929) V *Anuarul Institutului de istorie națională din Cluj*, p. 357 ff.

III and the constant help provided by the latter probably were among the cause of this constitutional import. At the same time, Cuza needed an antiparliamentarian constitutional solution and the French constitution, regulating a certain primacy of the executive over the legislative, seemed to offer a perfect model. Moreover, as it already contained a series of elements borrowed from the French Constitution, the Convention was making easier the constitutional import.

As a consequence, the prince was fully and expressly empowered to govern with the help of his ministers, appointed by him (in order to avoid further confusions, the project eliminated the Senate and the Assembly from the equation of governmental power); the prince was entitled 'head of state'; the government was out of any political responsibility before the Assembly; the ministers had the express interdiction to become members of the Assembly; the Senate was created, being composed of *de jure* and appointed members, entrusted with an *a priori* constitutional review and the right to amend and interpret the constitution using *senatus-consultes*; the Assembly was not elected by universal vote but the wealth qualification was considerably lowered; a State Council was created, being composed of members and a president appointed by the prince (comparing with the French Constitution where the State Council was chaired by the emperor) and endowed with legislative (preparing and defending the legislative bill in the Senate and the Assembly) and administrative attributions (the administrative review). In order to stress the prince's central role in the legislative process, the bill was maintaining his absolute veto power (he may refuse sanction). Albeit the project could have borrowed the French emperor's power to control the legislative process with the help of the Senate and the State Council, Cuza's project was consolidating the Assembly's power to debate and amend the legislative bills. Thus, if the Assembly's committee entrusted with the examination of a legislative bill was sticking to its amendment, the bill and the committee's point of view were returned to the government, even if the State Council initially rejected that amendment. Considering the conventional text, the constitutional project of 1863 was keeping the original role, as a break / counter-power, of the Assembly. These provisions let an opened door to Assembly's possible resistance against the governmental legislative agenda.

Finally, by resuming the French process of installing the democratic Caesarism of the Second Empire, i.e. *coup d'état* – according a constitution – the plebiscite, Cuza instituted, in May 1864, his authoritarian regime. On 14 May, in a much tensioned internal political context, Cuza dissolved the Assembly and accorded the Statute developing the Paris Convention. This one was heavily inspired by the constitutional project of 1863 but was a shorter and slightly modified version (it had 18 Articles¹²⁴ instead of 67 in the project) meant to reassure the great powers that his political actions were not aiming at despotism. Finally, on 22 and 26 May, the Statute was the object of a constitutional plebiscite and was voted with a large majority by a Romanian people very attached to the prince.

5.3. The Statute Developing the Paris Convention

The Statute Developing the Paris Convention was enacted with the clear aim to amend Paris Convention's provisions. This was expressly stipulated in the Statue's preamble: on the

¹²⁴ In conformity with the Statute developing the Convention of August 19th 1858, accorded by Cuza on 14 July and published in the Official Monitor of 15 July 1864.

one hand, the provisions regulating the Central Commission had to be removed, following the birth of the unitary nation-state, and its attributions reassigned; on the other hand, the balance between the executive and legislative powers had to be reassessed. The former aim fully found its expression in the Statute: the great majority of its provisions were envisaging the legislative power and the legislative process, both closely linked with the Central Commission attributions. With regard to the latter purpose, Cuza was clearly desiring to eliminate the tensions between the government and the former Assembly dominated by a conservative majority. He reached this objective rather by rethinking and reassessing the structure and powers of the parliament than by recalibrating the constitutional relationships between the executive and the legislative that, in their essence, were the same. According to Article 20 of the Additional Act to the Istanbul Protocol of June 1864¹²⁵, all Paris Convention's provisions not being amended were confirmed and were producing legal effects. As a consequence, the Romanian constitutional order was regulated, between May 1864 and May 1866, by the Paris Convention, with all the Organic Regulations' provisions still producing legal effects, besides the Statute's amendments, all three constitutional acts representing, I may say, a 'constitutional block'.

The Statute kept unchanged not only the great part of the relationships between the executive and the legislative, but also the structure of the executive. The prince was governing with the help of his ministers, appointed by him, his acts were countersigned by the competent ministers, the latter were legally responsible before the High Court of Justice and Cassation and politically responsible before the prince. Nothing was still mentioned about the political solidarity of the ministers and their interdiction to be members of the parliament. The structure of the parliament became bicameral under strong influences coming from the French Constitution of 1852. The Elective Assembly has kept its powers and the Senate (*Corpus ponderator*) was receiving the Central Commission's attributions with regard to the a priori constitutional review. The legislative procedure was remaining almost the same with those existing between 1862 and 1864 as regards the prince's central role but was suffering significant changes as regards both the debating and amendment process and the constitutional review. The Statute significantly amended the Convention but, at the same time, was departing from the French Constitution of 1852. The prince had the exclusive right to initiate, the legislative bills were prepared by State Council (this one was receiving now a constitutional status¹²⁶), defended in the parliament by the ministers or the State Council's representatives, the Assembly had the right to debate and amend the legislative bills (with an exclusive right with regard to the budget), at the end, the Senate was analysing their constitutionality. Compared with the French model, the Romanian Senate had lesser powers in the legislative process. A series of alternatives were applied, depending on the Senate's agreement or disagreement with the Assembly's amendments, and on the presence or not of its own amendments. Interestingly enough, when the Senate was deciding to amend the legislative bills, its amendments were approved or rejected by the Assembly. If the Assembly rejected the amendments of the Senate, the legislative bill would be sent back to the State Council. On the contrary, if the Senate was deciding not to amend but to reject the entire legislative bill, it would be sent back to the State Council and presented again in the Assembly, in the next legislative session. The Statute was silent about the next steps (most probably, the entire legislative process was resumed) but, for certain, it was giving the

¹²⁵ Precisely, it is about the Additional Act of 19 August 1864, attached to the Istanbul Protocol of 28 June 1864. This Protocol has approved Cuza's Statute and decided the new constitutional organization of Romanian state under the Ottoman suzerainty.

¹²⁶ The State Council was, in the meantime, created and organized by the Law of 11 February 1864.

Assembly the last word at the end of the legislative cycle at the parliamentary level, not to the Senate, neither to the State Council. Rather, the Assembly was counter-weighting the Senate not vice versa. As a consequence, even if the Statute was preserving the prince's decisive role, by sanctioning or veto-ing the legislative bill, the Assembly kept its role of a legislative brake.¹²⁷

However, the added authoritarianism was visible in the Statute. Like in the French model, the Senate became the prince's 'Trojan horse' inside the parliament, being, due to its composition, politically dependent by the prince. At the same time, the State Council, a very important actor of the legislative procedure, was, at its turn, politically and institutionally subordinated to the prince. Yet, the most evident tools of prince's authoritarianism were the government's right to rule by decrees until the future election of a new Assembly and the right to take urgent measures between the legislative sessions.

Considering the above institutional evolution, it is very clear that, by connecting the Convention to the 1852 French Constitution's ethos and by considerably increasing the institutional import from the same constitution, the Statute marked only a difference of degree not of nature from the Paris Convention. It was about to increase the prince's already considerable powers in a new ideological and institutional context. It was about the passage from the conventional architecture, which was reminding rather the period of the limited monarchy regulated by the Organic Regulations, to a democratic Caesarism.¹²⁸

The amendment of the Paris Convention allowed Cuza to fully pursue his political and legislative goals. Becoming the master of the public opinion (he decreed a strong press censorship) and of the political life, being the supreme settler of the governmental agenda, he succeeded, with the help of a docile parliament, recruited through intense electoral manipulation,¹²⁹ to achieve the great part of the legislative reforms, thus giving birth to the modern (at least in its shapes) Romania. Cuza did not hesitate to use the government's decree-power to undertake the most important legislative reforms, e.g. the agrarian reform, by settling the peasants as land-owners, the Civil, Criminal and Procedural Codes, the reform of public education, reorganization of the army etc., skipping the obligation to submit them to the parliament's approval.¹³⁰ Significantly, between July 1864 and December 1864, when the new Assembly was convened, have been issued 40 decrees-law. Despite some voices asking for a liberalisation of the political life and some manifestations of political independence of the Assembly, reminding the parliamentary regime (see *infra*), we may say that this political regime completely disappeared from the Romanian constitutional and political life.

¹²⁷ See Guțan, *op. cit.*, *supra*, note 29, p. 347.

¹²⁸ The democratic caesarism of the French Second Empire was, in its essence, an authoritarian regime masked behind some principles and institutions of the liberal constitutionalism, e.g. the national sovereignty, separation of powers, ministerial responsibility etc. De jure and de facto, both the institutional design and the constitutional-political practices were giving expression to the emperor's personal legitimacy. Thus, the charismatic head of state had an historical legitimacy, underpinned by the popular vote, located at the very bases of the new political regime. Institutionally speaking, the state powers were concentrated in his hands, with no efficient checks and balances, the executive was above the legislative both due to its right to initiate and its right to rule by decrees-laws, and the ministers were responsible only in the front of the emperor. See Caporal, *op. cit.*, *supra*, note 91, p. 145 ff., especially p. 150.

¹²⁹ G. Chiriță, *Organizarea instituțiilor moderne ale statului român (1856-1866)* (București: Editura Academiei Române, 1999), p. 64. The main tools of electoral manipulation have been imported from France of Napoleon III: the system of official candidates and the press censorship. See also Drăganu, *op. cit.*, *supra*, note 50, p. 166-168.

¹³⁰ Angelescu, *op. cit.*, *supra*, note 113, p. 394; 399 ff.

6. The Fight for the Parliamentary Regime

While the Paris Convention was regulating a very powerful prince and a less powerful parliament, while the prince Cuza permanently followed to consolidate his personal power, giving life to the conventional provisions, the great majority of the Romanian political elite was faithful to the political agenda established at 1857, especially to the idea of the representative government and the parliamentary regime. Whether the constitutional debates in the Moldavian ad-hoc Assembly were confused, after 1859, the public speeches and the publications of some liberal and conservative Romanian politicians let no room for doubts about their preference for this political regime.

As a consequence, the great majority of the Romanian politicians interpreted the conventional provisions through the lens of the parliamentary regime, although the conventional institutional design and spirit were letting, overall, no room for this political regime. On their own, the ministerial juridical responsibility and the countersigning were completely insufficient to institutionally justify this political regime. However, the Romanian politicians held on to their interpretative pattern and constantly evaluated the governmental activity against the parliamentary regime's mechanisms.

Unfortunately, the great majority of their public support for parliamentarianism occurred in the parliament or the Central Commission, in the public debates, private letters and, rarely, diverse political programmes. Complex theoretical analyses and academic doctrinal approaches meant to address the concepts, principles and institutional design of the Paris Convention did not exist. Some detailed but few comments were published in the newspapers. The legal normativity meant to increase the presence of the parliamentary regime was, at its turn, very poor and can be traced only in the internal regulations of the assemblies. As a result, it is very difficult to figure out whether the Romanian political elite was in favour of a dualist parliamentary regime (with a government politically responsible both in front of the prince and the parliament) or a monist one (with the government being politically responsible only in the front of the parliament). The public debates and writing were witnessing doctrinal influences from France, Belgium and England and the Romanian politicians were very updated with the constitutional and political life of those states. The principle defended in France by Thiers 'the king rules but does not govern' was known to the Romanian politicians and frequently evoked in the parliamentary debates. Taking the prince out of the governmental act and making the government autonomous from the prince were, for some, the guarantees of a full political solidary responsibility of the ministers before the parliament. There were also some voices considering the government as a 'transmission belt' between the prince and parliament. Regardless their views about the ministerial political responsibility, all Cuza's opponents were demanding his compliance with the rules of the parliamentary regime.

Unfortunately, we have a single systematic and complex juridical analysis of the Paris Convention undertaken by a Romanian jurist at that time. Starting with the autumn of 1858, immediately after the Convention come into force, Vasile Boerescu, a Romanian jurist with legal studies in Paris, was publishing in the *Nationalul* newspaper,¹³¹ a series of comments about the new constitutional act of the Romanian Principalities. Undertaking a detailed

¹³¹ Almost immediately, these newspaper articles were published in a volume entitled *Explicarea Convențiunei relativă la organizarea Principatelor Române*, Tipografia Jurnalului Naționalul, București, 1858.

analysis, he was noticing in the conventional text all elements of the dualist parliamentary regime as they had already been theorized by the French constitutional doctrine in the years 1830-1840.¹³² Thus, the ministerial responsibility was expected to occur not only as an individual juridical one, in front of the High Court of Justice but also as a collective political one before the parliament. Moreover, the government should have had both the political confidence of the prince and of the Assembly, assuring the political harmony between them. The prince was meant to arbitrate the political conflicts between the government and the Assembly: he was expected either to accept the government dismissal, after the vote of no confidence, or to keep his government, dissolve the parliament and go to the people. Should the former parliamentary majority gain the elections, the prince was expected to dismiss his government and appoint another one.¹³³

For the rest, the Romanian politicians' opinions represent a puzzle rather difficult to solve. The clear expression of their attachment to the parliamentary regime had already manifested in the first year of Cuza's reign when the Moldavian and Wallachian assemblies had assumed their constitutional autonomy not only by enacting their own internal regulations but also expressly enshrining parliamentary tools like the minister's interpellation. At the same time, the Romanian MPs, both liberal and conservative, expressed their belief that the conventional provisions were encapsulating the principles of the parliamentary regime, e.g. the prince's inviolability and irresponsibility, his right to dissolve the parliament and the political responsibility of the government before the parliament.¹³⁴ The appointment of the ministers by the prince among the parliamentary majority was also frequently claimed and the fact that Cuza was frequently ignoring it was harshly criticized.¹³⁵ At its turn, the prince's right to dissolve the parliament was understood in Wallachia (1860) only in close relation to the existence of a political conflict between the government and the Assembly that had to be arbitrated.¹³⁶

Cuza's political style, the permanent tensions between the government and the parliament, the much more visible intentions of the prince to amend the Convention and increase his authoritarian power, all these represented good contexts for the political elite to clearly express its commitment to the principles and mechanisms of the parliamentary regime. A very favourable moment was the debate of the parliament's address to the throne, at the beginning of the parliamentary session of 1862-1863. At that time, it was sharply clear to the parliamentary majority (already composed by conservatives and radical liberals) that Article 14 of the Convention, stating that the prince was governing with his ministers, should have been interpreted along with Article 15, regulating the countersigning of the prince's acts by his ministers, in the light of the very well-known principle 'the king rules but he do not govern'. From their point of view, the countersigning did not represent a mere formal validation of prince's acts, but a fully assuming of the juridical and political responsibility by his ministers. The liberal I.C. Bratianu's logic was correct, in the presence of an unclear conventional text: either the prince was governing and, as a consequence, he should have been responsible besides his ministers, or he was irresponsible and the ministers should have

¹³² See Laquieze, *op. cit.*, *supra*, note 32, p. 163 ff.; R. Capitant, *Régimes parlementaires*, in *Mélanges R. Carré de Malberg* (Paris: Recueil Sirey, 1933), p. 41 ff.

¹³³ Petrescu, Sturdza, Sturdza, *Acte și documente...*, tomul VII, *op. cit.*, *supra*, note 58, p. 423-424.

¹³⁴ Drăganu, *op. cit.*, *supra*, note 50, p. 113-114.

¹³⁵ *Id.*, p. 139.

¹³⁶ *Ibid.*, p. 142.

govern in his place.¹³⁷ That moment was clearly one of doctrinal effervescence. Coagulated as a hybrid political force, the coalition of radical liberals and conservatives, known under the name of ‘monstrous coalition’, succeeded to synthesize, in the same period, a political programme that was remarkable for its liberalism. They were demanding a sincere and true representative government, checks and balances, an unaltered parliamentary regime, a limited government with clear constitutional attributions, viewed as the real constitutional guarantee for everybody.¹³⁸ It was not clear what exactly they meant by ‘parliamentary regime’ but this one was considered the only alternative to the long Romanian traditions of prince’s authoritarianism.

Even M. Kogălniceanu, a moderate liberal and the main collaborator of prince Cuza after his *coup d’état*, was declaring in the same famous parliamentary debate of February 1863, in a conciliatory spirit:

(...) once the prince has appointed his ministers, they have the duty to obtain the confidence of the Chamber. A government (...) that is not accepted by the parliamentary majority cannot function and, in this case, (...) intervenes the head of state’s right to observe, to evaluate his ministers and the Chamber and, whether the Chamber stick to his decision, he should either go to the people or the government should resign.¹³⁹

Kogălniceanu was summing up the essence of the dualist parliamentary regime. Unfortunately, the same politician, president of a Council of ministers receiving a vote of no confidence in April 1864, became the prince’s ally in his efforts to break these rules. Cuza’s refusal to accept the fall of this government, keeping it in power, and forcing the parliament to collaborate for having completed the prince’s reforming agenda have determined the deputies to express their commitment to the (dualist) parliamentary regime. They claimed the Assembly’s right to adopt a vote of no confidence and the prince’s duty either to dissolve the parliament or to dismiss the government.¹⁴⁰

The interest in the monist parliamentary regime was manifested in several occasions. In the spirit of the English parliamentarianism, the Central Commission was demanding that the necessity and the moment of the parliament dissolution to be decided by the government.¹⁴¹ At their turn, the radical liberals were asking, in November 1863, the government to obey the law and administrate the country by considering the will of the parliamentary majority.¹⁴²

Against expectations, this debate did not stop after the *coup d’état* of May 1864. Although the manipulation of the legislative elections has tamed for a while the fight for the parliamentary regime, the Romanian political elite’s interest in this political regime has been clearly asserted at the end of 1865 and the beginning of 1866. Amending the conventional text was considered a direct attack against the parliamentary regime. At the same time, the political critique against the prince’s arbitrary was strong and made public with the help of the Romanian and French newspapers or by publishing in France political brochures hoping to

¹³⁷ Drăganu, *op. cit. supra*, note 50, p.110

¹³⁸ Stan, *op. cit., supra*, note 118, p. 390.

¹³⁹ M. Kogălniceanu, *Cuvânt în contra adresei rostite în ședința Adunării generale a României din 9 februarie 1863* (București, 1863), p. 6.

¹⁴⁰ See *Relation authentique de coup d’état de Prince Couza* (Paris 1864), p. 10 ff.

¹⁴¹ Drăganu, *op. cit., supra*, note 50, p. 143.

¹⁴² Stan, Iosa, *op. cit., supra*, note 11, p. 93.

draw the French opinion's attention to the Romanian government abuses.¹⁴³ Considering the growing authoritarianism of the prince and the governmental abuses, the Assembly itself has fervently resumed the debates with regard the prince's constitutional place and the relationships between the executive and legislative. The political responsibility of the government before the parliament has been reaffirmed having as corollary the irresponsibility of the prince despite the contrary provisions of the Statute. As C. Boerescu (the brother of V. Boerescu) put it,

(...) His Highness is an inviolable person, sacred and irresponsible as we, the nation's representatives, are. His Highness is ruling but not governing; the action is entrusted to the ministers. Only against these one and against nobody else, we should aim our (political) surveillance.¹⁴⁴

These debates were witnessing an increasing discontent amidst the Romanian political elite with regard the authoritarian policy of the prince. Both liberals and conservative were accusing prince's despotism, were reacting against the governmental abuses, especially against the practice of enacting and amending the legislation by decrees-law¹⁴⁵ and were manifesting their dissatisfaction for not having accomplished the goals of 1857, especially the enthronement of a foreign prince. The attachment to the principles and mechanisms of the parliamentary regime has constantly increased their political collaboration inside the 'monstrous coalition'.¹⁴⁶ Beyond their political interests and the vanity of their political leaders, the fact that this coalition succeeded, in February 1866, to overthrow Cuza was also, symbolically, a great victory of the parliamentary regime against caesarism.

7. Conclusions

Cuza's reign, dominated by the conflict between authoritarianism and parliamentarianism, created a dilemma in the Romanian constitutional historiography: on the one hand, by appealing to the authoritarian solution of the French Second Empire, Cuza succeeded not only to fulfil the national agenda, creating the Romanian unitary nation-state, but also to accomplish the reforms necessary to modernize the Romanian state and society; on the other hand, Cuza's political behaviour eliminated the parliamentary regime, a political regime arduously desired by the great majority of the Romanian politicians of that epoch. Consequently, should Cuza's reign be blamed or praised?

The Romanian historiography, generally, and the Romanian constitutional historiography, especially, have created for Cuza, before, during and after the communism, the image of a founding father. Being infused by nationalism and sensitive to the ideals of national unity and of preservation of the Romanian nation-state, they naturally magnified and popularized the

¹⁴³ See the brochure *La France, le Prince Couza et la liberté en orient*, Paris, 1864. At his turn, the radical liberal C.A. Rosetti, the head of the newspaper *Romanul*, has published a brochure exposing the very stormy debates in the Romanian Assembly of May 14th 1864, before being dissolved by Cuza. See *Relation authentique ...*, *op. cit.*, *supra*, note 140.

¹⁴⁴ Drăganu, *op. cit.*, *supra*, note 50, p. 177.

¹⁴⁵ See the amendments to the parliamentary majority's response to the throne in the session 1865-1866, published in Paris in the brochure *Assemblée électorale de la Roumanie – Le gouvernement du Prince Couza jugé par ses amis*, Paris 1866.

¹⁴⁶ See V. Russu, *Monstruoasa coaliție și detronarea lui Al. I. Cuza*, in L. Boicu, Gh. Platon, Al Zub (coord.), *op. cit.*, *supra*, note 110, p. 503 ff.

portrait of a national hero. Frequently, the historians fought and are still fighting to justify each step of Cuza's reign, permanently finding and promoting new arguments supporting his political acts. As a consequence, starting with the end of the 19th century, a canonical narrative has been established: in the first part of his reign, Cuza, as a forward-thinking leader, tried to modernize the Romanian state and society following the Western European models; for this purpose, he tried to collaborate with the political elite, including the conservative, by applying the mechanisms of the parliamentary regime enshrined in the conventional text; exasperate by the permanent opposition coming from the retrograde conservative and radical liberals, facing the impossibility to work with the parliaments confiscated by conservative majorities, and having his reforms agenda blocked,¹⁴⁷ Cuza was constrained¹⁴⁸ to give a *coup d'état* in May 1864; this endeavour allowed him to amend in the conventional text only those articles 'that were impeding the building of a equitable and harmonious society', i.e. the electoral provisions;¹⁴⁹ after the Statute developing the Paris Convention won the plebiscite and came into force, Cuza succeeded to undertake his famous reforms and to found the Romanian modern nation-state;¹⁵⁰ following his authoritarian policy, Cuza encouraged the unthinkable, i.e. the birth of a political coalition between the conservatives and radical liberal labelled 'the monstrous coalition' that, finally, has obtained his abdication. From these, an impressive portrait of the prince has been drawn: an incorruptible statesman, a patriot eager to pay his tribute for the unification of the Romanian Principalities, willing to pursue the right reforms for social, economic and political modernization, full of empathy for the poor and for those exploited by the rich, a politician devoid of personal ambitions and uninterested in power that appealed to Caesarism only when he had no other choice. While creating myths around Cuza's personality and reign,¹⁵¹ the Romanian (constitutional) historiography has accepted, justified, glorified and instrumentalized the prince's authoritarianism for its decisive contribution to the building of the nation and the nation-state.¹⁵²

¹⁴⁷ V. Giunea, *Continuité et transformations des rapports entre la forme de gouvernement et l'ordre juridique en Roumanie (1859-1944)*, in (1990) XV *Recherches sur l'histoire des institutions et du droit*, p. 59 ff.

¹⁴⁸ D. Ciurea, *Alexandru Ioan Cuza și rolul personalității*, in (1973) X *Anuarul Institutului de Istorie și Arheologie „A.D. Xenopol”*, p. 447; M. D. Vlad, *Rolul lui Alexandru Ioan Cuza în făurirea României moderne*, in (1964) VI *Studii și materiale de istorie*, p. 108.

¹⁴⁹ D. Ivănescu, *Constituirea statului român modern în context european*, in (1997) XXXIV *Anuarul institutului de Istorie A.D. Xenopol*, p. 78.

¹⁵⁰ V. Stan, *Aspecte ale politicii interne a domnitorului Alexandru Ioan Cuza*, in (1998) 57-58 *Studii și articole de istorie*, p. 56 ff.; D. Berindei, *Constituirea României moderne* (București; Editura Enciclopedică, 2009), p. 261 ff.

¹⁵¹ The rehabilitation of Cuza's image, strongly affected by his *coup d'état*, started since 1870s and implied, among others, the Romanian 'national poet' Mihai Eminescu. As a journalist, he dedicated to Cuza a series of articles glorifying Cuza's patriotism, his commitment for the peasants' cause and his dignified attitude in the external policy. See D. Vitcu, *De la Cuza Vodă la Carol I. Meditații politice eminesciene*, in (2000) XXXVII *Anuarul Institutului de istorie A.D. Xenopol Iași*, p. 5-18. Cuza and his reign have known a true process of mythization starting with the numerous speeches and writings published, between 1900 and 1940 by the greatest Romanian historian, Nicolae Iorga. See, for example, N. Iorga, *Cuza Vodă, Fondator al României* (București: Editura Institutului de științe politice și relații internaționale I.C. Brătianu, 2017).

¹⁵² Gh. Iacob, *România în epoca modernizării*, (Iași: Editura Universității Alexandru Ioan Cuza, 2013), p. 66. The analyses condemning Cuza's contribution to the undermining of the liberal constitutionalism's process of assimilation in modern Romanian are really rare. See S.M. Catalan, *La situation internationale des Principautés Unies (1864-1866) considérée selon sa relation avec le déclin du Second empire*, in (1992) XXXI *Revue roumaine d'Histoire*, p. 236. See also S. Marton, *La construction politique de la nation. La nation dans les débats du Parlement de la Roumanie (1866-1871)* (Iași: Institutul european, 2009), p. 169, nota 2.

It is uncontested that prince Cuza accomplished the great part of the national agenda, by decisively contributing, due to his internal and external policy, to the birth of the Romanian unitary nation-state enjoying a considerable autonomy from its suzerain power, the Ottoman Empire. At the same time, with the help of his legislative reforms, inspired, considerably, from the French (mostly), Belgian, Swiss and Italian legal models, he founded the modern Romanian state and society. Loved by the people, Cuza left the country, in 1866, letting behind a considerable heritage, frequently compared with the legacy of Napoleon I. However, beyond the posterity's perception, it is important to understand that, at 1866, his Caesarism has been strongly blamed by the Romanian political elite and everything that followed his abdication, i.e. the enthronement of Carol I of Hohenzollern-Sigmaringen and the launch of the constitutional parliamentary monarchy, were a reaction against Cuza's authoritarianism. We may say that Cuza's reign responded to a need of 'authority and justice'¹⁵³ among the Romanian peasants but some should understand that there also was, among the political elite, a more or less theorized attachment to the parliamentary regime weaponized against the prince's authoritarianism. If we are recalling the constitutional debates of 1857 in the ad-hoc Assembly of Moldova, we may notice the existence of a real commitment for parliamentarianism and the need to limit the traditional considerable powers of the prince and his authoritarian rule. Thus, it permanently existed, between 1859 and 1866, an ideological and political conflict between authoritarianism and parliamentarianism that the last one has won.

In order to have the full picture of that period, the analysis should not underestimate the presence, during Cuza's reign, of two competing political regimes (parliamentary and authoritarian) as ideological and institutional constructions borrowed from Western European political and constitutional models. Considering the irrational character of the Romanian constitutional import, we should question their opportunity and the Romanian political elite's capacity to adapt them to the Romanian society's needs. Concretely, between 1859 and 1866, there existed and competed in the Romanian Principalities, then in Romania, two French political and constitutional traditions cherished and equally underpinned by the Romanian political elite: on the one hand, the tradition of liberal constitutionalism of the 1789 French Revolution, as it was enshrined in the principles and institutions of the 1791 liberal Constitution and developed by the constitutional practices and doctrinal debates of July Monarchy (1830-1848) with regard the parliamentary regime; on the other hand, the tradition of authoritarianism, launched by the Constitution of Year VIII, relaunched by the Constitution of 1852 and developed by the constitutional and political practice of the Second Empire. Gradually assimilated by the Romanian young boyars studying law in Paris, the intellectual tradition of liberal constitutionalism was already fully rooted at 1857 in the Romanian liberal discourse. We cannot say that it was universally accepted, fully endorsed and completely understood. Many grand boyars saw in the institutions of the limited monarchy, enshrined in the Organic Regulations a viable constitutional architecture, capable to preserve their political and economic interests. However, they did not hesitate to support the parliamentary regime as long as the very high electoral qualification was preserving the aristocratic compeonence of the parliament existing before 1858. Moreover, both liberal and conservative saw in the representative government and the mechanisms of the parliamentary regime (dualist or monist), regardless they truly believed in them or not, the perfect constitutional tools to limit prince's power. For his part, being a career officer, an intense admirer of Napoleon III and supported by this one, backed by the political group surrounding the throne and legitimized by

¹⁵³ Ciurea, *op.cit.*, *supra*, note 148, p. 447.

the conventional provisions, the prince Cuza assumed authoritarianism (Caesarism) as a personal policy. It is difficult to appreciate, at this moment, whether he had personal political ambitions, as his detractors said, or he gave his disinterested tribute for the greatest good of the country, like the Romanian historiography is preaching. The truth should be, as usual, in the middle. Of great certitude to me is Cuza's discontent with the parliamentary regime and his constant reserve to apply its mechanisms in the Romanian constitutional and political life.

Considering the above, it is obvious that the constitutional and political model better succeeding to adapt to the Romanian social and political context took priority, by better concentrating the power in strong hands against an external political background requesting a stable Romanian and an internal one looking for a fast and clear process of social, economic and political modernization. Thus, after paralleling it for a while, the authoritarian French constitutional model has gradually replaced the French-origin model of parliamentary regime. As a consequence, by contrast to the mainstream Romanian constitutional historiography (asserting Cuza's full attachment to the parliamentary regime between 1859 and 1864, before being compelled to launch an authoritarian regime in May 1864) I'm proposing a different understanding of the same period: Cuza's authoritarianism and political elite's parliamentarianism existed as competing constitutional and political theories, visions, attitudes and practices. Both approaches tried to legitimize themselves with the help of the conventional text, this is why the Romanian constitutional and political thinking knew an unprecedented contradictory debate with regard the constitutional resorts of the adversary's political ideas and practices. The authoritarian understanding of the Paris Convention permanently faced the principles and mechanisms of the parliamentary regime found out in the same constitutional text. The constitutional and political practice itself knew a permanent tendency of prince Cuza to increase his personal power while making some political compromises with the parliamentary majority and the last one, far from having a trustful collaboration with the government, has constantly blocked the governmental agenda.

Summing up, I dare say that no functional parliamentary regime can be traced in the Romanian constitutional and political life of the period 1859-1864. Cuza constantly tried to impose his personal reforming agenda by recruiting personal minority governments which he backed or not against the parliamentary majority, depending on internal and external political contexts. He used the constitutional tool of parliament dissolution with the aim to produce, by manipulating the elections, a favourable parliamentary majority (1859), with the aim to tease the parliament (1861) or to give a *coup d'état*. As a result, it was out of the question any democratic alternation in power of some powerful, well-organized and ideologically coagulated political parties capable to offer to the Romanian electorate viable political alternatives. At their turn, dominating without interruptions the parliaments of this period, the conservatives adopted a position of strength which wiped out any political compromise capable to make functional the parliamentary regime either dualist or monist. The different parliamentary regime's tools used by the parliamentary majority, e.g. the vote of no confidence, the interpellations, the refuse to vote the budget, the message to the throne, neither established a political consensus between the prince and the parliament with regard the governmental agenda, as would have been normal for a dualist parliamentary regime, nor allowed the political control of the government by the parliament, as the monist parliamentary regime would have requested. If the true essence of the parliamentary regime was, historically speaking, 'the possibility that the parliament to exert an influence over the government and

his composition¹⁵⁴ then we are far from a properly-speaking parliamentary regime. Using the words of E. Giraud, the essence of parliamentary regime was the necessary continuous harmony between the government and the parliament.¹⁵⁵ In the period 1859-1864, the parliamentary majority did not succeed, with only few exceptions, to establish a political congruence with the government. In this context, the theoretical dispute over the place of the prince in the governmental activity has naturally opposed two perspectives: to the prince and his entourage the conventional provisions enacted, rather, in the spirit of the limited monarchy, let no doubt with regard to the prince's right to govern, to the conservative (and radical liberal) parliamentary majority, the principle 'the king rules but he do not govern' had to be strictly observed. Because it was not capable to impose the political behaviour, the parliament had no alternative but to block the governmental agenda.

The absence of a (functional) parliamentary regime may be also noticed in the complete inefficiency of its other important mechanism, i.e. the prince's right to dissolve the parliament when a conflict between this one and the government occurred. As M. Matter has remarked, the parliament dissolution was meant to eliminate the peril coming out from the conflict between an active and pressing parliament and a government that wishes to censure or limit it.¹⁵⁶ Or, because of the electoral provision of the Paris Convention, the inexistence of the political parties, because of the political fragmentation and the lack of party discipline, this mechanism of constitutional and political recalibration did not work. Generally, the prince and the parliament have fought to control the governmental agenda using, sometime, the tools and mechanisms of the parliamentary regime but no one succeeding to definitely win.

In these circumstances it is beyond any surprise that the great modern reform was undertaken after the *coup d'état* of May 1864. Cuza's authoritarianism has built the Romanian unitary nation-state and has modernized the Romanian society while the parliamentarianism, endorsed by the conservatives, was encouraging a policy of small steps, preserving, as long as possible, feudal-origin privileges. In this period, Cuza's lack of interest in the parliamentary regime was fully clear. Although he has enlarged the electoral basis of the Assembly, Cuza did not do it in order to give a chance to this political regime, but to increase his authority. The Romanian modernity has not been undertaken with the help of the parliamentary regime, constructively implying both the government and the parliament, but against the parliamentary regime. The foundations of modern Romania have been settled with the help of an authoritarian regime borrowed from the French constitutional and political model of the Second Empire, with the full political support of the Napoleon III and have finally turned the Romanian state and internal policy in a deformed mirror reflection of the French constitutional life. As the president of the Council of ministers, M. Kogalniceanu, emphasized at 1865, the French influence 'succeeded to turn, in some measure, Romania in a French province.'¹⁵⁷

With no disrespect for Cuza's reformatory ruling, I do not believe that we should unconditionally praise the victory of authoritarianism for the fact it was decisively contributed to the birth of modern Romania. Likewise, the national agenda cannot be blamed

¹⁵⁴ Grewe, Ruiz Fabri, *op. cit.*, *supra*, note 74, p. 374.

¹⁵⁵ E. Giraud, *Le pouvoir exécutif dans les démocraties d'Europe et d'Amérique* (Paris: Librairie du Recueil Sirey, 1938), p. 100.

¹⁵⁶ P. Matter, *La Dissolution des Assemblées Parlementaires: étude de droit public et d'histoire* (Paris, 1898), p. 12.

¹⁵⁷ Catalan, *op. cit.*, *supra*, note 152, p. 253.

unconditionally because it was achieved with the tools of authoritarianism. Beyond any positive effects of the authoritarian rule for the national cause, for the building of the nation-state and for the preservation of the national identity, it would be needed a serious assessment of Cuza's ruling impact for the reception and consolidation of the liberal constitutionalism and parliamentary regime in Romania. Methodologically speaking, the national agenda and the interest for the liberal constitutionalism / parliamentary regime cannot be approached separately and must be understood as a research unit. The Romanian political elite of mid-19th century has envisaged the birth of a Romanian unitary and modern nation-state in the frame of a parliamentary constitutional monarchy applying the principles and mechanisms of the parliamentary regime. Both political objectives were legitimate in the eyes of the Romanian politicians and both should have been concomitantly achieved using every internal and external, political, economic and social existing tools. Cuza's reign was a real chance to the national agenda, fructified with diplomatic intelligence and political opportunism. At the same time, it was a bad fortune to the parliamentary regime, which did not succeed to conquer the Romanian constitutional and political life.

Answering the question launched at the beginning of this section, i.e. 'should we blame or praise Cuza's reign?', I may say yes and no, depending on the envisaged historical perspective: if we consider the successful accomplishment of the national agenda, Cuza's reign should be appreciated; if we consider that the Romanian political elite was incapable to limit the monarchical authoritarianism with the help of the parliamentary regime, Cuza's reign was a big political failure. Both answers should be given concomitantly, otherwise there is a major risk to distort the complexity of the Romanian constitutional and political history, and invite the historian to offer proper equilibrate explanations.

For certain, the parliamentary regime was difficult to apply, in the period 1859-1866, not only due to the authoritarian agenda of prince Cuza, but also due to the Romanian constitutional and political culture. We should keep in mind that the opposition of the Moldavian and Wallachian (the Romanian) unicameral parliaments against the princes, beginning with the Organic Regulations (1831/1832) until 1866, did not represent a willing, conscious and successful process of parliamentary regime's adaptation to the Romanian society. The lack of parliamentary experience, the Romanian tradition of the prince's authoritarianism, the divergent interest of the aristocratic elites, the lack of bourgeoisie, the absurd fight for the power between the political leaders, the lack of organized and ideologically coagulated political parties, the doctrinal deficit, the culture of conflict, the mass illiteracy, all these have undermined the grow of parliamentary regime during Cuza's reign. In this context, whether the birth and modernization of the Romanian unitary nation-state should have been done with the help of a constitutional import, the French constitution of 1852 and the Napoleonic Caesarism were the best solutions. Only an authoritarian ruling would have the chance to undertake the Romanian national agenda against this Romanian cultural and political background. From an instrumental point of view, Cuza's authoritarianism was necessary, opportune and efficient.

At the same time, these issues should be discussed also in terms of hopes, expectations, beliefs, ideas and constitutional-political tendencies. The necessity to overcome the princes' authoritarianism has determined the Romanian political elite to see in the liberal constitutionalism and the parliamentary regime the proper solutions to achieve the modernization of the Romanian state and society. Whether a constitutional import from the French and Belgian models was necessary to achieve this goal, it was legitimately undertaken.

Many were fully conscious that the imported principles and institutions of the liberal constitutionalism were difficult to adapt in the Romanian society and a real change of mentality and perseverance were necessary in order to achieve an acceptable result. Cuza, by necessity, patriotism, opportunism, conviction or authoritarianism (depending on the perspective of evaluation) has undertaken his political agenda against the parliamentary regime, having no time and/or no interest in waiting for this change of mentality and political habits to occur. The building of the modern nation-state and society had no time to wait for the Romanian political elite's full Europeanization and real maturation. The Paris Convention's provisions and the support of Napoleon III allowed Cuza to do it this way. All the Romanian political elite had left was to fight Cuza in the name of the parliamentary regime, to overthrow him, in 1866, for the sake of parliamentarianism and to hope that the Romanian political class and society will radically change in the future.

As long as the authoritarianism proved to be extremely efficient as regards the fulfilment of the national agenda and modernization of the Romanian society and, at its turn, the parliamentarianism proved to be an obstacle to overcome, the moment of Cuza's reign was very important to the future development both of the Romanian nation-state and the liberal constitutionalism. Having no real impact in the constitutional and political life of Cuza's reign, the liberal constitutionalism won the ideas and aspirations of the Romanian political class. It was waiting for a better place in the Romanian constitutional normativity and practice. By losing, in 1866, the doctrinal fight with the constitutional liberalism, the authoritarianism will prove to be of great utility in the Romanian and political life of the next decades. Thus, while the national agenda never lost its actuality, the Romanian political elite have had to choose between two political regimes: on the one, hand, the parliamentary one, ideologically attractive and the authoritarian one, the proved to be very efficient in the constitutional and political practice.

Summing up, we should recall that having his national agenda fulfilled against the liberal constitutionalism and the parliamentary regime, Cuza did not succeed to undermine the Romanian elite's ideological attachment to them. The monstrous coalition's opposition since 1862 was aiming not only at blocking Cuza's governmental agenda but also at limiting his authoritarian power. Beyond the mainstream (constitutional) historiography's canonical approach with regard the negative role played by Cuza's opponents in the process of Romanian political and social modernization, we should also see their fight for the values, principles and institutions of the liberal constitutionalism, as much as these one were known, understood and accepted in the then Romania. The year 1866 meant, at least at the level of the constitutional architecture, the moment when the liberal constitutionalism won the ideological battle with the authoritarianism. The French authoritarian model of the Second Empire was completely eliminated from the Romanian constitutional debates and the fathers of the 1866 Constitution were attentive to erase any trace of Cuza's constitutional design. Significantly, the new Romanian constitution was expressly forbidding the creation of the State Council in the future and this institution has never been created by the Romanian legislation. Thus, to the Romanian political elite the end of Cuza's reign was not only the proper moment to renew its vows for the liberal constitutionalism but also to enshrine, in the first Romanian constitution, the desiderata of 1857.

A critical and balanced historical approach of Cuza's reign would acknowledge that the Romanian national agenda and the fight for the liberal constitutionalism were the main goals of the Romanian political elites at mid-19th century (even if the first had a constant primacy

against the second). It would applaud Cuza's main contribution to the birth of the Romanian modern unitary nation state despite his authoritarian ruling but it would also emphasize his negative role in breaking the Romanian political elite's hopes to have the values, principles and institutions of the liberal constitutionalism applied in the constitutional and political practice. At the same time, the same kind of historical approach would praise the fight of the Romanian political elite against the authoritarian ruling of the prince, despite being an obstacle to the Romanian state and society modernization, but would emphasize also its incapacity to comply with the challenges of the parliamentary regime. It would celebrate the ideological and normative victory of liberal constitutionalism at 1866 but would be aware of the great peril represented by a successful authoritarianism in a Romanian society that never succeeded, until 1938, to actually accommodate the liberal constitutionalism in the constitutional and political practice. Unconditionally admiring and applauding Cuza's authoritarian reign may come with a heavy price for the Romanian (constitutional) historiography: it would be obliged to applaud and justify any other authoritarian ruling in the Romanian constitutional and political history that contributed both to the national agenda and the modernization of the Romanian society.

Zooming out the entire Romanian constitutional history between 1859 and 1947, we may notice that the head of state's authoritarianism has become a political paradigm until the beginning of the communist era: Carol I (1866-1914), the founder of the Hohenzollern-Sigmaringen Romanian dynasty proposed, after 5 years of his reign and only 5 years since Cuza's Caesarian reign, a constitutional reform with the aim to considerably consolidate the powers of the executive; having no external support, he gave up to amending the 1866 Constitution but he managed to apply it in a moderate-style authoritarianism; his heir, Ferdinand I (1914-1927) tolerated authoritarian liberal governments in the context of building the Great Romania (1918); Carol II (1930-1940) had an authoritarian ruling under the 1923 Constitution that ended in a *coup d'état* and the launch of a dictatorial regime (1838-1940); Mihai I (1940-1947) was mostly a powerless king under the neo-fascist ruling of Marshal Ion Antonescu (1940-1944). Significantly, some of these regimes (1930-1944) have ideologically built their authoritarian ruling on the Romanian parliamentary regime's weakness and insufficiency, asserting that the true modernization of the Romanian state and society lies with an authoritarian government under the lead of a right and authoritarian head of state.¹⁵⁸ A well-known scholar of the Romanian public law in the interwar period, Paul Negulescu, was preaching, in 1930s, the settling of an administrative (authoritarian) monarchy, having Cuza's reign as a model, for this political regime would organically fit the Romanian political culture in contrast to the parliamentary regime launched by the 1866 Constitution and borrowed from the Belgian Constitution of 1831.¹⁵⁹ This approach seems to prove that importing the French Caesarism was a better solution, considering its positive effects to the Romanian society, than any persistence to have a distorted application of the parliamentary regime borrowed from France, Belgium and England. The Romanian political elite's incapacity to stabilize a functional parliamentary regime until 1938 was caused by a

¹⁵⁸ See M. Guțan, *Administrative (authoritarian) Monarchy – a Paradigm for the Constitutional Realism in Modern Romania?*, in G. Gornig, B. Schöbener, W. Bausback, T. H. Irmscher (eds), *Iustitia et Pax. Gedächtnisschrift für prof. Dr. Dieter Blumenwitz* (Berlin: Duncker & Humblot, 2008), p. 1169-1182. For a mainly descriptive approach see I. Stanomir, *Libertate, lege și drept. O istorie a constituționalismului românesc* (Iași: Polirom, Iași. 2005), p. 51.

¹⁵⁹ See P. Negulescu, *Tratat de drept administrativ român, Vol. II: Organizarea administrativă a României*, ediția a 3-a, partea I-a (București, 1930), p. 51 ff.

constant production of antibodies by the Romanian constitutional and political culture. However, building the Romanian unitary nation-state and the modern Romanian society only under more or less authoritarian regimes does not automatically legitimize neither Cuza's reign, nor the following political regimes. Instead, this constitutional and political evolution urges the adherents of liberal constitutionalism in contemporary Romanian and the Romanian historians to a serious reflection.

References

- Angelescu, C. C., 'Comisia centrală de la Focșani', in (1980) XVII *Anuarul Institutului de Istorie și Arheologie „A. D. Xenopol”*, pp. 239-269.
- Angelescu, C.C., *Proiectul de Constituție al lui Cuza Vodă de la 1863*, București: Tipografia Libertatea, 1935.
- Ashworth, A., 'Le contrôle de la constitutionnalité des lois par le Sénat du Second Empire', in (1994) n° 1 *Revue du droit public*, pp. 45-102.
- Banciu, A., *Istoria vieții constituționale în România (1866-1991)*, București: Șansa SRL, 1996.
- Berindei, D., *Constituirea României moderne*, București; Editura Enciclopedică, 2009.
- Boia, L., *Istorie și mit în conștiința românească*, București: Humanitas, 2010.
- Boicu, L., Platon, Gh., Zub, Al., (coord.), *Cuza Vodă in memoriam*, Iași, Junimea, 1973.
- Burdeau, G.:
 - *Cours de droit constitutionnel compare*, Les cours de droit, Paris V, 1953.
 - *Traité de science politique, tome V: Les régimes politiques*, Paris: JGDJ, 1985.
- Buzescu, Al., *Domnia în Țările Române până la 1866*, Cartea Românească, București, 1943.
- Capitant, R., 'Régimes parlementaires', in *Mélanges R. Carré de Malberg*, Paris: Recueil Sirey, 1933.
- Carp, R., Stanomir, I., L. Vlad, *De la "pravilă" la "constituție"*, București: Nemira, 2002.
- Catalan, S.M.:
 - 'Le processus de l'unification politique et administrative de l'Etat national roumain (1859-1866)', in (1989) XXVIII *Revue roumaine d'histoire*, p. 417-428.
 - 'La situation internationale des Principautés Unies (1864-1866) considérée selon sa relation avec le déclin du Second empire', in (1992) XXXI *Revue roumaine d'Histoire*, p. 235-254.
- Cernea, E., Molcuț, E., *Istoria statului și dreptului românesc*, București: Universul Juridic, 2006.
- Cernovodeanu, P., Edroiu, N., (coord.), *Istoria românilor*, vol. VI, București: Editura Enciclopedică, 2002.
- Chevallier, J.J., *Histoire des institutions et des régimes politiques de la France de 1789 a 1958*, 9^e édition, Paris: Dalloz, 2001.
- Chiriță, G., *Organizarea instituțiilor moderne ale statului român (1856-1866)*, București: Editura Academiei Române, 1999.
- Cinpoieș, R., *Nationalism and Identity in Romania*, London-New-York: I.B. Tauris Publishers, 2010;
- Ciurea, D., 'Alexandru Ioan Cuza și rolul personalității', in (1973) X *Anuarul Institutului de Istorie și Arheologie „A.D. Xenopol*, p. 445-448.
- Corivan, N., 'La question de l'union dans les projets européens d'organisation des Principautés Roumaines (1855-1857)', in (1970) n° 6 *Revue Roumaine d'Histoire*, p. 963-974.
- Damean, S.L., Dănișor, D.C., Ghițulescu, M., Oșca, Al., *Evoluția instituțiilor politice ale statului român din 1859 până astăzi*, Târgoviște: Cetatea de scaun, 2014.
- Deslandres, M., *Histoire Constitutionnelle de la France*, Paris, 1932.
- Dippel, H., 'Modern Constitutionalism, An Introduction to a History in Need of a Writing', in (2005) 73 *The Legal History Review*, p. 153-169.
- Dissescu, C.G., *Dreptul constitutional*, București, 1915.
- Drăganu, T., *Începuturile și dezvoltarea regimului parlamentar în România până la 1866*, Cluj-Napoca: Dacia, 1991.
- East, W.G., *The Union of Moldavia and Wallachia, 1859*, Cambridge: Cambridge University Press, 1929.

- Esmein, A., *Eléments de droit constitutionnel français et comparé*, 8^e edition, Paris: Recueil Sirey, 1927.
- Filitti, I. C., 'Un proiect de Constituție inedit al lui Cuza Vodă la 1863', in (1929) V *Anuarul Institutului de istorie națională din Cluj*, p. 354-401.
- Focșeneanu, E., *Istoria constituțională a României 1859-1991*, București: Humanitas, 1992.
- Ganzin, M., 'Droit et pensée politique. Le juriste R. Th. Troplong, théoricien du Second Empire', in *Du césarisme antique au césarisme moderne*, Aix-en-Provence: PUAM, 1999, p. 79-114.
- Georgescu, V.:
 - *Ideile politice și iluminismul în Principatele Române 1750-1831*, București: Editura Academiei RSR, 1972.
 - *Istoria ideilor politice românești (1369-1878)*, Munchen: Jon Dumitru Verlag, 1987.
- Gionea, V., 'Continuité et transformations des rapports entre la forme de gouvernement et l'ordre juridique en Roumanie (1859-1944)', in (1990) XV *Recherches sur l'histoire des institutions et du droit*, p. 59-75.
- Giraud, E., *Le pouvoir exécutif dans les démocraties d'Europe et d'Amérique*, Paris: Librairie du Recueil Sirey, 1938.
- Grewe, C., Ruiz Fabri, H., *Droits constitutionnels européens*, Paris: PUF, 1995.
- Guțan, M.:
 - *Transplant constituțional și constituționalism în România modernă 1802-1866*, București: Hamangiu, 2013.
 - 'The Weaknesses of the Romanian Constitutional Tradition or a Constitutional Present in Quest for a Constitutional Past', in (2014) 2 *Romanian Journal of Comparative Law*, p. 281-298.
 - 'Regim parlamentar și autoritarism domnesc în epoca lui Al. I. Cuza. O perspectivă comparativ-juridică', (2017) XXVIII *Revista istorică*, p. 27-63.
 - 'Administrative (authoritarian) Monarchy – a Paradigm for the Constitutional Realism in Modern Romania?', in G. Gornig, B. Schöbener, W. Bausback, T. H. Irmscher (eds), *Iustitia et Pax. Gedächtnisschrift für prof. Dr. Dieter Blumenwitz*, Berlin: Duncker & Humblot, 2008.
- Hitchins, K., *Românii 1774-1866*, București: Humanitas, 1996.
- Hudiță, I., *Franța și Cuza Vodă*, București: Tipografia Carpați, P. Bărbulescu, 1941.
- Hummel, J., *Le constitutionnalisme allemand (1815-1918): Le modèle allemand de la monarchie limitée*, Paris: PUF, 2002.
- Iacob, Gh., *România în epoca modernizării*, Iași: Editura Universității Alexandru Ioan Cuza.
- Ionescu, D., Țuțui, Gh., Matei, Gh., *Dezvoltarea constituțională a statului român*, București: Editura științifică, 1957.
- Iorga, N., *Cuza Vodă, Fondator al României*, București: Editura Institutului de științe politice și relații internaționale I.C. Brătianu, 2017;
- Ivănescu, D., 'Constituirea statului român modern în context european', in (1997) XXXIV *Anuarul institutului de Istorie A.D. Xenopol*, p. 61-94.
- Jowitt, K., *Social Change in Romania (1860-1940)*, University of California-Berkley: Institute of International Studies, 1978.
- Kissane, B., Sitter, N., 'The Marriage of State and Nation', in (2010) 16 *Nation and Nationalism*, p. 49-67.
- Kogălniceanu, M., *Cuvânt în contra adresei rostite în ședința Adunării generale a României din 9 februarie 1863*, București, 1863.
- Laquieze, A., *Les origines du regime parlementaire en France (1814-1848)*, Paris: PUF, 2002.
- Lapedatu, Al., *Viața politică internă*, in Alexandru Ioan Cuza 1859-1866, București: Universitatea Liberă, 1932, p. 1-32.
- Marinescu, B., Stan, V., 'England and Prince Cuza's copul d'Etat of May 2/14 1864', in (1993) XXXII *Revue roumaine d'Histoire*, p. 55-74.
- Marcu, L.P., *Istoria dreptului românesc*, București: Lumina Lex, 1997.
- Marton, S., *La construction politique de la nation. La nation dans les débats du Parlement de la Roumanie (1866-1871)*, Iași: Institutul european, 2009.

- Matter, P., *La Dissolution des Assemblées Parlementaires: étude de droit public et d'histoire*, Paris, 1898.
- Mihalache, M., *Cuza Vodă*, București: Editura Tineretului, 1967.
- Morabito, M., *Historire constitutionnelle de la France (1789-1958)*, 9^e Édition, Paris: Montchrestien, 2006.
- Neagoe, S. (ed.), *Cuza Vodă. România* (București: Machiavelli, 2009).
- Negulescu, P.:
- *Tratat de drept administrativ român, Vol. II: Organizarea administrativă a României*, ediția a 3-a, partea I-a, București, 1930.
 - *Curs de drept constituțional*, București, 1927.
- Neumann, V., Heinen, A., *Istoria României prin concepte*, Iași: Polirom, 2010.
- Oroveanu, M.T., *Istoria dreptului românesc și evoluția instituțiilor constituționale*, București: Editura Cerma, 1995.
- Petrescu, G., Sturdza, D.A., Sturdza, D.C.:
- *Acte și documente relative la istoria renascerei României*, tomul VII, București: Institutul de Arte Grafice Carol Gobl, 1892.
 - *Acte și documente relative la istoria renascerei României*, tomul V, București: Institutul de Arte Grafice Carol Gobl, 1890.
 - *Actes et documents relatifs à l'histoire de la régénération de la Roumanie*, tome II, Bucarest: Imprimerie Charles Gobl, 1889.
- Platon, Al.-F., *Geneza burgheziei în Principatele Române*, Iași: Editura Universității Al. Ioan Cuza, 2013.
- Platon, Gh., Platon, Al. F., *Boierimea din Moldova în secolul al XIX-lea. Context european, evoluție socială și politică*, București: Editura Academiei Române, 1993.
- Platon, Gh., *De la constituirea națiunii la Marea Unire. Studii de istorie modernă*, vol. II, Iași: Editura Universității Alexandru Ioan Cuza, 1998.
- Ploscaru, C., *Originile "partidei naționale" din Principatele Române. Sub semnul "politicii boierești" (1774-1828)*, Iași: Editura Universității Alexandru Ioan Cuza, 2013.
- Preda, C., *Rumânii fericiți. Vot și putere de la 1831 până în prezent*, Iași: Polirom, 2011.
- Prélot, M., *La signification constitutionnelle du Second Empire*, in (1953) n° 1 *Revue française de science politique*, p. 31-56.
- Rădulescu, A., *Pagini din istoria dreptului românesc*, București: Editura Academiei RSR, 1970.
- Rials, St., 'Essai sur le concept de monarchie limitée', in *Révolution et contre-révolution au XIX^e siècle* (Paris: D.U.C./Albatros, 1987).
- Riker, T. W., *The Making of Romania* (London: Oxford University Press, 1931).
- M. S. Rusu, *Memoria națională românească. Facerea și prefacerile discursive ale trecutului național*, Iași: Institutul european, 2015.
- Stan, A., *Grupări și curente politice în România între Unire și Independență*, București: Editura științifică și enciclopedică, 1979.
- Stan, A., Iosa, M., *Liberalismul politic în România de la origini până la 1918*, București: Editura Enciclopedică, 1996.
- Stan, V.:
- 'Un proiect englez de organizare a Principatelor din timpul Conferinței de la Paris (1858)', in (1987) n° 1 *Revista de istorie*, p. 75-83.
 - 'Câteva considerații în legătură cu "monstruoasa coaliție" și durata existenței ei', in (1991) II *Revista istorică*, p. 383-397.
 - 'Preliminarii diplomatice ale unirii Principatelor: două memorii ale lui Stratford Canning, ambasadorul englez la Constantinopol', in (1989) n° 1 *Revista de istorie*, p. 31-44.
 - 'La réorganisation des Principautés Roumaines au milieu du XIX^e siècle vue par Sir Henry Bulwer', in (1992) n° 3-4 *Revue Roumaine d'Histoire*, p. 215-233.
 - 'Regimul parlamentar în anii 1859-1864', in *Istoria parlamentului și a vieții parlamentare din România*, București: Editura Academiei RSR, 1983.
- Stan, V., 'Aspecte ale politicii interne a domnitorului Alexandru Ioan Cuza', in (1998) 57-58 *Studii și articole de istorie*, p. 49-58.

Stanomir, I.:

- *Nașterea Constituției. Limbaj și drept în Principate până la 1866*, București: Nemira, 2004.
- *Libertate, lege și drept. O istorie a constituționalismului românesc*, Iași: Polirom, Iași. 2005.

Stolleis, M., *Public Law in Germany 1800-1914*, New York-Oxford: Berghahn Books, 2001.

Sturdza, D.A., Colescu-Vartic, C., *Acte și documente relative la istoria renascerei României*, vol. VI, partea I, București: Institutul de Arte Grafice Carol Gobl, 1896.

Șotropa, V., *Proiectele de constituție, programele de reforme și petițiile de drepturi din Țările Române*, București: Editura Academiei RSR, 1976.

Thonissen, J.J., *La Constitution belge annotée*, 3^e edition, Bruxelles: Bruylant-Christophe & Co Editeurs, 1879.

Țurcanu F. (ed.), *Modèle français et expériences de la modernisation roumaine, 19^e-20^e siècles*, București: Institutul cultural român 2006.

Turczynski, E., *De la Iluminism la liberalismul timpuriu*, București: Editura fundației culturale române, 2000.

Vintilă Ghițulescu, C., *Evgheniți, ciocoi, mojici. Despre obrazy primei modernizări românești 1750-1860*, București: Humanitas, 2013.

Vitcu, D., 'De la Cuza Vodă la Carol I. Meditații politice eminesciene', in (2000) XXXVII *Anuarul Institutului de istorie A.D. Xenopol Iași*, p. 5-18.

Vlad, M. D., 'Rolul lui Alexandru Ioan Cuza în făurirea României moderne', in (1964) VI *Studii și materiale de istorie*, p. 93-114.

Zorgbibe, Ch., *Histoire politique et constitutionnelle de la France*, Paris: Ellipses Editions, 2002.

Zub Al. (sous la direction de), *La Révolution française et les roumains*, Iași: Universitatea Alexandru Ioan Cuza, 1989.

Zub, Al., *La final de ciclu. Despre impactul Revoluției franceze*, Iași: Institutul european, 1994.