

THE TERRITORIAL ORGANISATION OF THE SUBNATIONAL PUBLIC POWER IN THE PRELIMINARY CONSTITUTIONAL DRAFTS DEVELOPED BY THE POLITICAL PARTIES IN ROMANIA (1921-1922)

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Abstract: *One of the most important problems that had to be solved after the establishment of the Unified Romanian State was institutional and legislative unification, which required the elaboration and adoption of a new constitutional framework. Many intellectuals and representatives of political parties participated in debates regarding the drafting of the new Constitution. The academic environment, primarily represented by professors of constitutional and administrative law, made an exceptional contribution to the development of the constitutional model of Unified Romania. In 1921-1922, four preliminary drafts of the Constitution were developed and published under the auspices of the political parties, reflecting their political visions and representing the perceptions of the constituent provinces of Greater Romania. In the study, the provisions of the four preliminary drafts of the Constitution, elaborated by the political parties on the topic of territorial organisation of subnational public power, were analysed. The subject is of great importance because the research results can contribute to a better understanding of the political, legal, economic, social, demographic, ethnic, and cultural factors that influenced the drafting and adoption of the constitutional text regarding public power organisation and the territory.*

Keywords: *Romania, Constitution, draft, subnational public power, political parties*

Rezumat: *Organizarea teritorială a puterii publice subnaționale în proiectele*

constituționale preliminare elaborate de partidele politice din România (1921-1922).

Una din cele mai importante probleme care trebuia soluționată după constituirea statului român întregit era unificarea instituțională și legislativă, ceea ce impunea elaborarea și adoptarea unui nou cadru constituțional. În dezbaterile privind proiectarea noii Constituții s-au angajat intelectualii și reprezentanții partidelor politice. Un aport deosebit în identificarea modelului constituțional al României întregite l-a avut mediul academic, reprezentat în primul rând de profesorii de drept constituțional și administrativ. În anii 1921-1922 au fost elaborate și publicate, sub egida partidelor politice, patru anteproiecte de constituție care au reflectat viziunile lor politice, dar care au ilustrat și percepțiile provinciilor constituyente ale României Mari. În studiu au fost analizate prevederile celor patru anteproiecte de Constituție elaborate de partidele politice la capitolul organizării teritoriale a puterii publice subnaționale. Subiectul studiat este unul de o mare importanță deoarece rezultatele cercetării pot contribui la o mai bună înțelegere a factorilor politici, juridici, economici, sociali, demografici, etnici și culturali care au influențat redactarea și adoptarea textului constituțional în materie de organizare a puterii publice în raport cu teritoriul.

INTRODUCTION

The benefits of Romania's unification in 1918 were remarkable, providing the Romanian nation with a solid foundation for development and progress. At the same time, Romania was facing numerous political and social challenges, requiring a broad institutional reorganisation to ensure stability and progress.

One of the most critical problems that needed to be addressed after the creation of the integrated Romanian national state was the unification of the old Kingdom of Romania with the newly incorporated provinces, which until then had lived under the influence of different and outdated laws and legal systems, which, after the Union, became obsolete due to the needs of the new political body.

The broad territorial changes, the reconfiguration of the institutional framework, the reorganisation of the economic space, as well as the increase in the number and the qualitative composition of the population required the elaboration and adoption of a new constitutional framework acceptable and applicable to all the provinces of the Unified Romania.

The new constitutional framework could be built using two methods: a) the modification and extension of the effects of the Constitution of 1866 on the national territory and the population of the historically annexed provinces, and b) the adoption of a new Constitution, which required the legitimate establishment

of an original Constituent Assembly elected by universal vote.¹

Representatives from political parties, intellectuals, and journalists participated in discussions on establishing a new constitutional framework. The academic environment, primarily represented by professors of constitutional and administrative law, made an exceptional contribution in identifying the constitutional model of the Unified Romania.

A solid effort in this regard was made by the Romanian Social Institute (RSI), which, under the leadership of sociologist Dimitrie Gusti, organised, between December 18, 1921, and June 4, 1922, a cycle of 23 public lectures, dedicated to current issues regarding the development of the new constitutional framework, supported by outstanding personalities from various fields of science. Later, the texts of these lectures were published in a separate volume.²

However, the most important contribution to the underpinning principles of the constitutional framework was made, albeit indirectly, by the political parties. In 1921-1922, four preliminary drafts of the Constitution were developed and published under the auspices of the political parties, reflecting their political visions and representing the perceptions of the constituent provinces of Greater Romania.

Two of these preliminary drafts were published in 1921, and the other two in the following year. In March 1921, the National Liberal Party, through its circle of studies, published a preliminary draft of the Constitution, with an exposition of principles signed by Dimitrie Ioanitu.³ The opposition parties confronted the initial draft of the Constitution made by the liberal government with their own visions.⁴ Also in 1921, the preliminary draft elaborated by Romul Boila, a

¹ Cristian Ionescu, *Între „O înțeleaptă cunoaștere și neșovăită urmărire a intereselor superioare ale țării” și „lovitura de stat” de la 29 martie 1923 – o dilemă constituțională încă nesoluționată* [Between “A wise knowledge and unwavering pursuit of the superior interests of the country” and the “coup d’état” of March 29, 1923 - a constitutional dilemma still unresolved], in “Dreptul”, 2023, nr. 7, p. 84.

² Nicolae Iorga et al, *Noua Constituție a României și nouile constituții europene* [The New Constitution of Romania and the New European Constitutions], București, Cultura națională, 1922.

³ ***, *Ante-proiect de Constituție întocmit de Cercul de studii al Pardului Național-Liberal, cu o expunere de principii de Dimitrie Ioanitu* [The preliminary draft of the Constitution drawn up by the National Liberal Party Study Circle, with a statement of reasons by Dimitrie Ioanitu], București, 1921, p. 4.

⁴ Radu Carp, *Descentralizare și regionalizare în contextul dezbatelor ulterioare Marii Uniri din 1918* [Decentralization and regionalization in the context of the debates following the Great Union of 1918], in “Polis”, 2018, Vol. VI, nr. 4 (22), p. 33.

representative of the Romanian National Party from Transylvania and a professor at the Faculty of Law in Cluj, was published.⁵ In 1922, two additional preliminary drafts were published: one by Professor Constantin Berariu from the University of Chernivtsi⁶ and the project of the Studies Department of the Peasant Party, accompanied by a statement of reasons made by Professor Constantin Stere.⁷

Obviously, within the debates regarding the need to draft and adopt a new Constitution, the issue of the future administrative organisation of the Unified Romanian state was also raised.

The present study aims to highlight and explain the context in which the Constitution of Unified Romania was drafted. Using thematic analysis, the preliminary drafts of the Constitution, prepared over the two years preceding the Parliament's adoption of the New Constitution, were examined.

The provisions of the preliminary drafts of the Constitution, elaborated by the political parties, regarding the territorial organisation of subnational public power were specifically studied. The studied subject is of great importance because the research results can contribute to a better understanding of the political, legal, economic, social, demographic, ethnic, and cultural factors that influenced the drafting and adoption of the constitutional text regarding the organisation of public power in relation to the territory.

EFFORTS OF THE POLITICAL PARTIES REGARDING THE ELABORATION OF THE NEW CONSTITUTIONAL FRAMEWORK

1.1. *Preliminary Draft of the Constitution drawn up by the Study Circle of the National Liberal Party.* In March 1921, the constitutional preliminary draft elaborated by the Study Circle of the National Liberal Party was made public, accompanied by a statement of principles signed by Dimitrie Ioanitescu, who,

⁵ ***, *Anteproiect de Constituție pentru Statul Român Întregit cu o scurtă expunere de motive de Romul Boilă* [The preliminary draft of Constitution for the Unified Romanian State with a brief statement of reasons by Romul Boilă], Cluj, Tipografia națională Soc. Anonimă, 1921.

⁶ Constantin Berariu, *Noua Constituție a României: reflexiuni și ante-proiect* [The New Constitution of Romania: reflections and the preliminary draft], Cernăuți, Institutul de arte grafice și editură „Glasul Bucovinei”, 1922.

⁷ ***, *Ante-proiect de Constituție întocmit de Secția de Studii a Partidului Țărănesc cu o Expunere de motive de C. Stere* [The preliminary draft of the Constitution prepared by the Studies Section of the Peasant Party with a statement of reasons by C. Stere], București, „Viața Românească”, 1922.

resuming his activity in Bucharest after being in Iasi and the creation of the Greater Romania, concerned himself with the problem identifying the foundations on which the Romanian State should be situated in the new political and social context. The constitutional preliminary draft was developed by a specially constituted commission whose aim was to draft a document that would serve as a starting point for discussions, which would be further developed into a well-researched preliminary draft.⁸

The preliminary draft of the National Liberal Party was structured into two parts: an introductory section, in which the essential notions were conceptualised, and the draft text itself, which included 165 articles. The preliminary title referred to Romania and to its territory. The organisation of the state is addressed in the first part, while individual rights and obligations are the subject of the second part. The text ended with several articles on the revision of the Constitution.⁹

1.2. *The preliminary draft of the Romanian National Party from Transylvania.* The initial draft of the Romanian National Party from Transylvania,¹⁰ elaborated by Romul Boila, professor of constitutional law at the Faculty of Law at the University of Cluj, was published in 1921.¹¹ It represented the unofficial point of view of this party, as the congress had not adopted it and was a response to the preliminary draft of the National Liberal Party.¹² The initial draft included 176 articles grouped under seven headings. These covered topics such as the territorial unity of the state and the population from the perspective of citizenship rights and obligations in Romania. The section on how power is structured in the

⁸ ***, *Ante-proiect de Constituție întocmit de Cercul de studii al Pardului Național-Liberal, cu o expunere de principii de Dimitrie Ioanițescu* [The preliminary draft of the Constitution drawn up by the National Liberal Party Study Circle, with a statement of reasons by Dimitrie Ioanițescu], București, 1921, p. 4.

⁹ Marius A. Mureșan, *A Comparative Analysis of the Four Draft Constitutions Published Before the Romanian Constitution of 1923*, in "Transylvanian Review", 2023, Vol. XXXII, no. 2, p. 4.

¹⁰ ***, *Anteproiect de Constituție pentru Statul Român Întregit cu o scurtă expunere de motive de Romul Boilă* [The preliminary draft of Constitution for the Unified Romanian State with a brief statement of reasons by Romul Boilă], Cluj, Tipografia națională Soc. Anonimă, 1921.

¹¹ ***, *Boilă Romul*, in *Contribuția avocaților din Transilvania și Banat la Marea Unire*, Cluj-Napoca, Argonaut, 2018, in <https://dspace.bcucloj.ro/handle/123456789/82571> (accessed on 14.04.2024).

¹² Traian Boșoancă, *Din viața și activitatea lui Dr. Romul Boila (II)* [From the life and work of Dr. Romul Boila (II)], in "Acta-Mvsei-Porolissensis", 2003, Vol. XXV, Zalău, p. 623.

state follows. The draft text ended with some general considerations.¹³

Professor R. Boila considered that the necessity of creating a new Constitution was imposed “imperatively” by “the very acts of union”.¹⁴ The Constitution of Romania, but also the constitutions of those states under whose regime the united provinces were, as well as the unification decisions adopted by the representative fora of the provinces and the international treaties, constituted, in his view, “rich sources to make a constitution suitable for the Unified Romanian State”. The elaborated preliminary draft aimed to give “a new form to the Constitution through a more systematic arrangement of its content”. This mission was achieved by adopting more accurate notions, abandoning the idea of separation of powers “in its outdated form”, organising the unitary and indivisible State power into different functions, ensuring the harmonious collaboration of all factors of State life through the appropriate application of the constitutional principles.¹⁵

In his approach to develop his own preliminary draft, professor R. Boila subjected to “detailed research, the preliminary draft of the Constitution that appeared in the edition of the Study Circle of the National Liberal Party” in which he found “some good provisions, especially those regarding the control of public money”, but he disagreed with “many other matters of great importance for the future organisation of the Romanian State”.¹⁶

1.3. *The preliminary draft developed by Constantin Berariu.* In 1922, the work “New Constitution of Romania: reflections and preliminary draft” was published, signed by Constantin Berariu, a Doctor of Law and associate professor at the Faculty of Law in Chernivtsi. The work was structured in three distinct parts: I. Historical and political observations, II. Statement of reasons for the preliminary draft and the third part – Preliminary draft of the Constitution. The preliminary draft included 187 articles distributed in a preliminary title, which comprised the legal and symbolic characters of Romania and the section that dealt with the physical elements, the territory and the population of the state, the second part, which dealt with the organisation of the state, and a final part dedicated to the amendment of the Constitution and other general or transitory norms.¹⁷

¹³ Marius A. Mureșan, *A Comparative Analysis of the Four Draft Constitutions...*, p. 4.

¹⁴ ***, *Anteproiect de Constituție pentru Statul Român Întregit cu o scurtă expunere de motive de Romul Boilă* [The preliminary draft of Constitution for the Unified Romanian State with a brief statement of reasons by Romul Boilă]..., pp. 35-36.

¹⁵ *Ibid.*, p. 3.

¹⁶ *Ibid.*, pp. 3-4.

¹⁷ Constantin Berariu, *Noua Constituție a României: reflexiuni și ante-proiect* [The New

In the first part, it was noted that the old Constitution “no longer satisfies the needs of the old territory of the Kingdom”, with the mention that “in the annexed parts it is largely not applied by the authorities, because there is a great disorientation regarding the validity of the norms of the Romanian Constitution in relation to those lands”. A notable discrepancy was observed: both Transylvania and Bukovina had a majority representation system in place for elections to the Assembly of Deputies. However, Article 57 of the old Constitution provided for a proportional representation system categorically. The starting point was the premise that “the current Constitution, in part, does not match the circumstances and conditions of the present”, a fact recognised by both the authorities and public opinion. For these reasons, it was considered that “there is no other way to ensure a unitary Constitution for the whole country, than by amending the old Constitution or replacing it with a new one”.¹⁸

The decision was to replace the old Constitution. Apart from the legal arguments, a political argument was also invoked. As a result of the unification, the territory of the country and the number of the population increased considerably, so that the population of more than half of the state’s territory had not been represented “at the deliberations on the old Constitution”. Therefore, the partial revision of the constitutional text “would not allow the representatives of this part of the population to pronounce in full freedom also on the norms of the Constitution that remained unrevised, which would not be fair”, following that “in the Constituent Assembly to deliberate the entire Constitution complex, replacing the old one with a new one, entirely voted by the representatives from every part of the country today”. As a result, no one will have any doubts “regarding the provisions of the new Constitution, everyone will have to unite under the protection of its principles.”¹⁹

In the second part, entitled “Statement of reasons for the preliminary draft”, the essential notions of the preliminary draft of the Constitution were explained.

1.4. *The preliminary draft of the Peasant Party.* The initial draft developed by the Peasant Party was published in 1922. Although the title of the published document suggests that the preliminary draft was prepared by the Studies Section of the Peasant Party, and that Constantin Stere was only responsible for the “Statement of Reasons” section, in reality, the version of the actual text of the draft constitution was also elaborated by C. Stere, a professor of Constitutional Law at

Constitution of Romania: reflections and the preliminary draft]..., p. 16;

¹⁸ *Ibid.*, pp. 5-6.

¹⁹ *Ibid.*, p. 8.

the University of Iasi.²⁰

In the "Statement of Reasons" C. Stere arguing the need to draw up a new Constitution stated: "Unfortunately, in the absence of the constitutional act, formally accepted by the country, necessary for the application and specification of the constitutional forms and norms, as well as for ensuring their respect, it was possible to happen that painful contradiction between the law and fact, which characterises the chaos in which we struggle."²¹

The preliminary draft consisted of 167 articles, organised into eight titles. It began with provisions on Romania's territory, followed by those on the rights of the population and the state's powers. Unlike the other preliminary drafts, the conceptual framework presented in the second part emphasised the authors' belief in the decentralisation of public authorities. The other titles dealt with topics such as finance, economic administration, the organisation of the army and local self-government institutions.²²

CONCEPT OF THE UNIFIED STATE

Regarding the concept of the state in which the Unified Romania was to be included, D. Ioanitescu promoted the idea that in the new conditions, the modern state should not be limited only "to a purely bureaucratic activity with a passive character", but should also become "an active force, which should awaken the national initiative in all social fields". In the future, the state's attributions were supposed to not only be those of "legislating, applying laws and controlling this application; but also, to become a superior body for guiding and coordinating the

²⁰ Raisa Grecu, Valentina Coptileț, *Contribuția lui Constantin Stere la modernizarea instituțiilor naționale: anteproiect de constituție* [Constantin Stere's contribution to the modernization of national institutions: preliminary draft of the Constitution], in "Revista Națională de Drept", 2015, nr. 6 (176), p. 18; Mircea Duțu, *Fundamente istorice și permanențe defnitorii ale culturii juridice românești. Tradiție neolatină, sinteză europeană și amprentă proprie în unificarea constituțional-legislativă* [Historical foundations and defining permanences of Romanian legal culture. Neo-Latin tradition, European synthesis and own imprint in constitutional-legislative unification], in "Studia Universitatis Babeș-Bolyai: Iurisprudentia", 2020, nr. 4, pp. 256-258.

²¹ ***, *Ante-proiect de Constituție întocmit de Secția de Studii a Partidului Țărănesc cu o Expunere de motive de C. Stere* [The preliminary draft of the Constitution prepared by the Studies Section of the Peasant Party with a statement of reasons by C. Stere]..., p. 22.

²² Marius A. Mureșan, *A Comparative Analysis of the Four Draft Constitutions...*, p. 4.

entire social, cultural and economic life". Thus, only the state "will be able to leverage the social and economic factors, that concern the life of the entire community, such as the underground riches, energy generators, monopolies of general interest, etc...; and on the other hand, its activity will be based increasingly on a close collaboration with local administrations and with certain special institutions". It was assumed that the "freedom of action" that would be offered to administrative bodies "would increase national energy and facilitate the active participation of all the people in the life of the state."²³

C. Berariu opted for abandoning the principle of the separation of powers, which, in the author's view, had been "abandoned by science" and which did recognise "only one supreme power in the state, emanating from the entire nation", proposing its replacement with the principle of "organic diversification in exercising the sovereignty". According to this principle, the public authorities had to be delimited according to the categories of the exercised powers: the King, the legislature, the executive, central and peripheral (deconcentrated) public administration, decentralised public administration, finances, the army, ordinary justice, administrative justice (administrative litigation). The principle of separation did not imply the isolation of public authorities, but "the harmonious cooperation of all for the salvation of collective interests and for the protection, permitted by law, of individual interests".

Emphasis was placed on the need for "the peripheral state administration to be entrusted to its own bodies, appointed, hierarchically dependent on the central administration, separated from the local administration bodies." It was necessary to "carefully separate the matters of general interest from those of local interest", with the former entrusted to "officials appointed by the central power and directly dependent on it," and the latter "assigned to the representative bodies of the county, elected by its electoral body".²⁴

The constitutional norms regarding the territory of the state had to be adopted "for the entire new territory of the Kingdom", being considered "unfounded for any norms that would guarantee a higher order autonomy to the parts of the new territory of the state".²⁵

²³ *** , *Ante-proiect de Constituție întocmit de Cercul de studii al Pardului Național-Liberal, cu o expunere de principii de Dimitrie Ioanițescu* [The preliminary draft of the Constitution drawn up by the National Liberal Party Study Circle, with a statement of reasons by Dimitrie Ioanițescu]..., pp. 11-12.

²⁴ Constantin Berariu *Noua Constituție a României: reflexiuni și ante-proiect* [The New Constitution of Romania: reflections and the preliminary draft]..., p. 15.

²⁵ *Ibid.*, p. 17.

In the statement of reasons accompanying the preliminary draft constitution, Professor R. Boila insisted on the need to create “such an organisation through which the entire nation participates in the exercise of the State Power and in all the benefits of constitutional State life. Through this, a democratic life is realised which, in its true sense, means nothing more than the sincere validation of constitutional principles”. One of the constitutional principles “of the greatest importance” is the representative principle, therefore, in his view, it was necessary to adopt the electoral system of universal suffrage, which would “ensure the broadest representation of the nation and the validity of its will in the conduct of State life”.

Another guiding principle was to be social justice, which meant “citizens’ fulfilment, especially the ones of economic consideration”.

R. Boila considered that only a constitution “drafted on the basis of modern principles of state organisation can provide the possibility of removing the national, confessional and social grievances that may arise in state life”. The “degree of political culture of the nation you want to organise” depended on the effective practical implementation of constitutional provisions. That is why it was necessary to use all available means to ensure a “political education of citizens”.²⁶

R. Boila considered that constitutional principles must be “validated in all public organisations of the State”. In any state, “there are matters of great importance that require a central administration” and there are “others that can be better managed through decentralisation”. Therefore, the possibility must be given that “affairs of local interest can be managed by local bodies established on the basis of the representative principle”. Articles 150 – 153 of Chapter VI, entitled “On Public Administration”, contain these general principles together with others taken from the old Constitution, which refer to the administrative delimitation of the State.²⁷ The provisions of Article 4 of the old Constitution regarding the administrative delimitation of the State were brought in the draft, the article provided that “the Romanian State is divided, from an administrative point of view, into counties, counties into pretorates and pretorates into communes. Changes in the division of counties and pretorates or even of communes can be made, where necessary, by ordinary laws” (Art. 151 of the preliminary draft).

In the view of Professor C. Stere, the essence of the constitutional problem

²⁶ ***, *Anteproiect de Constituție pentru Statul Român Întregit cu o scurtă expunere de motive de Romul Boilă* [The preliminary draft of Constitution for the Unified Romanian State with a brief statement of reasons by Romul Boilă]..., p. 37.

²⁷ *Ibid.*, p. 58.

consisted in “effectively ensuring the conditions of freedom and intense civic life”. C. Stere was firmly convinced that if the new constitution “will not bring effective remedies in this regard, if it will not make available to citizens the real means of defending individual rights and freedoms and if it will not create centres for emanation of civic activity, in villages, cities, counties, provinces”, then, regardless of the central apparatus adopted, Romania will not have a true constitutional regime, nor a democratic state nor “even a rule of law, in the true sense of the word”.²⁸

Three elements of the future constitutional structure, according to C. Stere, could not be compromised: “the guarantees of citizens’ rights and freedoms, local autonomy and ... ensuring the sincerity and freedom of the popular suffrage”. However, the achievement of these three essential conditions for a free national life cannot be postponed because it could endanger “the existence of the state and national unity”. Only by achieving them, “people can ensure that *Self-government*, without which, according to the modern conception of the world order, it cannot even be constituted as a Nation”.²⁹

ADMINISTRATIVE ORGANISATION OF THE UNIFIED ROMANIA

The first part of the preliminary title “Romania and its territory” of the National Liberal Party’s initial draft, entitled “Organisation of the state”, provided in art. 3 that “all state powers come from the nation, that can only exercise them by delegation and according to the principles and rules of the present Constitution”, the stipulations of art. 31 of the old Constitution being brought forward here.³⁰

In Chapter 3, entitled “On administrative organisation”, art. 85 provided that “the state has the general directive of public activity in all political, social, cultural and economic branches, being assisted by local, county and communal organisations, as well as by specific specialised public institutions”. In contrast,

²⁸ *** , *Ante-proiect de Constituție întocmit de Secția de Studii a Partidului Țărănesc cu o Expunere de motive de C. Stere* [The preliminary draft of the Constitution prepared by the Studies Section of the Peasant Party with a statement of reasons by C. Stere]..., p. 49.

²⁹ *Ibid.*, pp. 49-50.

³⁰ *** , *Ante-proiect de Constituție întocmit de Cercul de studii al Partidului Național-Liberal, cu o expunere de principii de Dimitrie Ioanițescu* [The preliminary draft of the Constitution drawn up by the National Liberal Party Study Circle, with a statement of reasons by Dimitrie Ioanițescu]..., p. 57.

the interests “of a purely local nature in the administrative, social, cultural and economic order are the responsibility of the county and communal organisations in accordance with the special laws of decentralisation; the state retaining the right to coordinate, assist and control these institutions”.³¹

In terms of organising the executive power and ensuring stability in the exercise of governance, it was proposed that “in order for the normal life of the state not to suffer from frequent changes of government and from the periodic need for elections”, the state, in the future, should rely, “in addition to its political bodies, on an executive apparatus with as much permanence as possible”. Therefore, the Constitution had to “guarantee, more than ever, to all civil servants: stability, objective conditions for admission, advancement and transfer, as well as certain methods of organising disciplinary authorities”.

Under these conditions, the government will become, over time, just a “supreme body of control and guidance, in the sense of its political program and the will of the country, expressed in the elections”. At the same time, due to the complexity of the activity, the state will no longer be able to cover “the entire administrative activity of the country”, being “forced to remain only a large coordinating and directive body, whose activity will be based mainly on the well-organised collaboration of the local administrations and special institutions”.

This would achieve “the easing of the state’s activity through the division of labour”, but it had to “maintain the harmonious functioning of all bodies down to the last cell”. It was expected that the “division of labour” would be “of two types: one, horizontally, represented by the decentralised local life of the county and the commune, and the other, vertically, consisting of the creation of specialised institutions and associations, in order to increase the private initiative, which is sometimes much more competent than the state”.³²

The administrative organisation of the Unified Romania, in the opinion of C. Berariu, was such that “peripheral individual and collective interests suffer greatly due to the excessive technical centralisation of the attributions of the administrative bodies”. The system, thus conceived, involves “great sacrifices in money, effort and time”, hence reversing the fundamental principle of any administration – promptness. Promptness, in C. Berariu’s view, could be guaranteed only by “expanding peripheral attributions in the general and special state administration and strengthening technical competence”, by recognising external administrations as entities with a certain degree of autonomy in their

³¹ *Ibid.*, pp. 71-72.

³² *Ibid.*, pp. 15-16.

activity. Such a system would guarantee both promptness and the legality of administrative acts, as the higher courts “will be able to monitor not only the following of the general interests but also the legality, functioning as administrative litigation”. The quality of “peripheral, external administrative organisations” was attributed to “*the regional administration*, whose territorial competence would extend over several counties, *the prefecture*, with territorial competence limited to one county, and *the sub-prefecture*, with territorial competence limited to a district (*plasă*)”.³³

The territorial extent of the Kingdom imposed the need to create the regional state administrations, their “purpose being to relieve ministries and to serve more intensively the general interests of the state and the social interests of their constituency”. A good regional administration, in the understanding of C. Berariu, “will silence the voices that demand provincial autonomies or federalised states, because they will find in this organisation the necessary guarantee for saving peripheral interests of a higher order, a guarantee that is missing in today’s organisation, created by the legislation of the old Kingdom”. To both regional administrations, prefectures and sub-prefectures the quality of “moral personalities” was not attributed, they were only supposed to be “bodies that represent the personality of the state in the exercise of its power”.³⁴

The heads of these “organisations” were supposed to be representatives of the state administration “in all its branches, with the exclusion only of those services that by their nature require separation.” C. Berariu considered that the concentration of peripheral administration in the hands of a single head would favour the “political harmonisation of the interests represented by the various services,” and on the other hand would promote “an easier orientation of the population in pursuing individual and collective interests.”³⁵ The establishment of regional administrations could also contribute to the selection of the future statesmen by capitalising on their capacities in administrative practice. The relatively small number of regional administrations implies a corrective against the admission of less suitable persons. That is why it was proposed that in the general external administration, political officials should be admitted, but only as heads of the regions, the administration of the districts (*plăși*) and prefectures

³³ Constantin Berariu *Noua Constituție a României: reflexiuni și ante-proiect* [The New Constitution of Romania: reflections and the preliminary draft] ..., pp. 25-26.

³⁴ *Ibid.*, p. 27.

³⁵ *Ibid.*

having to “remain reserved for career public officials”.³⁶ The choice was made for the professionalisation of the public service and the application of the principle of stability in the activity of the administrative staff. C. Berariu expressed his negative attitude towards the appointment of political officials to the head of the general external administration of the state, considering that this is harmful, in most cases, due to the “professional incapacity” and the “moral insufficiency of these improvised officials”.³⁷

An “honest and serious” administrative organisation, in C. Stere’s view, “could not disregard realities, it must rely, as much as possible, on living organisms, not on arbitrary and artificially combined mechanisms, without their own life”. Precisely for these reasons, nothing could be more natural “than for the future organisation of Romania to use the provinces as administrative units”. The abstract unification of territories should not be confused with their union, considered C. Stere, he also stated: “... we do not only need mechanical uniformity, but an intimate union in thought and spirit, which can only result from respect of the particularities and natural characteristics of each, and from the truly free activity of all. The real power can never spring from the monotony of an external mechanisation, but only from organic diversity which is full of life”.³⁸

C. Stere rhetorically asked: “The chimera of a mechanical uniformity was naturally born in the souls devastated by prolonged despotism, from the contempt for the public liberties and civic life, but under the regime of a constitution founded on the principle of the national sovereignty, how could this harmful mentality arise, a mentality thanks to which for the emancipated provinces the union had as its first effect the disappearance of even the germs of local autonomy, which they had under foreign oppression”?³⁹

In C. Stere’s vision, two essential conditions are necessary for the construction of a democratic regime in the state: the “supremacy of law” and local autonomy which includes ensuring the individual freedom and ensuring communal freedom.⁴⁰ Regarding the state of the local autonomy, C. Stere noted that the Constitution did not specify the norms of the local authorities’

³⁶ *Ibid.*, pp. 27-28.

³⁷ *Ibid.*, p. 27.

³⁸ ***, *Ante-proiect de Constituție întocmit de Secția de Studii a Partidului Țărănesc cu o Expunere de motive de C. Stere* [The preliminary draft of the Constitution prepared by the Studies Section of the Peasant Party with a statement of reasons by C. Stere] ..., pp. 44-45.

³⁹ *Ibid.*, pp. 45-46.

⁴⁰ *Ibid.*, p. 36.

organisation “based on more complete administrative decentralisation and communal independence”, and the countless laws and draft laws on administrative organisation, adopted or proposed on a later date, not only completely ignored the provisions of the constitutional norms but also ended up, “as in the case of civil liberties, mystifying the very idea of local autonomy to the ... dominant class”.⁴¹

Starting from the premise that in Romania the peasants “do not live scattered on their lands, as in most Western countries, but are grouped in villages and hamlets”, Constantin Stere considered that these “natural population centres, where the overwhelming majority of the nation lives”, from the point of view of the local autonomy, should constitute the starting point of the administrative organisation of the state.⁴² C. Stere expressed his attitude of non-acceptance regarding the fact that in Romanian legislation, villages and hamlets do not have the status of administrative units, considering that the administrative organisation of Romania is based on an artificial unit – the “rural commune”, “which each “reformer” believes to have the right to combine and rearrange as they please”, there are communes that include villages located 20-30 kilometres apart, “whose inhabitants cannot even know each other”.⁴³

Thus, C. Stere considered, under the constitutional regime existing at that time, the rural population represented an “amorphous mass” because in the “natural hotbeds of national life, in villages and hamlets, centres of civic activity could not be created and developed”. Consequently, 80% of citizens were excluded from public life! The regime established by the Constitution of 1866 was more retrograde, in that regard, “even compared to the ancient organisation of villages, respected in the times of “absolutism”.⁴⁴

C. Stere considered it an objective necessity to create larger administrative units, superimposed on the counties. In a healthy state life atmosphere, the solution to this problem would have naturally been sought in the historical provinces, which were historical formations and had a “centuries-old past of a distinguished life”, with distinct mentality, customs, cultural and economic conditions”, forming “a well-defined unit”.⁴⁵

C. Stere treated the rural communes and even counties as “arbitrary and

⁴¹ *Ibid.*, pp. 41-42.

⁴² *Ibid.*, p. 42.

⁴³ *Ibid.*

⁴⁴ *Ibid.*, pp. 42-43.

⁴⁵ *Ibid.*, pp. 43-44.

artificial combinations, created out of administrative needs, while provinces, on the contrary, were considered “historical formations, each with its own distinct destiny”. For these specific reasons, it was chosen even in the Title on the Territory of Romania (Art. 1) to recognise the territorial delimitation of the Romanian Kingdom into six provinces: Wallachia, Moldavia, Transylvania, Bessarabia, Bukovina and Dobruja.⁴⁶

DECENTRALISATION OF THE ADMINISTRATIVE SYSTEM

After the achievement of national unity, the issue of decentralising public power took on a new dimension in the context in which each province was guided by its own administrative customs. It was precisely for this reason that a fundamental reform of the Romanian administration was desired, through which the practical application of the principles of decentralisation and local autonomy would be guaranteed, thus ensuring the “spiritual unity” at the level of subnational public power organisation. Decentralisation was considered the starting point of a new phase in the evolution of Romanian society.⁴⁷

In D. Ioanitescu’s opinion, the envisaged decentralisation should not be confused with proper autonomy, which was a conception “of medieval origin”. It was considered inapplicable because the struggle was no longer relevant for “primacy between the state and local bodies, so that they would feel the need for a separate freedom of action, the state no longer being a rival and usurper, as in the past, but the very collectivity of the nation”. Even though the decentralisation system is still based on the freedom of action granted to local authorities, “this originates from other reasons, and is done for another purpose, namely, to achieve, through a systematic division of labour, an increase in individual initiative and a more real control of public affairs, through the direct participation of those interested”.

This situation had to be specified in the constitutional text because the “tendency” remained “in the freed provinces, due to past struggles against oppressive regimes represented by the state, to consider the state as an enemy

⁴⁶ *Ibid.*, pp. 76-77.

⁴⁷ Dan Constantin Măță, „*Greșește oricine face între cetățenii României mari deosebiri*”. *Constituția din anul 1923 și problema constituirii autorităților deliberative locale* [“Anyone who makes great distinctions between the citizens of Romania is wrong”. The 1923 Constitution and the problem of establishing local deliberative authorities], in “*Revista de Științe Juridice*”, 2023, nr. 1, p. 80.

and to demand a misunderstood autonomy". For this reason, "the definitive and complete application of decentralisation will have to be preceded by a certain transitional period".⁴⁸

Regarding the tendency to "commercialise public services at any price", D. Ioanitu considered it necessary for the Constitution to establish "specific general principles, relative to the exploitation and administration of public institutions". It is essential to make principial delimitation between "the services that interest the life of the entire community and its economic and political independence" and those "of a more secondary nature, the administration of which would not hinder general state action". Only for the latter it could be accepted "that they be commercially run by other public institutions or by private initiative, with or without the participation of the state, but always under its control".⁴⁹

A special attention in the work of Professor C. Berariu was paid to administrative decentralisation. Having the premise that "the system of decentralisation pre-exists in several varieties in all parts of Romania" as a starting point, C. Berariu emphasised the concern for the application of decentralisation to the territorial communities: commune and county (county, district), the principle of decentralisation being necessary to be adopted at the level of the entire country, "in the interest of organic unification".

The preliminary draft developed by R. Boila, in art. 150, provided that "the administration of public affairs will be carried out where the interests of the general management of the activity and the security of the State allow it, with the application of the principles of administrative decentralisation and communal independence, together with the validity of the representative principle based on the universal suffrage system (Article 107 of the old Constitution amended). Articles 152 and 153 of Chapter VI were written based on the content of Article 115 and, respectively, Article. 106 of the old Constitution."⁵⁰

Article 137 of Chapter IV, "On the Institutions of Local Autonomy," of Title III, "On the Powers of the State," of the Peasant Party's preliminary draft

⁴⁸ ***, *Ante-proiect de Constituție întocmit de Cercul de studii al Pardului Național-Liberal, cu o expunere de principii de Dimitrie Ioanițescu* [The preliminary draft of the Constitution drawn up by the National Liberal Party Study Circle, with a statement of reasons by Dimitrie Ioanițescu]..., p. 17.

⁴⁹ *Ibid.*, pp. 17-18.

⁵⁰ ***, *Anteproiect de Constituție pentru Statul Român Întregit cu o scurtă expunere de motive de Romul Boilă* [The preliminary draft of Constitution for the Unified Romanian State with a brief statement of reasons by Romul Boilă]..., p. 30.

established the statutes of the institutions of local autonomy. It was stipulated that the activities of provincial, county, communal, and village institutions would be enforced by laws based on the principles of decentralisation and local autonomy.⁵¹

TERRITORIAL ORGANISATION OF SUBNATIONAL PUBLIC POWER

In the draft of the National Liberal Party, it was stipulated in article 87 that the territory of Romania “is divided into counties, the counties into communes, the division into counties cannot be changed or rectified except by law” (art. 4 of the old Constitution). And art. 88 resumed the provisions of article 37 of the old Constitution regarding the deliberative authorities of counties and communes: “County and communal interests are entrusted, in accordance with special laws, to councils formed by members elected by universal, equal, direct, secret, mandatory vote and with representation of minorities, as well as by statutory members”.⁵²

In chapter 4, entitled “Financial Organisation”, it was stipulated that “any state, county and communal tax cannot be established, increased or reduced except by a law; in this regard, county and communal taxes must also have the prior approval of the respective councils”. In the chapter, the possibility of imposing taxes was also allowed by law “for the benefit of public institutions that perform state duties” (article 89, which brought forward the provisions of articles 108, 109, and 110 of the old Constitution).⁵³ Counties, communes, and specific public institutions could impose taxes within the pre-established legal framework “for services provided to the public”.⁵⁴

C. Berariu started from the premise that in rural communes, with their traditional, less complex way of life, local interests prevail over general ones, so that the latter have a secondary role only. Therefore, he considered it sufficient that “the administration in rural communes be controlled by state bodies or other

⁵¹ ***, *Ante-proiect de Constituție întocmit de Secția de Studii a Partidului Țărănesc cu o Expunere de motive de C. Stere* [The preliminary draft of the Constitution prepared by the Studies Section of the Peasant Party with a statement of reasons by C. Stere]..., p. 75.

⁵² ***, *Ante-proiect de Constituție întocmit de Cercul de studii al Partidului Național-Liberal, cu o expunere de principii de Dimitrie Ioanițescu* [The preliminary draft of the Constitution drawn up by the National Liberal Party Study Circle, with a statement of reasons by Dimitrie Ioanițescu]..., pp. 71-72.

⁵³ *Ibid.*, p. 72.

⁵⁴ *Ibid.*

bodies, while exercising a certain degree of supervision". Local administration in these communes "could be deferred, without worrying about compromising the general interests to the elected bodies: communal council, communal committee, permanent delegation and mayor". This system was considered acceptable both for market towns and for small urban communes, which "exercised their influence only over a fairly insignificant territory of attraction".⁵⁵

Since larger cities have special importance as the economic and cultural centres of vast territories, it would be wrong to believe that local interests prevail in these centres. Their influence is reflected not only in the city's population but also in the broader region's population. By attributing prevalence to local interests in the administration of these urban centres, they "would turn into centres of economic exploitation of the region, into centres of enrichment without considering the interests of the surroundings." The specificity of Romania consisted in the fact that in the big cities, the population of other ethnic groups predominated, inclined to take advantage of their prevailing situation, without the desire "to satisfy the interests of the large mass of the population in the surroundings".⁵⁶

Considering that there is a conflict of interests between the majority of the population of different descent in the cities and the rural population from the surrounding areas, and, consequently, "a slow antagonism, which over time can take on unpleasant proportions, it was advisable, from the very beginning, through the appropriate organisation of the administration of the larger cities, to provide the means for the continuous harmonisation of contrasting interests". Therefore, the administration of the local interests of the larger cities could not be entrusted only to elected bodies, "it is good that the decisive word to be given to the appointed bodies".

It was proposed that in large cities, with a population of more than 40,000 inhabitants, local administration be entrusted to "an appointed mayor, dependent in some attributions on a communal committee, whose members shall also be appointed. A communal council shall be established in these cities by election, chaired by the mayor or his deputy, a member of the communal committee". The decisions of the communal council would become enforceable only after their approval by the mayor or, in cases provided by law, by a higher authority. To the communal committee, as well as the members of the communal council, it was

⁵⁵ Constantin Berariu *Noua Constituție a României: reflexiuni și ante-proiect* [The New Constitution of Romania: reflections and the preliminary draft]..., p. 30.

⁵⁶ *Ibid.*

assigned the right of “initiative in matters reserved for the deliberations of the communal council”.⁵⁷

A similar regime could be adopted for some smaller communes, which “are distinguished by their general importance, such as industrial centres, balneary and climatic resorts, or of great historical importance, the former needing increased and continuous social care, the latter needing superior order in all respects and the necessary comfort”.⁵⁸

The counties were treated as “territorial communities of a higher order”, the organisation of which had to be established by a special law. The county authorities, in the understanding of C. Berariu, had to administer “the local interests of the county” and to exercise, “within the framework provided by law, control and supervision over the communes in their constituency, excluding the communes subject to the control and supervision of other bodies”. The counties and communes were given the quality of “public legal persons”.⁵⁹

The third part of the work included the preliminary draft of the Constitution itself. The second part of the preliminary draft was dedicated to the problems of state organisation. The problems of local self-administration were treated in Chapter 2, Part Two, entitled “On the Administration of Local and Other Interests”. Art. 136 provided that “interests of a purely local nature in the administrative, social, cultural and economic order are the responsibility of county and communal organisations in accordance with the special laws of decentralisation”, provided that the state retains “the right to coordinate, assist, control and supervise these institutions.

For the administration of local interests, the state territory was delimited into counties, and the counties into communes. Both counties and communes were assigned the status of moral persons (art. 137). The administration of local, county and communal interests was entrusted, in accordance with special laws, to “councils formed by members elected by universal, equal, secret, mandatory suffrage and with representation of minorities, as well as by ex officio members” (art. 138).⁶⁰

According to the provisions of art. 139, the executive bodies of the counties were the President of the Permanent County Committee and the County Committee; the executive bodies of the communes were the Mayor and the City

⁵⁷ *Ibid.*, pp. 31-32.

⁵⁸ *Ibid.*, p. 32.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*, pp. 74-75.

Hall Committee. These executive bodies were elected by their respective councils from among their members, except for the larger communes or those of special importance, which, according to a special law, “would be removed from under the county administration”. It was stipulated that the President of the County Permanent Committee would be confirmed by the Royal Decree (art. 139).

In communes with more than 40,000 inhabitants and in communes of special importance, industrial centres, balneary resorts, or localities of great historical significance, the Mayor and the members of the City Hall Committee had to be appointed by Royal Decree, without restriction on the members of the Communal Council. In these communes, no decision of the Communal Council could be executed without the approval of the Mayor and the City Hall Committee or other bodies established by law (art. 140).

Art. 141 provided that “the detailed rules on the establishment of county and communal bodies, on the control and supervision competence of county bodies over the communal ones” would be established by law. The law also had to define “the cases in which county and communal bodies may be temporarily suspended and replaced by interim bodies.

Local and county authorities were obliged to fulfil only the tasks delegated “by law or based on law” (Art. 142).⁶¹

R. Boila’s approach to the involvement of ethnic minorities in public life is of interest. This issue was addressed in Article 24 of Chapter II, “On the rights of Romanian citizens” which stipulated that every Romanian citizen “has the right to their own language. Every citizen may freely use their language in public meetings, in matters of religion, the press or publications of any kind, as well as in their private or commercial relationships”. At the same time, Romanian citizens, regardless of ethnicity, when interacting with public authorities, were required to respect the official language of the Romanian State – the Romanian language. In counties where Romanian citizens “of different ethnicity” made up a fifth part of the county’s population, they had the right “to be administered and judged in their own language”.⁶²

The same article stipulated that the minutes of the county councils had to be drawn up in Romanian. In addition to Romanian, the language of “that nationality, to which the fifth part of the members of the county corporation

⁶¹ *Ibid.*, p. 76.

⁶² ***, *Anteproiect de Constituție pentru Statul Român Întregit cu o scurtă expunere de motive de Romul Boilă* [The preliminary draft of Constitution for the Unified Romanian State with a brief statement of reasons by Romul Boilă]..., p. 8.

belong” could also be used. It was also allowed to use the native language of its members in the meetings of the county councils, “whatever that may be”. In the internal communal administration, the use of Romanian was stipulated, and the languages of other nationalities were also permitted. Furthermore, within the communal assemblies, it was allowed for each citizen to use their native language.⁶³

A “fortunate resolution of the issue of nationalities and confessions”, in R. Boila’s understanding, represented “a primordial interest for the Romanian national state” and “the resolution of these issues can be better done in the new Constitution”.⁶⁴

In the Peasant Party’s preliminary draft, the essential rules regarding the organisation of local autonomy institutions were concentrated in Chapter IV, entitled “On the local autonomy institutions”, which had only one article – 137.

A particular emphasis was placed on the administrative organisation of villages and provinces. Any “serious administrative organisation” had to start from the villages, which were considered the true natural centres of population.⁶⁵ Thus, villages and hamlets, considered as naturally populated centres, formed an administrative unit.

According to ancient custom, ignored by the legal norms of the previous decades and “as the nature of things dictates”, the “right to decide on village affairs” was recognised and attributed to the Plenary Assembly of the villagers (Village Community). C. Stere mentioned that this organisation functioned in Bessarabia, where the Tsarist regime respected it. Consequently, C. Stere stated: “I think we all agree that it is not admissible that the population of a Romanian province to have fewer rights after the union than it had before, under the foreign regime. Therefore, we have no other solution other than to extend this organisation to the rest of the country, where it was completely absent, or is much inferior”. This solution was acceptable also from pragmatic considerations, the creation of centres of civic life, as intense as possible, in each village was considered the “richest spring of national energy and as the safest mean of political education of the popular masses”.⁶⁶

⁶³ *Ibid.*, p. 9.

⁶⁴ *Ibid.*, p. 37.

⁶⁵ ***, *Ante-proiect de Constituție întocmit de Secția de Studii a Partidului Țărănesc cu o Expunere de motive de C. Stere* [The preliminary draft of the Constitution prepared by the Studies Section of the Peasant Party with a statement of reasons by C. Stere]..., p. 75.

⁶⁶ *Ibid.*, pp. 75-76.

Villages and hamlets with a population of up to 500 inhabitants were to be governed by the *Village Community*, and those with a larger population – by an elected *Village Council*. But even in these villages, the decisions imposing financial burdens and budgets were to be confirmed by public suffrage. Villages with a population of fewer than 500 inhabitants but more than 100 villagers could also elect a Village Council with the approval of the County Council. It was stipulated that the executive bodies had to be elected.

Villages and hamlets were to be grouped into rural communes, with a total population of at least 10,000 inhabitants. The deliberative body of the rural commune was the elected Communal Council, which elects its executive bodies. Villages and small market towns with a population of at least 8,000 could also form rural communes, organised according to the same principles.

Cities with a population of up to 50,000 inhabitants formed urban communes, while those with a larger population formed municipalities. Urban communes and municipalities were to be administered by elected communal or municipal councils, which would elect their executive bodies. The urban communes were part of counties, whereas municipalities formed an administrative unit on the same rank as a county.

The counties and provinces were to be administered by their elective councils, which would elect their executive bodies. The possibility that the County and Municipal Councils could send delegates to the Provincial Council to represent and defend their interest was also provided.

All the Councils and Local Councils were to be elected by universal, equal, direct, secret and compulsory suffrage, based on proportional representation. The right to vote belonged to all citizens of the respective administrative unit who were registered on the electoral lists for the Assembly of Deputies.

It was stipulated that the village, communal, county and provincial authorities would be assigned all matters of local, village, communal, county or provincial interest, with the exception of the potential approval of their acts, in cases and in the manner determined by law, in order to respect the general interest.

The possibility of association was provided for Village Councils or Communal, County, and Provincial Councils, under the conditions established by law, to regulate and address matters of common interest.

Regarding administrative control and supervision, the County Councils and their executive bodies were the first instance for village and communal administrations, while the Provincial Councils and their executive bodies were the second instance for village and communal administrations and the first instance

for municipal and county administrations.

The police in rural and urban communes were to be subordinated to the communal authorities, and in counties and provinces – to the county and provincial authorities.⁶⁷

STATUS OF CIVIL SERVANTS

In the National Liberal Party's preliminary draft on the status of civil servants, the guarantee of stability and the right to a pension were provided. A subsequent special law was to determine "the rights and obligations of all civil servants, their designation and classification, the conditions of admissibility, of promotion and transfer, as well as the modalities of the establishment of the disciplinary authorities". Both civil and military civil servants, with the exceptions established for ministers, were "liable to the state, county and commune, as well as to individuals harmed in their rights, for material damage caused in their service, in bad faith, for violation of laws and negligence". The possibility of granting, by law, to specific categories of civil servants, in some instances, "the right to condemn, within the limits of their service, individuals, offenders of administrative laws and regulations, to personal fines" was also stipulated along with the possibility of appealing the respective decisions in courts.⁶⁸

Regarding the status of civil servants, the preliminary draft signed by C. Berariu stipulated that "The Constitution guarantees the stability and pension rights of civil servants under the conditions set by law". It was specified that a special law "will determine the rights and obligations of all civil servants, will establish their designation and classification, the conditions of admissibility, promotion and transfer, the modalities of the establishment of disciplinary authorities, as well as the cases and procedure of civil liability towards authorities and particular individuals" (art. 180).⁶⁹

In the "Statement of reasons" the need to strengthen the status of civil servants was explained as follows: "The state, wishing not to be compromised in its very existence, needs an apparatus of civil servants with sufficient professional

⁶⁷ *Ibid.*, pp. 162-166.

⁶⁸ ***, *Ante-proiect de Constituție întocmit de Cercul de studii al Pardului Național-Liberal, cu o expunere de principii de Dimitrie Ioanițescu* [The preliminary draft of the Constitution drawn up by the National Liberal Party Study Circle, with a statement of reasons by Dimitrie Ioanițescu]..., p. 77.

⁶⁹ Constantin Berariu *Noua Constituție a României: reflexiuni și ante-proiect* [The New Constitution of Romania: reflections and the preliminary draft]..., pp. 83-84.

culture, just, well-reputed, conscientious and animated by the mission entrusted to them. Such civil servants can only be gained by materially ensuring them and their families, by stability and fair treatment during their service and after retirement, as well as by materially ensuring the widow and descendants after their death. In return, the civil servant will be expected to strictly fulfil his official obligations".⁷⁰

The preliminary draft prepared by R. Boila, in Chapter IX entitled "On Public Servants", through its only article (art. 169) guaranteed civil servants the stability of their public office and the right to a pension. These two issues were considered very important for that "stratum of the nation" that "dedicates its own life to the civil servant career". R. Boila considered that "in order to balance the civil liability of public servants, a solution corresponding to material justice must be found".⁷¹

CONCLUSIONS

The four preliminary drafts of the constitution represented a diversity of approaches, due to the political orientations of the authors and to the traditions of the provinces of their origin. In general, the examined preliminary drafts sought to develop a constitutional framework appropriate to the historical period and the rigours of the time in matters of constitutional law, while essentially taking into account the fundamental principles of the Constitution of 1866.

The authors of all four preliminary drafts, in their effort to identify the essential principles for building efficient subnational institutional structures, insisted, especially the representatives of opposition political parties, on the need to eliminate political pressures and influences on administrative authorities, especially subnational ones. Another issue that concerned the actors involved in the development of the new constitutional framework was the need for efficient decentralisation of public power, including through regionalisation.

Unfortunately, the opinions, concepts and legislative solutions included in the examined preliminary drafts did not constitute the subject of extensive parliamentary debate; the political approach prevailed, thereby narrowing the debate and limiting the decision-making options of parliamentarians. If, in the process of examining the preliminary draft of the Constitution submitted by the

⁷⁰ *Ibid.*, p. 35.

⁷¹ ***, *Anteproiect de Constituție pentru Statul Român Întregit cu o scurtă expunere de motive de Romul Boilă* [The preliminary draft of Constitution for the Unified Romanian State with a brief statement of reasons by Romul Boilă]..., pp. 33, 59.

liberal government in the Constituent Assembly, the legislative solutions proposed in the other preliminary constitution drafts discussed in the public space had also been taken into account, according to the opinion of Professor Cr. Ionescu, "Romanian society, the political class, the political parties and, first of all, the citizens of Greater Romania would have only benefited".⁷²

Even if the ideas, opinions and solutions contained in the preliminary drafts, developed by the consecrated authors of those times, under the aegis of the political formations to which they belonged, were not analysed in parliamentary debates, they stimulated academic research and discussions, which contributed to the further development of the administrative and legal sciences.

Although during the parliamentary debates, the opposition political parties contested the very procedure for adopting the new Constitution, it was accepted by Romanian society.

The adoption of the new Constitution in March 1923 marked a critical moment in the standardisation of all key areas to ensure the vitality of Unified Romania. A solid foundation for the construction of a legislative and institutional system that would provide the uniform and dynamic socio-political development of the Romanian state was being created.

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⁷² Cristian Ionescu *Două vechi proiecte atipice de reformă constituțională publicate în contextul dezbaterilor parlamentare din Constituanta aleasă în anul 1922*, in <https://www.universuljuridic.ro/doua-vechi-proiecte-atipice-de-reforma-constitutionala-publicate-in-contextul-dezbaterilor-parlamentare-din-constituanta-aleasa-in-anul-1922/> (accessed on 03.05.2024).

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