

THE STRUCTURE OF THE ROMANIAN PARLIAMENT FROM THE PERSPECTIVE OF ITS OPTIMIZING AND OF THE COOPERATION MECHANISM WITH THE EUROPEAN PARLIAMENT

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Abstract:

The importance of the study developed in this paper is given, on one hand, by the last Treaty of Lisbon that substantially modifies and innovates the constitutional intra-parliamentary affairs and, especially, the inter-parliamentary ones between the legislative structures of the member countries of the European Union and on the other hand, by the intensely discussed issue in the Romanian society about the need to reform and optimize the structure of the Romanian Parliament through the imminent new revision of the Constitution of Romania. This paper aims to highlight the innovations of constitutional and public international law nature instituted by the new inter-parliamentary mechanisms within the European Union and it proposes some solutions in order to optimize the activity of the Romanian Parliament, taking into account the national parliamentary traditions and the need for a specialized cooperation with the European Parliament.

Key words: reform of the Parliament of Romania, controversy of the bicameralism versus unicameralism, the perspective of a new revision of the Constitution of Romania, national parliaments, European Parliament, cooperation mechanism between the European Parliament and the national parliaments.

JEL classification: K19, K33

INTRODUCTION

By adopting the Treaty of Lisbon [1], the national parliaments are for the first time given a clearly defined role in the European businesses, different from the one of the governments of the member states, its effect being a greater representation of the citizens at the level of the European decisional process. In other words, the member states' parliamentarians acquire a strong control instrument so that the decisions to be taken as close to the European citizens as possible, thus ensuring the regional and local dimension of these ones (Popescu, 2011).

The reform of the Romanian state is definitely a need of our time. Lately the discussions about the reform of the state have concentrated in one direction: the transfer from a bicameral to a unicameral parliament [2]. But, specific to the majority of the important issues in Romania, the discussions turned into demagoguery and politicking, lacking the specialists' point of view and a serious analysis based on the compared law and national tradition arguments.

We appreciate that the important questions related to the state's reform haven't been asked yet: 1. What is the objective of this reform? 2. What are the elements of this reform? 3. Within the institutional reform, can the Parliament's reform be seen *ut singuli*, as distinctive and unrelated to the reform of the other state's institutions and, further more, from the perspective of the new cooperation mechanism with the European Parliament? These questions and a lot more that can be added indicate the lack of any coherent strategy for the state's reform at the level of the decision makers (Săraru, 2010).

LEVEL OF DEBATES IN THE FOREIGN AND ROMANIAN CONSTITUTIONAL DOCTRINE:

In the European constitutional literature, it is predominantly present the point of view which gives a higher importance to national parliaments from the perspective of the subsidiarity principle and the mechanism of cooperation with the European Parliament [3].

In the Romanian constitutional literature, the opinions expressed after the Constitution of 1991 were divergent even from the beginning, the two debate poles being the observance of the local parliamentary traditions and the necessity to reform the Romanian Parliament based on the nation's will expressed through the referendum on the 22nd of November 2009, in order to choose a unicameral representative assembly [4].

From this perspective, we agree to the option that any change regarding the structure of Parliament should take into account the advantages of bicameralism and unicameralism, as it results from the experience of other states, and especially that it should analyze a series of independent variables which influence both the type of democracy in Romania after December 1989, and the way the fundamental institutions function (Dima, 2009).

1. WHAT TYPE OF BICAMERALISM DO WE HAVE IN ROMANIA?

The Romanian bicameralism is a complete and perfect one, due to the fact that the two Chambers have equal positions which comes from the fact that, according to art.61, par. (1) of the Constitution, both are elected by universal, equal, discrete, secret and freely expressed vote, which confers them the same legitimacy. Consequently, both Chambers of the Parliament have the same power (Muraru, Constantinescu, 2005).

If the first Chamber seized is the Chamber of Deputies, then this one votes on a law project sent to the Senate afterwards. The Senate can bring amendments and is entitled to disagree with that law. In the first case it confirms the vote given by the first Chamber, in the second it modifies the will of the first Chamber and in the third case it invalidates the Deputies' vote. In all these three cases, the final decision belongs to the Senate, obviously if it is within the limits of the legislative matters it can enact for in conformity with the Constitution. According to art.75 of the Constitution, the Senate can be the first Chamber seized and in this case the procedure is identical to the above described one, but the Chambers' role is reversed. The Chamber that can really decide is the Chamber having the final decision. From this point of view, the Parliament of Romania has a strong bicameralism where the Chambers mutually control themselves, but from a predefined and coordinated manner, meaning the constituent lawmaker indicated in the text of the Constitution the competence fields for each of the two Chambers.

The bicameral Parliament of Romania is the only one in Europe where senators and deputies are elected by the same vote system, directly by the citizens, it represents the same population and it has a common mandate of four years (Dima, 2009).

2. IMPORTANCE OF THE SECOND CHAMBER OF THE PARLIAMENT OF ROMANIA FROM THE REPRESENTATIVE DEMOCRACY PERSPECTIVE

Bicameralism offers the opportunity for critical cooperation, common and collective debate for taking decisions. The greater the interest for the public life and for politics in a certain state, the greater the necessity to extend the public representation. The second Chambers offer this possibility.

The bicameral system contributes to the representation of the population's options and through both Chambers, it confers width to the creation of the parliamentary state's will. Cooperation and legislative supervision are also extended this way. It is demonstrated that the bicameral system is an important form of separation of powers that works not only between the legislative, executive and judiciary powers, but also within the legislative one.

The issues become complicated in a bicameral system where the forces of the same political party operate in both Chambers, as it happens, specifically to a representative body, in a fraction representing regions or any other form in the Secondary Chamber. The influence of the political parties in this case crosses any limits and the party – state increases, while the state's power decreases. This leads to the loss of the most important features of the separation of powers and of supervision.

The secondary Chambers strengthen the democratic content of the Constitution and implicitly the stability of the constitutional system as long as they are paralyzed by the political reality. The members of the secondary Chamber can also bring the state closer to the citizens, listening to their opinions and assisting them.

By adhering to Europe, the member states have the opportunity, through the secondary Chamber, to represent the citizens' interests before the Government that represents them in the Council and is responsible for the entire state. The representation of interests, the balance and responsibility for the common good interest can be interconnected to the bicameral system and can strengthen the democratic culture within the political and legal system of each state. Related to these requirements, we must think about George Washington who, while elaborating the American Constitution, explained to Thomas Jefferson the importance of the Senate, referring to the way Jefferson poured the tea from the cup to the plate and thus demonstrated the cooling and balancing effect offered by the bicameral system. Who would have doubted the urgent need for fulfilling this role nowadays, in a period when the state is burdened by the citizens' high expectations? Only the bicameral system can facilitate what is necessary (Schambeck, 2010).

3. VALORIZATION OF THE RESEARCH THROUGH PROPOSALS OF REFORM OF THE BICAMERAL ROMANIAN PARLIAMENT FROM THE PERSPECTIVE OF THE CORRELATION OF THE SPECIFIC PREROGATIVES THAT MUST BE ATTRIBUTED TO ONE OF THE CHAMBERS OF PARLIAMENT FOR SUPPORTING THE COOPERATION WITH THE EUROPEAN PARLIAMENT

First of all, the necessity to reform the Romanian Parliament circumscribes to a general trend in the contemporary society which challenges more and more vehemently the efficiency of its institutions which function within a constitutional framework.

As far as we are concerned, we consider that the efficiency of the Romanian Parliament is a matter related to: its functionality, the specialization of each Chamber's responsibilities, the observance and continuity of national parliamentary and constitutional traditions, the elaboration of a framework for constitutional accountability, the improvement of the mechanisms concerning the Parliament's constitutional accountability as a whole and, on the other side, the individual political and legal accountability of its members [5], the elaboration of a framework for citizen participation to making decisions of general interest, as well as the supplementary and effective guarantee of the fundamental human rights and freedoms.

Taken into account the advantages of bicameralism and considering that the reform of the Romanian Parliament can be done only by combining the Romanian parliamentary tradition to the innovations instituted by the Treaty of Lisbon, we subscribe to the favourable opinion to maintain a Bicameral Parliament in Romania [6] with the following competence amendments meant to optimize its activity:

a. *The representative character.* The Chamber of Deputies should represent the nation. We appreciate that in Senate we should have on one hand the representation of the personalities who held high state positions or within academic and university bodies and on the other hand a representation of the administrative and territorial units and of the local public administration authorities. A serious analysis of compared law should clarify whether the eight Development regions created by the Law no. 315/2004 [7] for the Regional development of Romania shouldn't become administrative and territorial units with representative character at the Senate's level.

b. *The type of suffrage.* Following the French model, the Chamber of Deputies should be elected by direct suffrage during a uninominal majority election, in two rounds, in circumscriptions formed by a number of persons assuring an average rate of representation at the level of the European Union's member states. The Senate's members, representing the emanation of the local collectivities, should be elected by indirect suffrage from the county and regional colleges, thus correlating the local development to the national political debate.

c. *The Chambers' capacity.* The Chamber of Deputies should be formed of persons elected through universal, equal, direct, secret and freely expressed vote. The Senate should be composed of senators by right and senators indirectly elected within county and local colleges. At first view it could seem strange to introduce senators by right but these ones are found in the Romanian parliamentary tradition [8] and in the contemporary organization of the Senates from different European states (Italy or Ireland, for instance).[9] The role of the Senators by right is to offer a plus of stability, experience and insurance of a scientific basis in taking decisions. Through the senators by right, the Senate will combine electivity with intelligence. On the other hand, the Senate majority will be composed of representatives of the local collectivities who will thus be able to express their interests in the supreme legislative body of the Romanian state, similar to what is happening in the superior Chambers of the other unitary states (France, Spain, Holland, Slovenia etc.)

d. *Duration of the mandate.* According to the same French model, a distinction should be made between the duration of the mandate of the members of the two Chambers so that the members of the Senate to have a greater mandate (6 years in France and Czech Republic, for instance) and the Senate should be half renewed after a certain period.

e. *Attributions.* It should be highlighted the unequal bicameralism by putting into evidence certain fields in which each of the two Chambers could decide by its own. Thus, certain normative acts can be examined and voted only by the Senate (laws regarding the local governing; ratification of international treaties and laws aiming external politics in general; approval of the legislative acts projects that are to be adopted at the level of the European Union by the European Parliament and the Council, according to the Protocol regarding the role of the national parliaments within the European Union, attached to the Treaty of Lisbon; designation of certain judges, of the People's Attorney and of other persons in high state positions etc.). The possibility that certain laws to be adopted only by one Chamber does not lead to the division of the legal order, not influencing the unit of the state's normative power [10] (Săraru, 2010).

3.1. DO WE CANCEL A CHAMBER OR DO WE INTELLIGENTLY REFORM IT?

If the Senate's abolition appears to be a popular and politically correct measure, what benefits on average and long term can the reconsideration of the role held by the superior Chamber in the constitutional system bring to the community?

The question is far from being a rhetoric one. One of the errors of the constitutional engineering since 1991, kept in 2003, is to have refused the Senate for the constitution of its own individuality at the recruiting level. Since its origins, the Senate has been created as a Chamber which doubles and parasites a Deputies' Assembly elected by universal vote. One cannot determine in the present Senate the rudiments of representation of the local communities or of the professional elite: the institutional doubling makes the hostility towards bicameralism to seem rationally and constitutionally intelligible up to a point.

The reform of a lawmaker body can be done only by valorising a constitutional patrimony already existing. In the case of the decentralized unitary countries, the reason to maintain a Superior Chamber can be its transformation in a representation Chamber for the local community: the model which can be invoked is that of the present French Senate. The designation by the locally elected persons (the college reuniting local and county counsellors) of the senators is one of the legitimate options the Romanian constituent can adopt. The more so as one of the objectives a reliable Senate

can assume is the supervision of the regional and communal development process. Considering the relation between the Senate and the local community an institution refused *de plano* in 1991 can be grafted: the one of the senator by right. Expressing a professional or an ecclesiastic identity (the case in 1923 can be invoked in this respect) the senator by right has the potential to induce a plus of intelligence and maturity in the parliamentary action. Beyond this horizon, the numeric decrease of the senators is a natural requirement in order to adjust the political representation and to correlate it with the demographic reality.

Once changed the way of recruiting, the mandate of the Senate can be extended, thus assuring the continuity at the level of its assemblies. A different mandate from the Chamber's that should also decisively reflect the mutation happened in the economics of their prerogatives. Shyly engaged in 2003, the assignment of certain attributions of the Senate is the remedy in the absence of which its maintenance cannot be justified.

Just like in other occasions, the local institutional architecture cannot be integrally original. Once accepted this aspect of Chamber of the territorial collectivities for the Senate, the consequence is to eliminate the superior Chamber from the assignment/investment of the government: the vote of the censure motion is a traditional attribute of the inferior Chambers.

The Senate can explore in this context an extremely large institutional space. The external politics, the assignment of certain constitutional judges, the approval of the local development laws, and the supervision of the information services are some of the possible priorities. The Senate's voice can be distinctively heard only if the assignment of its mission is a rational and balanced one.

Invested with certain precise objectives, numerically reduced and related to a reality of the local communities, the Senate can be rehabilitated, institutional and symbolic. The last issue of the constitutional effort is the recovery, for the citizens' benefit, of its representation. The limitation of the excessive legislative delegation, the effectiveness of a parliamentary control and the sanction of the chronic absenteeism are complementary strategies, registered in the above evoked context. The retrieval of the parliament and of its authentic missions can only be achieved this way (Carp, Stanomir, 2008).

3.2. REVISION OF THE CONSTITUTION OR A NEW CONSTITUTION? MAIN AMENDMENTS AND COMPLETIONS WHICH MAKE NECESSARY THE ADOPTION OF A NEW CONSTITUTION

At present the modification of the bases of state power is profound, compared to 1991 and even 2003 and consequently a simple adaptation of the Constitutional content to the new social and political conditions of the year 2012 by revision it is not necessary. A contingent try to adapt the Constitution's content from 1991 to the new Romanian social and political conditions of 2012 couldn't succeed because there are a lot of texts within the actual Constitution that should be amended, completed or abolished, which could have as consequence in fact the adoption of a new Constitution.

Formally, of course, for efficiency, we can appeal to the revision of the present Constitution. The question to be raised is whether the amendments, additions and abolitions of the texts within the present Constitution are designed to change, in essence, its content; in other words, whether these amendments, additions and abolitions are designed to change deeply and irrevocably the functioning of all the institutions regulated by Constitution, in an efficient way, so that the obstructions felt in the recent political life of Romania could be removed.

a) Modification of the dissolving mechanism of the two Chambers

The dissolution of the parliamentary Chambers can be made in the situation in which the settlement of the discords between the Parliament and the Government supposes to go to the polls. The people, by elections, is the one who will decide, as an arbitrator, between the two public authorities, who was right in the discords between the parliament and the government and thus these discords will be solved.

If, further the elections, it results a Parliament with the same political structure, then it is obvious that the people has decided that the Parliament was right and the Government must resign. In case the political structure of the Parliament changes after elections, especially if this change is in the Government's favour, it is equally obvious that the people has decided that the Government was right and consequently this one can continue its activity, while the ancient Parliament would no longer be re-elected.

Such a rule is not found in the Report for the consolidation of the constitutional state of the presidential commission of the political and constitutional context in Romania and, unjustifiably and undemocratically, neither in the Constitution and *de lege ferenda* should be constitutionally regulated.

b) Unicameralism or bicameralism

Concerning the compared analysis between the advantages and the disadvantages of the bicameral and unicameral structure, these are treated by Bogdan Dima in his study entitled "Structură bicamerală sau unicamerală pentru Parlamentul României?", *Revista de Drept Public*, Nr. 3/2009 to which we strongly subscribe and, thus, we will no longer treat them in detail in this paper.

Not the pro or against arguments for the bicameralism or unicameralism are determinant, but the political, economical, social and other nature, momentary and conjuncture interests. Consequently, we don't find profitable to have contradictory debates with pro and against arguments for a solution or another, such debates should exist more upon the effects of any type of a solution or another upon the social life.

c) The Senate's individualization

Concerning the Senate, the Senate's members should be elected at local level because they represent the local interests, will be consulted and will decide for anything related to these interests. Concerning the Chamber of Deputies, its members should be elected based on some types of national polls because they represent the nation and they should decide in anything concerning its interests.

d) The problem of the parliamentary immunity

The parliamentarians can be pursued and arraigned, so also criminally convicted for facts that are not related to votes or to the political opinion expressed during the mandate without any prior approval.

The elimination of the regulation difference of the parliamentary immunity compared to the one of the parliamentary ministers, meaning between the provisions of art.72 and those of art.109, both from the Constitution, is a desiderate. The provisions of art. 109 from the Constitution set that the criminal prosecution of the Government's members can be done only further the request of the Chamber of Deputies, the Senates and of the President of Romania.

e) Constitutional commitment of the principle of subsidiarity

The principle of subsidiarity is regulated at the level of the European Union, regulation which should be put into practice in Romania. For that it is necessary to have a constitutional regulation that could recognize to certain state authorities, especially the Parliament, the right to state that a certain regulation of the European Union complies with this principle and thus to actuate the procedures foreseen by the European law (Iancu, 2009).

f) The need to regulate the referendum initiated by the population initiative

It is necessary to simplify the legal mechanisms by which the right to a legislative initiative of the citizens is developed. Romania has a defective exercise for national consultation and it lacks a culture for public dialogue, the intensification of the appeal for referendum being an extremely useful testing "ground" for the degree of the democratic maturation of the society. Obviously the

excesses and the transformation of the referendum into a populist or fight instrument between the political parties must be avoided (Carp et al., 2008).

g) Reconsideration of the legal procedure

According to the provisions of art.75 of the Constitution, by the adoption of a new law, the first Chamber seized is a deliberative, reflective one that, after having adopted the legislative initiative in the case or after the end of the term foreseen by the Constitution, regulated in this respect, will send it to the deliberative Chamber. In reality, under the conditions of the present constitutional text, only the deliberative Chamber adopts the respective initiative, being entitled to approve even a different text from the one resulted from the debate of the first Chamber (Iancu, 2009).

h) Addition to the procedure of assigning the Romanian prime-minister

According to the provisions of article 103, paragraph 1 of the Romanian Constitution, republished, the President of Romania designates a candidate for the position of prime-minister, following consultations with the party that has absolute majority in parliament or, if there is not such majority, with the parties represented in parliament. The last election cycles in Romania showed clearly that absolute majority is a perishable constitutional notion, and the interpretation of the present constitutional provisions exactly as they are has led to multiple obstructions and conflicts of constitutional nature between the Majority and Opposition on the theme of claiming the right to propose the prime-minister and to be designated by the President. In this respect, it is mandatory to develop from a doctrinaire point of view the notions of parliamentary majority and majority coalition, and also to have these notions acknowledged by the fundamental law so that the emerging political realities are regulated, all the more so as it is necessary to correlate the constitutional provisions with those of the Law on political parties which acknowledge the capacity of the parties represented in parliament to establish governing coalitions [11].

3.3. THE RELATION BETWEEN THE EUROPEAN PARLIAMENT AND THE NATIONAL PARLIAMENTS THROUGH THE TREATY OF LISBON

The most important event which took place in 2009 at the level of the European Union with consequences for the international, universal and even regional, European society is represented by the entry into, on December 1st, of the well-known legal instrument known as *the Treaty of Lisbon* (Fuerea, 2009) [12].

The new art.12 of the Treaty of the European Union institutes for the national parliaments the quality of party with full rights of the institutional architecture and of the European political space. At the same time, in the title *Provisions referring to the democratic principles*, the same article illustrates the role of the national parliaments within the European Context. The norm states that the national parliaments actively contribute to the functioning of the Union, by the analysis of the projects of the European normative acts, aiming the respect of the principle of subsidiarity, the participation to the mechanisms of evaluation of the Union's political objectives in the context of liberty, safety and justice, being associated to the political control of Europol, participating to the procedures for the revision of the treaties and to the inter-parliamentary cooperation [13].

The protocol regarding the role of the national parliaments was annexed to the Treaty of Lisbon and includes pragmatic and punctual intervention means for the national legislatures into the European politics. First, the information role of the national parliaments is regulated. Thus, all the legislative initiatives of the European Parliament must be communicated to the national legislatures. In the cases where there are bicameral parliaments, the procedure must be applied for each Chamber. In response, the national parliaments can send to the President of the European Union opinions concerning the sent European law projects (especially concerning the respect of the principle of subsidiarity) within eight weeks from their communication (except from the emergency cases, when the term can be of 10 days) (Ispas, 2011).

Secondly, the European Parliament and the national parliaments define together the organization and the promotion of an efficient and periodical inter-parliamentary cooperation within the Union. A conference of the parliamentary bodies specialized in the Union's issues can submit to the attention of the European Parliament, of the Council and of the Commission any contribution considered appropriate, it promotes the information exchange and the best practices exchange between the national parliaments and the European Parliament, including the exchange between specialized commissions of these ones, it can organize inter-parliamentary conferences on specific themes, especially in order to debate external politics and common security issues, including the security and common defence politics. The contributions of the conference don't engage the national parliaments and don't influence their position (Popescu, 2011) [14]. Thirdly, it regulates the respect of the principle of subsidiarity meaning the separation of the national competences from the European ones.

In case the national parliaments consider that a legislative initiative of the European Parliament infringe in any way on the principle of subsidiarity or the national legislation, they can express their disagreement (Ispas, 2011). Each national parliament has two votes, distributed according to the national parliamentary system that can be unicameral or bicameral. In case when the motivated notices that sustain a legislative project doesn't respond to the principle of subsidiarity represent at least one third of the total votes attributed to the national parliaments, the project must be re-analyzed. After re-evaluation, the Commission, the group of member states that initiated the legislative project or other initiating agent can decide to maintain the project, to amend it or to withdraw it (Călinoiu, Duculescu, 2009).

The more important novelty brought by the Treaty of Lisbon refers to the control of the respect of the principle of subsidiarity. In the protocols to the constitutional treaty concerning the role of the national parliaments in the European Union and concerning the application of the subsidiarity and proportionality principles, the national parliaments have obtained for the first time the possibility to express a legislative project from the point of view of the respect of the principle of subsidiarity when expressing the vote of a third part of the parliaments (the procedure called „the yellow card”). In this case the commission must debate again the legislative proposal and take the decision to sustain, to amend or to withdraw it. If the commission decides to maintain the proposal in the form contested by the parliaments, these ones will no longer have the right to contest it. This right has been completed by the possibility to reject a legislative project with a majority of votes from the part of the national parliaments and a majority of votes in the European Parliament and with a majority of 55% of the Council's members (the procedure called „the red card”). If the commission decides to go further with the proposal in the contested form, the council and the European Parliament interfere and mediate the conflict.

The power of the national parliaments to protect the principle of subsidiarity is consolidated also by the possibility offered to the member states to promote, on their behalf, the appeals before the Court of Justice related to any European legislative act that does not comply with this principle (art. 8 of the Protocol no. 2 annexes to the Treaty of Lisbon).

Another novelty is that the European Union institutions will have to notify the national parliaments about all the legislative proposals made at the European level and the parliaments will have a term of 8 weeks to comment upon these proposals before the national government to begin their debate (Ispas, 2011).

Finally, we would like to make a mention related to the influence that the Treaty of Lisbon could have upon the deliberative process within the Parliament of Romania. Thus, according to the art.75 par.2 of the Constitution of Romania, the first Chamber seized must normally deliberate upon a legislative project within 45 days, respectively 60 days in complex cases, the lack of sentence being considered as an adoption of those projects. Or these constitutional provisions are not applicable for the legislative projects of the European Union for the national parliaments, for the national parliaments meaning to approve, not to adopt them as laws. Thus, *it can be considered a procedure of tacit adoption from the Constitution of Romania*. As a matter of fact, the term that should be respected for the sentence of the national parliaments – thus the Parliament of Romania

too— is fixed by the Protocol based on the principles of subsidiarity and proportionality, previously mentioned, to 8 weeks. It is true that the case in which a national parliament does not pronounce within this term is not mentioned. In our opinion, from the systematic interpretation of the provisions of this Protocol it results that a lack of sentencing *is equivalent to a positive notice, meaning an approval in the sense that the principle of subsidiarity or proportionality was respected*. It is a question of tacit adoption, foreseen by the Union's law and not by the national one. The expression of the national parliaments' position should be explicit, not tacit, in order to avoid any ambiguity related to the respect of the two principles of the Union's law. Each Chamber of the Parliament of Romania has one vote, thus expressing its notice separately (Lazăr, 2010).

CONCLUSIONS

In the context of a debate concerning a new imminent revision of the Constitution of Romania, our conclusions concentrate upon the following trends:

Does Romania need a new revision of the Constitution or a newly adopted Constitution at such a short period, taking into account that only 8 years passed from the revision? Is it constitutional such a demarche especially by the fact that Romania has a rigid Constitution?

Constitution cannot remain frozen since the historical moment of its appearance. It is elaborated and approved by the electoral body at the beginning of the transition period. The essential changes produced by the reforms that take place, and the evolutions at the political level – double power alternation, evolution of the party phenomenon etc. – as also at the social and economic level, adding the evolution at the external level, all these making the perfection of the constitutional procedures for the elaboration and adoption of the law in Parliament and thus of the opinion upon bicameralism, by the reflection of the need for specialization of the two Chambers of the Parliament complying with the conception upon the functional bicameralism (Constantinescu, Nicolae, 2004). That is why the revision or adoption of a new Constitution of Romania is the consequence of historical necessity.

According to the Treaty of Lisbon, the national legislatures have more complex and even innovating attributions from a constitutional point of view. Thus, national parliaments have the following competences: to watch the respect of the principle of subsidiarity; to watch upon all the proposals and initiatives adopted in the liberty, security and justice context; the term of 8 weeks for a motivated notice; the possibility of the national parliaments or of their Chambers to introduce action for the annulment of any act of the Union that does not comply with the principle of subsidiarity, to organize with the European Parliament the cooperation etc., that creates the premises for the reform of the Constitution of Romania and of the Parliament of Romania by its efficient specialization, by giving it the necessary attributions to adhere to the cooperation mechanism of the European Parliament.

The optimization of the parliament's activity under the conditions of new attributes conferred by the Treaty of Lisbon to the national parliaments in virtue of a new cooperation mechanism requires the specialization of a Chamber for these attributions at the same time with exempt from the prerogatives that duplicate the ones of the first Chamber.

Based on the Romanian Constitution and the Chamber Rules, the Parliament of Romania is not ready yet to respond to this mechanism. Consequently, it is required that Romania passes a new Constitution, but only after a reasonable preparation of society and a wise consideration of the coordinates of the Romanian nation's future, Constitution which should respond to the new domestic and international context, and through this radical reform, the Superior Chamber should receive the attributions necessary for the operation of the mechanisms of cooperation with the European Parliament.

Our option is based on the observance of one of the most authentic Romanian constitutional tradition, namely the bicameral Parliament, as we shall not forget that in our constitutional history the unicameral representative assemblies were either the influence of the Great Powers (the Organic Rules and the Convention of Paris – 1858) or of a non-democratic political regime (the Great

National Assembly – unicameral legislative body of the People’s Republic of Romania and of the Socialist Republic of Romania between 1948 – 1989).

As an applicative expression of the theoretical research presented in this study, we suggest the following table resulted from the comparative analysis regarding the competencies of national parliaments according to the Treaty of Lisbon as opposed to the present competencies of the Romanian Parliament:

Nr. crt.	National parliaments’ capacities according to the Treaty of Lisbon	Does the Parliament of Romania have these capacities?	The Chamber Deputies or the Senate	PROPOSAL
1.	They are informed about the legislative projects	NO	-	CHAMBER OF DEPUTIES
2.	They watch the respect of the principles of subsidiarity and proportionality	NO	-	SENATE
3.	They participate, in the context of liberty, security and justice, to the evaluation of the Union’s activities, to the evaluation of the European activity and to the political control of the European activity	NO	-	SENATE
4.	They participate to the revision of the treaties	NO	-	SENATE
5.	They are informed about the requests for the European Union adhesion	NO	-	SENATE
6.	They participate to the inter-parliamentary cooperation with the European Parliament	NO	-	SENATE
7.	They have a term of 8 weeks a give a motivated notice	NO	-	CHAMBER OF DEPUTIES
8.	They have 6 weeks to transmit a legislative project to their own state	NO	-	SENATE
9.	They have a term of 10 days to register a project on the agenda and to adopt a position upon it	YES	SENATE	-
10.	They introduce an action for annulment of a Union’s act that does not comply with the principle of subsidiarity	NO	-	SENATE
11.	They are transmitted the Commission’s proposal according to which the Council sets the aspects related to the family law	NO	-	SENATE
12.	Any revision project is notified to them	YES	SENATE	-
13.	They are informed about the request for the adhesion submitted by a third state	NO	-	SENATE
14.	The European Parliament and the national parliaments jointly organize their cooperation	NO	-	SENATE

ENDNOTES

[1] The treaty was signed on December 13, 2007 by the representatives of the 27 member states of the European Union and entered into on December 1 2009. Romania ratified the Treaty of Lisbon by the Law no. 13/2008 (Official Gazette of Romania no.107 on February 12, 2008).

[2] See the national referendum on November 22, 2009: Autoritatea Electorală Permanentă, "Cartea Albă a referendumului național din 22 noiembrie 2009", <http://www.roaep.ro>;

[3] See Tsebelis and Money (2007) *Bicameralism*, Cambridge University Press. [BOOK] * *Bicameralism* <http://books.google.com/books?hl=en&lr=&id=eL_eT6JMTzIC&oi=fnd&pg=PR10&dq=bicameralism&ots=yNG6hRbOhm&sig=LHiJW9ejb3QVkJTgB6v3zXfq7WoI>

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[4] See Cristian Ionescu, "Tratat de drept constituțional contemporan", Ediția a 2-a, Editura C.H. Beck, București, 2008; Ioan Muraru, Elena-Simina Tănăsescu, "Drept constituțional și instituții politice", Ediția 13, Vol. II, Editura C.H.Beck, București, 2009;

[5] See Ramona-Delia Popescu, "Răspunderea Parlamentului în dreptul constituțional", Editura C.H.Beck, București, 2011;

[6] See Dan-Claudiu Dănișor, "O dispută între doi clasici: Tudor Drăganu și Antonie Iorgovan despre bicameralism", *Revista de Drept Public*, Nr. 3/2010; Bogdan Dima, "Structură bicamerală sau unicamerală pentru Parlamentul României?", *Revista de Drept Public*, Nr. 3/2009; Claudia Gilia, "Reforma Parlamentului din România – o necesitate? Soluții posibile pentru eficientizarea bicameralismului românesc", *Revista de Drept Public* Nr. 3/2010.

[7] Published in the Official Gazette of Romania, Part I, no. 577 on June 29 2004.

[8] See the Constitution of Romania on 1866, 1923, 1938: <http://www.cdep.ro>;

[9] Thus we appreciate (under the reserve of fixing certain conditions and some internationally recognized capacity and morality guarantees for the occupation of the high state positions and also for acceding to the academic and university bodies) that the following people could be senators by right: the president of the Romanian Academy, representatives of the prestige universities of the country; former presidents of the High Court of Cassation and Justice who occupied this position for several years; certain representatives of the Employers' Associations; chiefs of the religions officially recognized; former presidents of the Chambers who occupied this position for several years and also other personalities of the public life.

[10] See also, Claudia Gilia, "Reforma Parlamentului din România – o necesitate? Soluții posibile pentru eficientizarea bicameralismului românesc", *Revista de Drept Public*, Nr. 3/2010.

[11] See the Law no. 14/2003 published in the Official Gazette of Romania, Part I, no. 25 on January 17.

[12] See Marin Voicu, "Uniunea Europeană înainte și după Tratatul de la Lisabona", Editura Universul Juridic, București, 2009.

[13] See also, Marian Enache, "Rolul Parlamentului în consolidarea democrației subsecvent adoptării Constituției României", *Revista Dreptul*, Nr. 9/2011.

[14] See also, Constanța Călinoiu, Victor Duculescu, "Drept constituțional european", Editura Lumina Lex, București, 2008.

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