

# **The premises of sustainable development, harmonious and balanced rule of law in Romania**

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**Abstract:** After twenty years of post-communism, Romania can not be said that it has become a modern and strong state, and state weaknesses are evident, in that: the political and administrative structures are increasingly unworkable, due to bureaucracy and corruption, there is a lack a true political culture, with negative consequences in terms of promoting reform elites, there are promoted backstage games of great masters in this art, for the corrupt party bureaucracy personal and group interests, there is also a lack interest from the part of state authorities to new constructive approach so that staff and the public be a powerful barrier against any kind of change, etc. Every state must fight with all legal "weapons" for its existence and modernization, but any weakness of the state society can lead to disaster, especially under the circumstances of the dependencies determined by the evolution of globalization. The modern state is a strong state, harmonious and balanced, which should be a reflection of collective human wills, mobilized around a common vision, able to make a change in human society and build a new order, true and right. This study proposes a summary analysis of key features, in contrast, of a weak state and a strong state to compare them with the evolution of post-communist Romania, in order to identify and describe the premises which Romania has to provide in order to strengthen a state of law.

**Keywords:** weak state, strong state, accountability, institutional stability, decent work, elites, integrity, partnership.

## **Introduction**

Any modern state, through its institutions must be strong, harmonious and balanced, to be a reflection of collective human wills, mobilized around a common vision, able to make a change in human society and build a new order, true and right. Such a state must fight with all the legal "*weapons*" for its existence and its modernization, but any weakness of the state society can lead to disaster, especially in the dependencies stemming from globalization.

Romania can not be said that has become a modern and powerful state in the last twenty years of post-communism and state weaknesses are evident, in that: the political and administrative structures are increasingly unworkable, due to bureaucracy and corruption. A true political culture is missing, with negative consequences in terms of promoting reforming elites. There are promoted backstage games of great masters in this art, for the interests of the corrupt party bureaucracy, personal and group interests. There is a lack of initiative from the part of the state for new constructive approaches and thus the staff of public institutions represents a powerful barrier against any type of change, etc.

The lack of employment and unemployment became a serious problem in Romania, as in many euro area countries, situated in the very heart of the debt crisis, thereby increasing emphasis on migration. In these conditions of crisis, optimism, essential energy source for the younger generation has been replaced by pessimism.

In these reasons, in today's Romania, as in times of trouble, Romanians leave the country massively, to feed with educated elite immigration countries. They go to sell their intelligence and to work as if in Romania there would be no longer need of them, as they did, once, other brilliant Romanian, such as Enescu, Brancusi, Vuia, Vlaicu, Coanda, etc., because at home anyone listened to them. The question is if Romania

must always be in this situation? The correct answer is no, Romania must no longer be in such a position. But in order to avoid this it is necessary that the politicians, and all those ruling the country be any longer apart from the interests and the desires of the Romanian people. They must not want only to have more power in order to get important positions and thus get more money, they must act to improve any aspect of the social-economical life in Romania for the benefit of the entire people. People that are not aware of these vital needs should not access to power any longer.

Politicization of the administrative staff is too strong in Romania and nowadays with the simple phone call any administrative employee can be replaced because a certain politician was not satisfied with the way the respective person acted. It is a bitter reality of the present day Romania. So in order to be "good oriented" the employees should have no reactions towards abuses of any kind and not even perceive them as abuses, otherwise they are replaced as not corresponding persons. It results from such circumstances a lack of confidence from the part of the citizens in all state structures. At the same time there is no action from their part because they think the system is too corrupted to succeed to change something. Currently you need to have "connections" in order to survive in Romania.

This study proposes a summary analysis of key features, in contrast, of a weak state and a strong state to compare the post-communist evolution of Romania, in order to identify and describe the premises that Romania should provide, to strengthen the law state.

### **1. Strong state, a fundamental prerequisite of harmonious and balanced state development**

The main role of the state is to ensure decent work, decent living conditions and, thus, to ensure prosperity for their citizens. "*Decent work*" must be a development strategy which recognizes the central role of work in people's lives. In this respect, ***decent work is productive work***, which should bring: *a fair remuneration to the scale and quality of work, job security, social protection of employee and family, the best prospects for personal development social integration, freedom of expression claims, opportunity to participate in decision making, equal opportunities and fair treatment for all, etc.* Decent work in any state institution in any private organization must be the essence of the national strategy and local economic and social progress in favor of Romania. Decent work and decent living must be together, the minimum threshold that makes the difference between the poor and vulnerable, who do not work for various reasons and those who should live without worrying as a result of their work (According to Article 47 al. (1) from the Romanian Constitution, „*The state is forced to take measures for economic growth and social protection in order to assure to its citizens a decent standard of living*”. Also, according to the Article 135 al. (2), letter f, from the Constitution it results that „*The State should assure the creation of the necessary conditions in order to raise the quality of life*”. In this context, the problem is what and ***how means "the level of decent living"***. This "level" should be quantified, should have a concrete, value correspondence. In order to make a comparison, it is mentioned the fact that UNCTAD estimates the level of poverty to an income lower than \$ 2 a day, and that of extreme poverty less than \$ 1 a day).

The concept of "*Decent Work*" was released by the social partners, governments, unions and employers in the ILO, in 1999. This concept aims to formulate an international policy objective, to promote new jobs and improve working conditions, the fundamental social rights as defined in the conventions of this international organization. The faith of International Labour Organisation and of the European Union is that decent work contributes heavily to the fight against poverty, unemployment and social exclusion and sustainable development, besides being in itself an important objective.

We often talk, in all environments, about concepts such as "weak" and "strong state", without these terms is defined in the concrete and, especially, no need to emphasize the stakes, forcing address these concepts. In any case, it is important that through honest and decent labor, ***the state, through its institutions, be strong, with competent people, in good faith, strong and respected, which overrides the public interest and not political and personal interests, which should be the background.***

A ***weak state***, as a rule, is based on lies, duplicity and manipulation. State is concerned to serve only a few beneficiaries. Such a state is related to availability and oligarchies oligarchs, to take as much out of state

resources and thus to flu institutional mechanisms that should operate efficiently and effectively to national prosperity, of all honest citizens and honest. With the complicity of a whole relationship system, well done, in a weak state, the fortunes are constructed in quiet opulence of a small minority. In Romania, benefiting from a weak state, the great riches of the transition, have reached this status, almost without exception, especially because they knew whom to ask for help, or to close their eyes in key moments. The post-revolutionary weakening of the state, did not affect in any way oligarchies, but on the contrary there are rather enough people who profited from state weakness and even maintained this weakness to gain personal power and prosperity, from the deficiencies the system. Furthermore, "*breaches of functioning institutions, regulatory gaps left by law and custom of the individual reactions of those who are public officials, corruption and hierarchies generated by it, advantages and opportunities were enhanced with increase of a minority that feeds the weakness of the state*" [Cozmin Gusa, 2009, p 108]. Other authors consider that the "*reduced implementation and poorly drafted laws, placed power in the hands of minor officials, who are often too poorly paid, trained and equipped to understand their responsibilities, duties and rights*" [Tom Gallagher, 2010, p. 110], which can not but simply make the Romanian state to remain poor forever.

In a weak state, the main victims are always honest payers of taxes, are those who, on receipt of salary or pension, run and spend hours in endless lines to pay, first, to state obligations and bills in order not to register debts, and this is for them the highest sense of honor and dignity. The reward of these efforts often is a lack of respect from the state and its employees. Unfortunately, in a weak state, victims will not, ever be among the rich minority and the oligarchs, who benefit from the efforts of those who are many. On the contrary, any crisis situation and they need to win, even if the situation "to step on dead bodies", i.e. those of many honest people paying taxes.

A **strong state**, based mainly on ethics, truth and justice, is one in which the main beneficiaries are all citizens of that state, in which all social groups see their expectations fulfilled, needs and interests, they see their vital needs met and also, see their future secured through institutional strength and effort wanting to efficiently serve its citizens. In a strong state, all state legal institutions must operate at a high level of quality, regardless of what happens in the political, regardless of crises more or less serious in this area. If state power must be reduced, it should not be done by destroying the credibility of state institutions. In a strong state, for a sustainable development and continuous operation at full potential, essential State institutions must be reformed and depoliticized in order to be independent of political factors and to be strengthened. It is very necessary that the employees of these institutions should not be changed, the political criteria at each change of state politics. To be strong, the state must invest more in competence and actual performance of its people, so any change thereof, on any grounds other than lack of real performance, not only can mean losses for the state, the people lost and expenses made them useless.

*Only competence and real performance may lead towards a strong state that can ensure the welfare of its citizens, who can reassure all major partners and that can lead to a better change of the attitude and confidence of people in state bodies.*

## **2. Considerations on the evolution of post-communist Romania to a harmonious and balanced state**

The need for EU accession was not able to exert a strong and effective on post-communist Romania, given that at the date of acceptance that negotiations to acquire full membership in 1999, Romania, "*it was a country ill prepared for this process, it definitely showed in 1997, the EU, in assessing the state of reform in each of the Eastern European countries which applied for membership*" [Tom Gallagher, 2010, p 1]. This aspect is real and at the same time it is completed with the fact that Romania was considered the weakest of states requesting membership in 2000, so that it was once established a target for accession later than to other candidates, namely 2007 compared to 2004, established for ten other candidates. Also, the annual reports of the European Union, on progress made by Romania, presented a bleak picture, on its ability to cope with the

responsibilities of membership, because of the widespread problem of corruption and ineffective measures to fight this phenomenon. The same reports indicated, at the period, that the chronic deficiencies of public administration are barriers that prevented the country to make preparations for accession. Furthermore, the European Union addressed constantly, severe warnings to the Romanian Government for its actions which were more than promises to be observed at an unspecified date in the future, even after accession, than effective action to implement the communitarian acquis, each time being invoked the suspension of negotiations. Also, since the end of 2004, Romania was threatened with a "safeguard clause", given that we do not maintain the pace of reform in key areas such as judiciary system.

After five years since Romania became a full member of the European Union, political and administrative structures seem to be increasingly dysfunctional because of bureaucracy and corruption that seem to no longer be mastered. However it should be noted that, following accession, the EU being the dominant element in an asymmetrical relationship, led Romania to support a gradual process of Europeanization, which involves a transfer of values and possibilities that will allow while, to enjoy the opportunities and at the same time, to assume all responsibilities that are conferred membership of the European Union with full rights. In these conditions, only Romania and its institutions can be responsible of evolving and whether it will get performance to be the pride of Europe or it will continue to remain a peripheral member of the European Union, with an uncertain future, always put into question.

There is a consensus, more commonly, of the experts: researchers, teachers, businessmen, various politicians, generally people of good faith in determining that the greatest evil in Romania comes from the lack of genuine political culture, with consequences negative in terms of promoting high elites, a fact leading thus to the lack of a strategic revolutionary reforming way of thinking. Furthermore, it is estimated that Romania's modernization and state institutions, was not possible because of the games behind the scene of some great masters, who defended the interests of party and corrupt bureaucracy, the personal and group goals of a true "complicity net".

In EU circles, Romania and its institutions have "*reputation to produce documents that sounds nice, but remain only on paper*" [Tom Gallagher, 2010, p 140], thus such questions, including the availability of state authorities new approaches to construction, so that staff and the public, is a powerful barrier against any kind of change.

As concerns corruption, the general perception is that Romania is a serious problem that is widespread and affects almost all aspects of life. It is not found considerably facts reducing corruption. The number of cases resolved remains relatively low. But the worst aspect is related to the fact that the fight against corruption is hampered by integrity problems even within the institutions involved in law enforcement and the fight against corruption, including: police, prosecutors and judges.

### **3. Considerations on the premises as building a harmonious and balanced state**

In considering the above points, the main prerequisites that must be met to ensure the rule of law, democratic state in Romania are:

#### **3.1. Enhancing political accountability**

To strengthen political accountability, a new political class in Romania must demonstrate that it can assume in good faith, political responsibility, in the modernization of Romania and the Romanian state. In this respect, the new political class must be actively determined to dispense with duplicitous games, providing performance monitoring and only interest, needs and expectations for improvement of the Romanian people. Power and the opposition would be appreciated in these circumstances, if they could be consistent and principled involved, especially in the long term planning to ensure continuity of vision and responsibility of the strategic objectives.

In this way, Romania should become decisive in a state able to assume, consistently, the responsibilities of EU membership. Romania's political system must give up oligarchic political type, the strategies of concealment and disinformation tactics by taking just realistic and ambitious goals, while developing capacity to implement them in the interest of the Romanian society by stimulating performance.

All political forces in Romania, must act to strengthen competition policy in a democratic process that focuses not on the desire to stay in power at any cost, in order to benefit from full access to national wealth and business opportunities offered by the holding power.

### **3.2. Assuring stability of democratic institutions for a clean government**

Today is absolutely necessary, focusing on total quality management and excellence in their work, the country's democratic institutions be not made up any more, to ensure increased effectiveness and efficiency and strengthen their accountability to citizens, the great mass the population, paying taxes. Not to encourage corruption, the country's democratic institutions should not have intimate links with the political system should not be dominated by politicians and not accountable to political leaders. In consideration of this assertion, a responsible political class must provide limits of political involvement in the country's democratic institutions. Responsible political class still must be persistent, in observance of the established political order not to involve key democratic institutions of state and thus implicitly to political professionals not involved in these institutions.

Professionals of any democratic state institutions must respond only to lack of performance, only for lack of objectives, which, consequently, lead to failure of the strategic objectives of the Romanian state, the short, medium and long term. Only thus it can be achieved stability of democratic institutions and the need for continuity in their leadership, building capacity for achieving the objectives and their tasks.

Stability of democratic institutions, complemented by the principle of transparency of activity and results, is the true premises of a clean government in the interest of citizens.

### **3.3. Promoting elites and cut red bureaucracy**

As the elite have the main responsibility to fulfill any kind of reform, fight against "*opportunism and careerism*" without any concessions, especially "*professional competence and integrity*" must be the most obvious priority in promoting them, in order to cut bureaucracy and enlarging opportunities to increase performance in all areas in order to reduce, gradually and continuously, the gap separating us from the developed countries of Central Europe. A public service with a scheme of recruitment and promotion based on merit and regularly providing training can reduce incompetence within public institutions, thus stimulating the true value rates. Professionalism and professional integrity in public service, leads to reliability and predictability in public institutions. Professional integrity of public service must be based on impartiality and professional independence. Impartiality refers to the absence of preferential, personal requirements. In public institutions, preference is to favor one particular aspect of a given situation, causing undue detriment – liver and unjust, general interest or to other stakeholders. Often the sense of prejudice or fallacious, loss of professional independence, is due to bribery, pressure, uncontrolled political ambition and intemperate desire for promotion. Bribery, in such cases, obtains an illegal profit. It generates pressure loss of independence, out of fear. Political ambition and professional greed can lead civil servants to deliberately favorable to their superiors, causing blind obedience to the wishes of their heads and even denying them the habit of thinking. On promoting teaching and elites, through its reports, the European Union made permanent pressured the Romanian authorities, to be drawn open and transparent selection procedure, which, including prosecutors and judges candidates for promotion, to be able to assess performance publicly. It is envisaged, therefore, be eliminated faster promotions, of persons without experience, the relatively unimportant functions, and some far superior features. In this respect, it is important to cut out of ideological commitments and promotions, the "*substitutes*" based on "*nepotism and clientele*", whose sole criterion is that of claiming to be loyal to a

particular political group, but in fact, they only extract from the "lifeblood" of the Romanian economy, making of politics one of the most profitable professions in Romania.

The promoted elites, must be true models of attitudes and behavior, a real personal example for all observers, more or less initiated, more or less educated, thus strengthening confidence in the ability of democratic institutions of the state of law, in their capacity to rule us to achieve the ideals of raising the standard of living and quality of life.

By the implementation and application of new moral standards, the Romanian political elite must ensure, consistently, that the staff from all public institutions at all levels, is not recruited according to their degree of loyalty and trust but solely on the basis of training, skills and individual abilities and willingness to perform tasks with a high degree of complexity.

According to a detailed study, conducted for the British government in 1999, mentality and bureaucratic practices in Romania were characterized as follows: "*In general, the Western model is one that promotes individualism while communism promotes collectivism. Individualism involves taking a risk, while collectivism promotes risk avoidance. The latter (collectivism), largely characterizes current bureaucracy in Romania. Moreover, the bureaucracy is characterized by rigidity of its structure - officials did not move from one job to another and in many cases have held the same job for twenty years or more. In addition, they are aware of the need to comply with the letter or spirit of the law. Low wages and a career without the opportunity to promote encourage corruption. Such conditions impede policy initiatives*". [Tom Gallagher, 2010, p 101].

In these circumstances, based on the implementation and application of quality management system, coherent and consistent, we need a new "*revolution*" in terms of institutional design and methodology for the bureaucracy to give up the rigid political control and the low competence and motivation of employees.

### **3.4. Strengthening partnership with civil society**

Promoting and strengthening social and economic partnerships at central and local levels should consider the principle of subsidiary, promoted by the European Union, according to which power must be distributed to the lowest practicable level. In these partnerships must be involved people holding various functions in public institutions, in business and civil society, trade unions and NGOs, to bring their contribution to sustainable development at the central and local levels.

**Partnership with civil society and community** involves the imperative and necessary joint action among all government public institutions and NGOs that have responsibilities and legal concerns in preventing and combating anti-social facts, a reason why this particular important activity, requires coordination from the part of the managers.

Involving civil society in partnership, have to ensure the rule of a perspective based on **tolerance**, **dialogue** and **cooperation** and not one based on *exclusion*, *fear* and *distrust* for the state citizens. The civil society must also protect the fundamental rights and freedom, the first vulnerable when speaking about the development of means of control and coercion, which can be, in the absence of a democratic civil society, used discriminatory and abusive.

### **3.5. Preventing and combating institutional corruption**

The term "*corruption*" is related, directly and immediately, the term "*integrity*", a term which was introduced and promoted, the 2003 UNO Convention against Corruption, ratified including Romania. Thus, Article 5 of the Convention provides that: Each State Party shall develop and implement or have in mind the fundamental principles of its legal system, corruption **prevention policies**, **efficient and coordinated**, that promotes the participation of society and reflects the principles of the rule of law, good management of public affairs and public property, integrity, transparency and accountability. There is also to be stated that,

according to Article 8 of the Convention in order to fight corruption, each state shall promote, in particular, integrity, honesty and responsibility among public, consistent with fundamental principles of its legal system. In particular, each state shall endeavor to apply, within its own institutional and legal systems, *codes* or *standards of conduct* for the correct, honorable and proper performance of public functions.

In the "*Global Programme against Corruption*" (1999), the UNO said that "*the essence of corruption is the abuse of power committed for personal profit, directly or indirectly, for him or for another public sector or private sector*". Also, the strategy "*Fighting Corruption to Improve Governance*" (1998), United Nations Development Programme, defines corruption as: *abuse of public power, function or authority for private benefit through bribery, extortion, trafficking the influence, speed money or embezzlement*.

Preventing and combating corruption, should be considered as a necessity for achieving and consolidating a strong and effective rule of law and to ensure full success of the integration of Romania into the European Union.

The goal of anticorruption policies is the decrease of corruption and increase confidence in the democratic institutions of the state.

### **3.6. Awareness and enhancing of new attitudes and values**

The necessity for new approaches needs to be aware of all public officers in public institutions, from the presidential institution, central and local government institutions, legal institutions, educational institutions and insurance and law enforcement and security, to the last section of rural institutions. It is necessary to strengthen an independent attitude towards the political forces of a civic consciousness on: *the patriotism, the membership of a free and democratic society, in truth, a spirit of justice and social equity*.

The new progressive attitudes involve thus building a truly tenacious opposition to political manipulators, who have nothing with general interest, aiming the appointment and promotion at different functions, formally, without the criteria of competence and professionalism, to the detriment performance, which thus have negative consequences in achieving strategic, tactical and operational and, finally, the gradual decline of the Romanian society.

All employees of public institutions must have and demonstrate the will to implement any change that increases their professionalism. In this respect, it should be totally removed selection and promotion of informal and non-transparent practices, in order to reach a deeper engagement in activities and duties, including those dealing with cases of violation of law even that is often difficult and risky, especially when the surveyed persons are, from a political point of view, among some influential people.

### **Conclusions**

In order to ensure sustainable development, harmonious and balanced of the Romanian state, all state legal institutions must operate at a high level of quality, regardless of what happens in the politics, whatever the crisis, more or less serious in this area. To this end, for sustainable development and continuous operation at full potential, essential State institutions must be reformed and depoliticized in order to be independent of political factors and to be strengthened. Employees of these institutions should not be changed according to the political criteria at each change of state politics.

Only employees' competence and their actual performance may lead towards a strong state that can ensure the welfare of its citizens, who can reassure all major partners and that can lead to change, the better, attitude and confidence of people from state bodies. For this, the state must invest more in competence and actual performance of employees in public institutions, so that any change thereof, on any grounds other than lack of actual performance would mean losses for the state, the people lost and costs incurred unnecessarily them.

In order to ensure sustainable strengthening the state of law, democracy in Romania it is necessary to be met more premises of which the most important refers to: strengthening political accountability, corruption prevention and combating political stability of state institutions by their orientation to total quality management and excellence in their work, promoting elite and cut red tape, to enhance the prospects of increased performance in every area to reduce, gradual and continuous, the gap separating us from developed countries, reforming the judiciary and combating corruption in the system, to increase public confidence in justice and, thereby, in all state institutions in Romania, strengthening partnership with civil society to ensure sustainable development and articulated the central and local institutional corruption prevention and combating to guarantee full success of the integration of Romania into the European Union and the euro area and, last but not least, awareness and enhancing new attitudes and values, demonstrating the will to implement any change that increases the responsibility and professionalism in delivering consistently high standard and quality of all our commitments.

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