The representative mandate - the essence of constitutional democracy

Associate professor Alexandru AMITITELOAIE, Ph.D
"George Bacovia" University, Bacau, Romania
amititeloaie@yahoo.com

"*All persons who hold at least part of the power should be strongly and irrefutably aware of the fact that they act only as a result of the delegacy given by somebody else, and should by their conduct following that delegacy be responsible to the only great Master, Author and Founder of the Society*"
Edmund Burke

Abstract: *Nearly a quarter century after the beginning of the democratic process in Romania following the moment December 1989, the idea of democracy is for the population an increasingly vague notion. The vociferous proclamation of this concept, as an answer to the previous dictatorial regime, as well as the excessive specific language, opposed however to the abusive and discretionary conduct and attitude of the representatives of the new power, have generated a serious error of perception from the public opinion. The extent of these errors is such that at the level of certain social segments event the daily difficulties of the population are explained by the democratic process. In the absence of a convincing political conduct it is difficult to explain that it is not democracy itself that causes the evils in our country, but its use as a mask to dissimulate abusive, disloyal and discretionary behaviors from the power center. The sovereignty of the people, which should legitimate the government in order for this to be a democratic one, has become a meaningless slogan used in the political discourse only to justify the selfish actions of political actors. Under these circumstances the representative mandate, which is in fact the foundation of the democracy of a state, currently knows a process of rapid alteration and falsification even in the spirit of the Constitution.*

Key words: *democracy; power of the people; state of law; constitution; representative mandate; imperative mandate; sovereign people; elections; revocation; political responsibility.*

Introductive considerations on the representative mandate and democracy

The dissatisfaction towards the way in which society is being governed and the permanent desires for a better government represent a constant element of the entire evolution of mankind. The great masses have never felt satisfied with the way of government. Even the most loyal and fair governments have failed when confronted with the expectations of the masses. From ancient times till now such a goal turned out to be a utopia. But at the same time one should acknowledge the fact that it has been precisely this dissatisfaction with all its subsequent social turmoil that has represented an undeniable progress factor. The idea of common welfare and of great social satisfaction has in time inspired the thinking and practice of government in promoting and experimenting with various types of government. Among these, special attention was given, mainly in the modern era, to the idea of a government based on the will of the majority [1]. One believed that only a government legitimated by the people could satisfy the goals of welfare and progress of that people.

Such a formula was referred to even in ancient times as democracy. There are two types of democratic government, i.e. direct and representative. Direct democracy is a government system, in which public interest decisions are made directly by the people. Practice has however shown that such a government is unrealistic. The costs of organizing popular consultations, the duration of the decision-making process for the entire people, the complexity of the mechanisms of government, inaccessible to a great part of the population, the diversity of the options and interests at a social level, which are rather often hard to reconcile, all these are just a part of the causes why direct democracy has never become a viable government formula. Furthermore, it has not been honestly promoted by the governing persons, either, at least in what regards the popular consultations. Many times these were compromised precisely by falsely invoking some so-called „national interest problems" when in fact it was all about the interest of those in power to defend and strengthen their positions and

„legitimize" their unpopular decisions and their abuses. The „democratic" experience in Romania is rather full of such examples [2].

It is because of these reason that representative democracy has turned out to be a more viable and realistic option in the practice of government. Also based on the will of the people, it can create a government mechanism that would guarantee a proper and efficient administration of public affairs [3]. It is not however a formula without deviations and risks. It does not function by itself lone. The cases in which the elected ones, i.e. the persons chosen to govern in the name and for the interest of the people, end up having public positions by fraud and by misleading the masses, being in fact captives of their own weaknesses, are to be found everywhere in the world and have been part of the representative government even since its beginnings. Nevertheless these risks are not fatal to this type of democracy. As society evolves and more lucidly defines its rights, at the same time becoming aware of its role on the government act, the electoral procedures tend to refine and systems to control the political decisions tend to appear.

This process is being faced by the Romanian society, as well, which confronts with serious democratic problems and an increasingly confused perception upon the role the people may have in the governing act. One may also notice the fact that the dissatisfaction and the disappointment following the elections do not mobilize the people so as to exert pressure upon the politicians, but quite on the contrary discourage the people, making them unconfident and giving them a feeling of uselessness. Under these circumstances a rather significant part of the electorate becomes an accomplice to deviant electoral procedures, whereas the other disappointed part refuses to exert the right to vote, which of course is not an acceptable solution.

Public opinion should know that everything done in the huge process of democratizing the state and especially in affirming the rights and freedoms of citizens, in acknowledging these by the public authority has been done with great sacrifice. Never and nowhere in the world have the persons in power willingly given up on the abusive and discretionary way of governing, on all sort of privileges and favors that entrap them in small interest circles. For a long time the act of governing has not even been made legal. Without being legal the power in its acts basically had no limit. The modern era would also bring along the legalization of the governing act, thus marking the beginnings of the state of law. Everything was done under the pressure of the masses when these managed to reach a certain level of political maturity and could thus organize themselves in their confrontation with the power factors. This is how the governing act and the power relations were constitutionalized [4].

At the same time one should also understand the fact that regardless of how serious this legal frame is and how authoritarian the Constitution as a guarantee of the state of law is, the power center keeps being vulnerable, generating new dangers and risks regarding the rights and freedoms of the citizens. After the founding of the democratic institutions of the state and the strengthening of the trust in their good functioning, considering them to be intangible, the masses began to relax. Moreover, the standard of living improved and in time this led to a sort of indifference towards the power center and what goes on at the level of the political decision making. Under these circumstances the abuse, the acts of authoritarianism, the dependence on interest circles have emerged once more, obviously in new forms. This process is specific to evolved democracies. In Romania however the state and its institutions are democratic only by definition, because in reality they serve an oligarchic circle. This has in time created legal opportunities, including in the Constitution, thus "legitimizing" their abuses and acts which undermine the national interest, using the so-called will of the people, according to the fundamental law of the country. All these are possible because of the weakness the people show, but also because of the decrease of the civic spirit and of the responsibility towards the future of the nation, because of the lack of morality and culture of the large masses of population.

One of the fundamental institutions of the state of law is the representative mandate. As it has been shown above, the state of law functions based on the representative democracy and its essence is precisely the representative mandate. Therefore, if the state of law gives up on its defining values and becomes captive of selfish interest circles, a cause should be found in the flaws of the so-called representative mandate, since this is in fact the link between the will of the people and the public authority, in other words it is the representative mandate that makes possible the enactment of the public interest. We thus intend to analyze this institution, as it is mentioned in the 1991 Constitution of Romania and emphasize whether its current constitutional regime complies with the Romanian realities and the democratic goals of the Romanian people.

I. The content of the representative mandate according to the 1991 Constitution of Romania

The current Constitution of Romania, though it should be available to any literate citizen, since it is the fundamental law of the state and has moreover undergone a procedure of popular validation. Which means that two thirds of the electorate that had voted in favor, also know its content, still poses difficulties of understanding, because we are faced with confusing texts; it is however precisely this obscurity that hides goals and interests opposed to the sovereign will of the people and even the national interest, as a whole. One of these texts is also the one which establishes the representative mandate for deputies and senators. Named „The representative mandate" the content of article 69 of the Constitution is the following:

„(1) *In fulfilling their mandate, deputies and senators serve the people*.

(2) *Any imperative mandate is null*".

We may thus notice that the name of this article, when compared to its content, is in fact false. The representative mandate imposes to the one delegated with certain tasks to act in the name of and on behalf of the one which delegated the tasks. Following the content of the article however, the text of this article does not mention any responsibility or liability of deputies and senators to act in the name and interest of the ones from whom they got their mandate.

According to the first paragraph deputies and senators when fulfilling their mandate serve the people. Yet, in the political offer candidates make to the electorate, no such commitment is being mentioned. In order to gain political capital, i.e. as many votes possible, each candidate creates their message starting from the real needs of the electorate from the region where that candidate runs for an office. But the expectations of the electorate are very diverse. If the message were a general one, exclusively based on an abstract national interest, it would have no effect on those to whom the message is addressed. So, the message of the candidate is placed in the concrete horizon of expectations of each electoral segment in part. However, once the candidate is elected and receives the mandate, thus becoming a deputy or a senator, the commitments assumed are no longer valid, since that candidate serves not the voters, but the „people". The people however can show their will only on universal scrutiny and that provided a significant participation, the administration of the operation being thus not vitiated. It would be a different situation if the deputy or the senator had a concrete constitutional responsibility towards the voters, which would not oppose the obligation of serving the people.

According to the above-mentioned and cited text of the Constitution, the deputy or senator serves the people when fulfilling a mandate. But who gives this mandate to the deputy or senator? Obviously, not the people as a whole, but only a part of the people, i.e. an electoral segment with specific traits, interests and expectations, which of course may to a certain extent coincide with those of the entire people, yet its content is basically a particular one, as it has been shown above. In order for the mandate to be a general one, the political offer should be unique on a national level. This is nonetheless inconceivable from a political point of view.

So, even though the mandate is given by a certain group of voters, thus expressing their particular interests, still the deputy and the senator „serve the people", which means that they are exempt from any responsibility towards the ones that had voted for them.

Their irresponsibility towards the voters is further supported by the second paragraph of the same article, which states that „any imperative mandate is null". For a great part of the voters this text is hard to comprehend. Still, this is not the only example, which by an allegedly specialized legal formula, facilitates for the representatives of the power privileged situations, quite often even against the national interest.

When the mandate is imperative, the mandated person has to follow precisely the instructions given by the mandating person. In our case the mandated person is the deputy or the senator, whereas the mandating person is represented by the electorate from a certain college that had voted for that person. So, if the mandate of deputy or senator were imperative, the deputy or the senator should act in order to achieve precisely the political offer voted by the electorate, in other words should keep the electoral promises made. Nevertheless, since in this relation the rules of the imperative mandate are not admitted, the deputy or the senator may make any promise whatsoever, without having the obligation of keeping it.

The nullity of the imperative mandate also excludes the possibility of revocation, which means that the electorate lacks the most efficient way of controlling their representatives. The responsibility of deputy or the senator would be completely different, if he knew that for illegal or unsatisfactory deeds his mandate could be withdrawn at any time. Yet, given the current circumstances, having for a period of four years the guarantee of an intangible position, it is only clear that the promises made to the electorate are the least concern. Also given

their mentality, the great majority of senators and deputies, as is well known, look to add to their privileges and value the prerogatives of their positions in order to satisfy their personal needs and interests. That they thus disappoint the electorate and their chances of being re-elected decrease are in their minds insignificant aspects compared to the advantages and privileges they enjoy during their mandate, which they would be unwilling to sacrifice for a possible future mandate.

By the constitutional interdiction of the imperative mandate, the deputy or the senator thus becomes independent towards the voters. The only connection to these voters would be the political one, but since this implies political culture and responsibility, attachment towards national values, a sense of patriotism, dignity and high civic spirit [5], which unfortunately cannot be found in the great majority of politicians nowadays, it would thus be no guarantee of loyalty towards the electorate. Such a guarantee becomes even more meaningless if we also take into consideration the precarious conditions of the election process nowadays in Romania; such conditions are especially created in order for a certain „transpartinic political elite" to be permanently in power, despite the opposition of the people, who are increasingly dissatisfied with the decrease in the standard of living, being more and more aware of the fact that this degradation is caused by the deliberately poor management of political affairs.

II. The nullity of the imperative mandate and the political migration

In the 2003 procedure of revising the Constitution one proposed an amendment that following the way it was conceived would increase the political responsibility of deputies and senators. According to this the deputy or senator that during the mandate would leave the political party, on behalf of which he had run for that position, would lose the mandate and the respective political party would designate another member for the vacant position.

This amendment naturally found no place in the revised Constitution, which is fully understandable, since it would have imposed a restrain to deputies and senators and an obligation of loyalty from them not only towards their party, but also towards their voters, who by means of their vote showed confidence in the political program of that party. Since it was precisely their status at stake, how could have those deputies and senators that eventually adopted in 2003 the law to revise the Constitution imposed to themselves constraints and guarantees of loyalty and liability?

In the notes and comments to the revised Constitution, Mihai Constantinescu, Ioan Moraru and Antonie Iorgvan, acknowledged constitutionalists in the Romanian legal doctrine, come up with some explanations that I would dare to consider similar to those made by lawyers when defending their clients. Having a substantial contribution to the 1991 project of the Constitution, but also to its 2003 revision, one may easily understand why in their explanations they had to abandon the scientific spirit and support, just like lawyers, the „fairness" of rejecting that amendment.

Thus, first of all they state that if the senator or deputy were by the risk of losing the mandate prevented from leaving the political party that had supported them during the campaign and whose representatives they are in the Parliament, one would breach „the principle of the representative mandate, according to which MPs are representatives of the people, of the nation as a whole, regardless of the electoral region, in which they were elected, or the political party that had supported their candidacy" [6].

Contrary to this viewpoint we tend to believe a breach of the representativity principle occurs when one leaves the political party the electorate had voted for without giving up on the mandate, as well. And that because the connection to that group of voters that votes for the MP is stronger than the alternative of national representation. Moreover, by leaving the party, the political program of the MP no longer has the same support in the Parliament, as it had following the election. So, which representation is considered under these circumstances and more precisely how does the breach of the above mentioned principle occur? When could a breach of the representative mandate be actually considered? When one leaves the political party and subsequently abandons the political program voted by the electorate? Or when the deputy or the senator is held in the Parliament to represent those that had voted for him, to defend their interests and rights, without influencing in any way their mission „in the service of the people", as shown above. Following the principles and rules of a democratic government the political configuration of the Parliament, resulted from the elections, should remain unchanged along a legislature. I believe that in this way one would also observe the principle of representativity.

We find the second argument as well at least curious. It is stated that „the MP leaving the political party during his mandate may be a consequence of the political reorientation of that person along or even of the party, so that leaving this party appears to be a behavior determined by the principle of political honesty, according to the constitutional right of the free association of citizens". According to this view we may believe that it was precisely the concern of not breaching such a right that made the MPs reject the amendment under consideration. Even if we ignored the phenomenon of political migration within the Parliament, and the outrageous leaves completely despising the commitment such persons took towards the electorate, we would still not be able to understand why such behaviors, i.e. leaving the political party and keeping the mandate would be, in the opinion of the three above-mentioned commenters, „determined based on the principle of political honesty". „Honesty" means honor, fairness, whereas I emphasize once more that leaving the political party and keeping the mandate actually correspond to a betrayal of the electorate, given the fact that the electorate had voted a particular political program, which was abandoned precisely by the one invested to fulfill it. Is this „honesty"?

Of course people may change their political orientation and may join other political parties, even as MPs but in such a situation it is precisely the honesty that would require them to give up on the mandate, as well, having the possibility to rejoin the Parliament following a new confrontation with the electorate based on the new political view. We believe that in the spirit of a minimum standard of democracy the Parliament, as „a supreme representative body of the Romanian people and a unique legal authority of the country" (Constitution of Romania, article 61, paragraph 1) should have no other political configuration than the one voted by the people. Adopting an arbitrary behavior for deputies and senators does nothing else but undermine the authority and prestige of the Parliament and subsequently of the entire institutional edifice falsely referred to as „state of law".

Also worth mentioning is the fact that the right of association invoked to defend „the political migration" is not absolute. According to article 40, paragraph (1) of the Romanian Constitution, „citizens may associate and form political parties, unions, companies and other forms of association". The following paragraph mentions that „the parties or organizations that by their goals or activities are against political diversity and plurality, against the principles of the state of law or against the sovereignty, the integrity or independence of Romania are considered non-constitutional". Thus one may clearly conclude that an association against „the principles of the state of law" in un-constitutional. More exactly, in what regards us I wonder: Is it not a breach of the principles of the state of law when the Parliament ends up having a political configuration that had not been validated by the people? What sort of „supreme representative body of the people" is that Parliament that changes the political configuration arbitrarily without the consultation of the holder of the representation right, i.e. of the people? Moreover, such changes are even against the will of the people, if we consider the general state of dissatisfaction generated precisely by the contempt of the so-called elected ones. Not to mention the fact that in a democratic political system the ones elected are only temporary keepers of a delegated power. The rightful holder of the power is the people. This power should thus be used in the limits of the mandate and not for any other purposes, especially against the interests of the rightful holder, i.e. against the people.

Based on the same „right of association" one has a bizarre situation in which the Parliament of the country contains new political formations, without having the popular vote. In order for the abuse to be complete, some have even acquired portfolios as ministers. The fact that these formations are made up of persons who are already MPs does not automatically give them the status of parliamentary party. Those persons, running for a position on behalf of other political parties which they left after joining the Parliament, obtained their mandate of deputies or senators based on the program of that party and not the party they had afterwards founded in the structure of the Parliament.

A political party is to be defined by ideology, doctrine and program. These form a part of the country's government project, which represents in fact its political offer. If the people accept and validate that with their vote, then the respective party is entitled to govern or take part in the country's government, otherwise being active in the opposition. Any other way of reaching „the supreme representative body of the people" contravenes the democracy and the state of law. Unfortunately, in front of such serious abuses the people becomes less and less powerful when it comes to a reaction.

III. „The autonomy" of the Romanian MP

The revision of the Constitution of Romania brought to the attention of the public opinion the issue of the constitutional status of the MP. At the various public debates one emphasized the current deficiencies of the representative mandate, also underlining the fact that in its actual form the mandate gives the MP autonomy towards the voters, basically making the MP a stranger towards the political offer which the electorate had voted. If the mandate were constitutional in the content as well, not only by name, the MP should remain faithful to the political offer voted and should never initiate or support projects that are not liked by the people.

Many of the propositions also took into consideration the constitutional article analyzed in this research, trying to impose new rules so as to create more responsibility from the ones elected by the people and stop the political migration that has become truly offensive for the majority of voters. For instance, many MPs gained their mandate using an extremely critical discourse, even accusatory, against certain political parties and after joining the Parliament they themselves became members of those parties, simply cheating the people that had counted on their electoral messages.

According to one of these proposals the deputy or the senator cannot be stopped from leaving the party which they represent during the elections and subsequently cannot be stopped from joining another party, thus observing in other words the right to „free association". But in order for him to keep the mandate, he has to organize at his own expense a referendum within the electoral college where he was elected and consult the electorate regarding his new political option. If he does not obtain the consent of the electorate, then he has to give up on the mandate together with him leaving the political party, which the electorate had voted.

In order for the representative mandate to stop being an abstract notion, which may be used by the deputy of the senator to show contempt and ignorance towards the public interest he should in fact serve, we too have presented our opinions to the commission in charge of the law project. Our ideas are the following:

Paragraph (1) *When fulfilling their mandate, deputies and senators serve the people and are bound to act for the fulfillment of the commitments they took in front of the electorate and the political program the electorate had mandated.*

Paragraph (2) *If during the mandate the deputies and senators give up on the status of member of that political party from which they had run for the position, they automatically lose the mandate and that party will give that mandate to another member, according to the organic law.*

Of course other proposals inspired by the need to improve the governing act, to strengthen the sense of responsibility of the elected ones, to reconsider the democratic values have also reached the commission in charge of the law project regarding the revision of the Constitution.

Probably considering this flow of opinions and the increasingly critical reactions from the civil society towards the behavior of MPs, who frequently change political parties invoking an embarrassing reason such as the freedom of political option, one included in the project an amendment to maintain the political configuration of the Parliament all along the legislature validated by the elections. Thus among the causes that lead to the termination of the mandate of deputy or senator, mentioned in Article 70, paragraph (2), one also proposed to mention the situation when the MP resigns from the political party, which had supported him during the elections or when he joins another political party or fraction.

Since article 69 of the Constitution, which states the nullity of the imperative mandate, remains unchanged, one may notice an unacceptable contradiction, especially when it comes to the fundamental law. While according to article 69 the MP is free to change the political party any time without losing the mandate, the new text tried to stop this phenomenon by imposition the sanction of losing the mandate if the MP leaves the party, on behalf of which he had run for the position. Did the writers of the project not notice this obvious contradiction or did they perhaps accept this on purpose, so that the proposal made could not in fact become effective, but simply give an ephemeral satisfaction to the opinion flow that repeatedly demanded the responsibilization of the governing act. Both alternatives are obviously possible.

The Constitutional Court noticed however that this amendment would „suppress a guarantee of the fundamental rights and freedoms" [7], of course in what regards the MP and not the ones he would represent in the supreme body of the country and in front of which he had taken some obligations so as to obtain the vote necessary for the mandate.

The bulky argumentation of the Court suggests a certain interest to give the MP an intangible status, as far away from the electorate as possible, free from the political offer he had invoked in order to gain the votes.

Thus one states that leaving the political party could only end up in a political or moral liability, and not a legal one. Does the Court not know the value of the moral liability for our political class and that in this way there is no possibility for the improvement the people is waiting? Truly hallucinating is the idea that if one applied sanctions for leaving the political party, one would actually „seriously" affect the interests of the voters represented by the MP. So, according to the Court, the interests of the voters are not affected when the MP cheats, lies, manipulates and bribes them politically, but when he loses the mandate as a natural consequence of such a behavior. We naturally wonder: what is the logic of the Constitutional Court, because after the statements from this motivation, it is pretty hard to understand its objective? Moreover one insists on the concept of the MP's option of freedom, which should not be stopped in any way, depending on his political likes; his „political migration" would thus have no other purpose than the „permanent consideration of the interests of the electorate". We cannot possibly imagine that the Constitutional Court is so unaware of the parliamentary „negotiations", of the price deputies and senators place on the so-called „political likes" and on the extent they care about the interests of the electorate.

In order to support these absurd views, the Court invokes the perspective of the Venice Commission, according to which „deputies are first of all responsible towards the voters that had voted for them, and not towards the political party they originate from." However, we consider that voters give their vote for a political program, which belongs to a political party and which the deputy is mandated by the voters to fulfill. Joining another party, he basically abandons the political program voted by the electorate. Should we consider this gesture a democratic one?

Are these perhaps misinterpretations, with wrong perception of the political errors analyzed by the Venice Commission, the so-called school of European democracy? Or does this plead for an independent status of the MP actually hide a certain interest to free the MP from the commitments taken towards the electorate and the uncomfortable life issues in order to fulfill the plans of some superstate powers? The public opinion has no other choice but witness political acts that are contrary to the public interest, initiatives that are completely strange from any electoral offer, which at least formally might have a democratic legitimacy. The European Parliament is also familiar with such practices. And of the MPs adopt laws that are not liked by the people and the electorate, does this not mean that they take the risk of unpopularity? Don't they thy lower their chances of joining the Parliament for the following elections? How could one explain such a risk if not by the existence of some superstate powers that manage to impose their will over the national authorities making them completely obedient? Under these circumstances the people become a simple actor in the play of the no longer genuine „democracy". We may also notice that the Constitutional Court as well brings important contributions to these powers, by invoking a so-called status of neutrality. For us this is the only logical explanation for its statements in favor of an autonomous status of the Romanian MP, a status which is pretty poorly disguised as a democratic act.

Conclusions

We have tried to shed light on the obscure meaning of this Constitutional article and our conclusion is that the Constitution, instead of being a guarantee of the democracy and the state of law, it undermines these values precisely be encouraging discretionary and abusive behaviors of the representatives of power. We have emphasized the constitutional deficiencies of the representative mandate, also thinking of some solutions that would make it more effective and more compatible to a democratic government. However we have seen that these deficiencies are not generated by excusable human errors and are not even caused by our lack of democratic political experience. The Constitutional texts, as well as the statements in favor of them make us believe that unfortunately these texts are made to facilitate the domination of superstate powers over national authorities, their purpose being to create a false democratic legitimacy. Though ratified by the people, the Constitution is not available to the people, especially when it comes to the obscure texts and so the people, being ignorant, ends up legitimating the abusive and discretionary behavior of the ones governing, and their acts which undermine the national interest and compromise the hopes of the Romanians for a better life.

The process to revise the Constitution that began with the 2013 – 2016 legislature, ultimately failed. According to the initial calendar it should have ended on 25th May 2014 when the referendum to ratify the law of revision had initially been planned, after having previously been adopted by the Parliament. Yet the recent changes in the government act have not allowed for the gathering of the majority necessary for a

constitutional reform. It is hard to say whether this is good or bad. It is bad, because the Constitution still has to be revised, considering the fact that it did not manage to provide viable solutions to the recent difficulties in the government act, when the Constitutional Court had to intervene arbitrarily. At the same time we believe that it is good, because the new dispositions that are at the level of project are even more confusing and have not been considered from the point of view of the national interest.

At the level of the entire population one may still sense a certain state of dissatisfaction, and the institutions of the state still behave as if they had no idea of this reality. Even the constitutional dispositions, which have the topic of this study, have been designed to strengthen their independence towards the people. Anyone may see that the state is now a purpose in itself, and the people a mere means at its disposal. The people should thus become aware of the fact that roles should be changed and these cannot occur by an exclusive will of the state. The state and all those who have power, being, as we have showed in this article, dependant on foreign forces and their selfish interests, will not accept a constitutional status that would restrain them to a responsible conduct towards the people. That is why a Constitution made exclusively by the governments cannot be good for the people, as well.

References

[1] Alexandru Amititeloaie, *Drept constituţional şi instituţii politice* (English: *Constitutional Right and Political Institutions*), Junimea Publishing House, Iaşi, 2009, p. 75;
[2] In November 2009 following the President's dispositions, one held a referendum together with the presidential elections; this is in our opinion a clear manipulation of the electorate, as well as a breach of the current legal frame and of the most elementary democratic rules and principles. Under these circumstances, should we believe that the referendum was held for an „issue of national interest", as was motivated by its initiators and accomplices?!
[3] Constanţa Călinoiu, Victor Duculescu, *Drept constituţional şi instituţii politice* (English: *Constitutional Right and Political Institutions*), Lumina Lex Publishing House, Bucharest, 2005, p. 96;
[4] Ioan Muraru, Elena Simina Tănăsescu, *Drept constituţional şi instituţii politice* (English: *Constitutional Right and Political Institutions*), Volume I, All Beck Publishing House, Bucharest, 2005, p. 65;
[5] See, in this sense, Nelu Niță, *The premises of sustainable development, harmonious and balanced rule of law in Romania*, published in „Acta Universitatis George Bacovia. Juridica" Magazine, Volume 1, Issue 2, Jul-Dec 2012, pp. 36-58. According to opinion the author: "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";
[6] M. Constantinescu, I. Muraru, A. Iorgovan, *Revizuirea Constituţiei României* (English: *Revision of the Romanian Constitution*), Explanations and comments, Rosetti Publishing House, Bucharest, 2003, p. 55;
[7] The Decision of the Constitutional Court of Romania no. 80/16th February 2014;