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THEORETICAL AND PRACTICAL ASPECTS REGARDING THE CONSTITUTIONAL REGIME OF DIFFERENT STATES AND THE CHALLENGES OF THE 21ST CENTURY

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Abstract: *In any state which, constitutionally, recognizes its democratic character, it is admitted that power belongs to the people. The way in which this power is organized and is exercised by the public authorities, as well as the relations between these authorities, differs from state to state. Lately, constitutional state practice has revealed the tendency of the executive power in particular to increase its role instead of the other two powers in this respect; we can observe the more active involvement of the executive power in the exercise of the legislative function, by the delegated legislation, a function which was officially attributed to the legislative power. Also, this genuine fight sometimes affects fundamental values, such as the rule of law and democracy.*

Key words: *political regime, separations and balance of powers, rule of law, democracy, constitution.*

1. Introduction

Throughout history, the people have fought to hold power in a state instead of a person or a group of people. Once gained by the right-holder, the fundamental law of every modern state, this fundamental principle, as well as the form, the conditions and the limits in which this power has to be exercised, were registered by constitution, all the more as so the direct exercise by the people of this power is difficult to accomplish, and today it tends to become more desirable. Responding to the spirit and specificity of each people, to each nation, the fundamental law of each state has built a specific "scheme" of exercise of power, democratic states concentrating this "scheme" on the principle of separation and balance of powers in the state. However, constitutional regulations, the doctrine and jurisprudence have revealed common issues that have

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allowed, over time, the classification of political regimes according to different criteria. Thus, it is possible to distinguish between the presidential regime, the parliamentary regime and the semi-presidential regime, by their own constitutional regulations, each state enshrining, but also making one of these regimes unique. Recognizing, whether expressly or not, the existence and functioning of the principle of separation and balance of powers in the state, the constitutional legislator of any democratic state regulated the way in which the power is organized, but also the relations between the three powers – legislative, executive and judicial, the public authorities exercising the three powers.

But even if these principles were created and these constitutional mechanisms and levers exist in order to avoid the seizure of power by a person, by a group of persons or by a public authority, or by a state organ, we cannot yet see that the power is more loved and desired by some than others, a sufficient reason for the struggle between the state powers to start or get worse.

Most of the time, this struggle is more evident in legislative power and executive power, in fact the exponents of the two are its main actors, their political nature, and the political side of their work, creating a framework somewhat appropriate for such of disputes. Rarely becomes the actor of such disputes, the judicial power, through its authorities, the law-centered configuration of it, its rule of law only, allows it to sit outside of such conflicts. However, in our opinion, when the judicial power is drawn into such misunderstandings, disputes and even struggles, the rule of law and the democratic nature of a state are genuinely questioned.

2. Rule of Law and Democracy – Concepts, Desiderata or Realities?

2.1. Rule of Law

Established and developed in the XIX-th century by the German doctrine, as a reaction, counterbalance to the despotic state, the theory of the rule of law will spread, including through the French public law school, starting with the twentieth century, its legal propagation reaching today the borders of states, becoming a real benchmark, even a fundamental principle of a state's international or regional existence and recognition. Thus, we can recall that, from the corroboration of the provisions of art. 49 par. (1) the first thesis and those of art. 2 of the Treaty on European Union, it follows that any European State which recognizes and, moreover, promotes the values on which the European Union is founded, and among which it is recognized the one of the rule of law, can apply to become a member of this "unique economic and political union in the world" (the EU at a glance), such as the European Union itself is being defined. Moreover, in order to open the accession negotiations, a European country, geographically speaking, must first meet the three criteria of Copenhagen, named after the European Council in Denmark in June, 1993, when these were established, namely the "stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities" (Accession Criteria - Copenhagen criteria).

The rule of law is a concept that has been recognized and consecrated not only at the regional level, but also internationally by the United Nations itself. The two main normative acts underlying the United Nations do not explicitly contain provisions on the rule of law, but by their own rules they make use of its dimensions. Thus, taking into consideration and insisting on the dimension of the rule of law in this concept, the Universal Declaration of Human Rights enshrines, in its preamble, that "it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law". Also, in its preamble, the Charter of the United Nations states, inter alia, that the founding nations have decided to create this international body, including, given the need to "reaffirm their faith in fundamental human rights, in the dignity and worth of the human person" and the creation of "the necessary conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained". Also, in a 2004 report, the United Nations' Secretary-General noted, inter alia, that the rule of law is a central concept of the Organization, a concept that refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. The same principle requires the existence of "measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency "(Report of the Secretary-General, 2004, p. 4).

The rule of law is a legal concept (Muraru & Tănăsescu, 2008, p. 8) with a complex content (Muraru & Tănăsescu, 2008, p. 9) whose cardinal points are: obvious rule of law, citizens' rights and freedoms, their real dimensions of the content of this right, the balance, the cooperation and the mutual control of the public authorities (public authorities), and the free access to justice (Muraru & Tănăsescu, 2008, p. 9).

Initially, in a liberal vision, the rule of law, *Rechtstaat* as it is identified by the German doctrine, had a similar approach to another concept, the original *rule of law*, for which the state was limited in its actions by the natural rights of persons, namely the protection of freedom, the safety of the person, the right to property (Chevallier, 2012, p. 13). Consequently, the state was to "be governed by the precepts of Reason" (Chevallier, 2012, p. 13), which implied that the assurance of these natural rights presupposed implicitly the observance of certain limits, principles in the organization of the state. Thus, by a fundamental law - the Constitution, to be genuinely "dominated by the cult of law" (Chevallier, 2012, p. 14), the rule of law assumed the recognition of the natural rights of individuals, but also principles such as the separation of powers, the rule of law, the representative government, the independence of judges (Chevallier, 2012, pp. 14-15). The rule of law implies self-limitation (Chevallier, 2012, p. 20), it is stated in German doctrine, because the state is the origin of law that influences the

content of the legal organization, which means that it establishes the "rules applicable to its activities" (Chevallier, 2012, p. 21), having the freedom to set their own rules, and choosing not to provide such rules.

In the French doctrine, the theory of the rule of law could not be influenced and implicitly reconfigured, taking into consideration the gains of the French Revolution of 1789. Moreover, the approaches of this theory in its process of taking over and adapting it to the political French law, were varied from that of Carré de Malberg, who considered that the regime applicable in France was not that of the rule of law, but of the legal state, and therefore this regime didn't concentrate, "with priority to act in the interest and for protecting the rights of citizens or their individual state, but rather on coming to come closer to a political conception of the fundamental organization of power, in which the administrative authority is and must be subordinated to the legislative body" (Malberg, 1920, p.490), to that of L. Duguit, who speaks of the state of social law, or of M. Hauriou who speaks of the institutional rule of law. (Chevallier, 2012, p. 37).

On the other hand, in the vision of H. Kelsen, the rule of law, in fact, designates a particular type of state centered on principles, such as: democracy and legal security, so that the jurisdiction and the administration are subject to the laws, the members of the government answer for their acts, the courts are independent, and citizens enjoy freedom by granting them rights in this respect (Kelsen, 2000, p. 368).

In the present doctrine, it is appreciated that the rule of law is based on a double "subordination", namely the central public authorities towards fundamental norms, respectively the law to the Constitution, whereas the rule of law is centered on the protection of individual rights and liberties through observance of the hierarchy of norms, compliance with certain imperatives by the legislation, the protection afforded by the courts of these rights (Chevallier, 2012, p. 13).

The concept of rule of law is best explained by those who created and spread it. Thus, Dicey appreciated that the rule of law, when it is a fundamental principle of a constitution, it can be seen from three different perspectives: the absolute supremacy of the law as opposed to the influence of arbitrariness, including when it comes to arbitrariness, the discretionary power of the government - the wrongdoer will be punished only for violating the law and only on the basis of it; anyone, whether a simple individual or a state official or even an authority, will only obey the law and answer only on its basis; the constitution is not the source of the rights of individuals but the consequence of them as they were defined by the courts. (Dicey, 1982, 120-121).

At present, when referring to the rule of law (state of law),the legal expression in English will use the original *rule of law*, as we can see in the translation of our Constitution accessible on the Chamber of Deputies' website when translating the provisions of art. 1 par. (3) regarding the fact that "Romania is a state of law, democratic and social....", it is mentioned that "Romania is a democratic and social state, governed by the rule of law". From the above, as well as from the above-mentioned translation, we can see that these two syntagms, at the same time legal concepts - rule of law and state of law, are not synonymous but surely intertwined, and more covert might seem,

also by reference to the brief doctrinal explanations of the foregoing, to be the state of law. However, the accuracy of a legal language must allow for such "linguistic artefacts", which is why we might appreciate that in a broad view, by rule of law, we understand the state of law.

On the other hand, to give a definitively accepted definition of the concept of the rule of law would be more a sinuous approach and which certainly will not reach a unanimously accepted outcome. The Stanford Philosophy Encyclopedia also mentions that "the rule of law is an ideal in a range of values that dominates liberal political morality, while others believe that the rule of law implies democracy, human rights, social justice, and economic freedom" (Standford Encyclopedia of Philosophy).

Expressing itself on the principle of the rule of law, the Constitutional Court of Romania appreciated, by one of its decisions, that "its exigencies regard the major purposes of state activity, prefigured in what is commonly called the rule of law, a syntagm involving subordination to the rule of law, to providing the means to enable the right to censure political choices and, in this context, to weighing the potential abusive, discretionary tendencies of the statist structures." Consequently, the Constitutional Court of Romania states that "the rule of law ensures the supremacy of the Constitution, the correlation of laws and all normative acts with it, the existence of the regime of separation of public powers, which must act within the limits of the law, namely within the limits of a law expressing general will". (Constitutional Court of Romania Decision No 70/2000).

2.2. Democracy

Democracy, one of the two priorities of state action, along with the rule of law (Muraru & Tănăsescu, 2008, p. 10), with which it should be synchronized at all times so that the state does not fail from these perspectives, can be analyzed from different perspectives, being, in turn, a complex concept. In essence, "the democratic character of a state is aimed at the participation of citizens in the management of public affairs, and requires public authorities to base the will of the people, expressed either directly or through free and fair elections." (Muraru & Tănăsescu, 2008, p. 10)

Aristotle appreciated that real democracy exists only "where free, but poor people from the majority are sovereigns" (Aristotle, 1924, 2004, p. 181). He distinguished between five types of democracy, namely: democracy based on equality, which must, in turn, be founded on the law; censorship-based democracy where public functions cannot only be achieved by those who can pay the census fixed; democracy where sovereignty belongs to the law, and all citizens whose quality is not challenged reach magistrates; democracy where sovereignty belongs to the law, but magistrates can only be citizens of a certain category; namely the democracy in which sovereignty belongs to the crowd, which also involves a major risk of being replaced by despotism, and the despot is even the people, which is why it should not even be considered a genuine species of democracy. (Aristotle, 1924, 2004, p. 185)

Starting from the premise that "a democracy can be organized and can operate in many ways" (Lijphart, 2000, p. 25), the doctrine considered it necessary to distinguish between two models of democracy. Thus, the majority model implies "governance by the majority and in accordance with the wishes of the majority", also called the Westminster model (Lijphart, 2000, pp. 25, 31), while the consensual model requires governance by as many as possible with the desires of as many as possible (Lijphart, 2000, p. 26). Although the first model is considered to be "a general model of democracy" (Lijphart, 2000, p. 31), which is specific and originated in Great Britain, it is considered that "the majority interpretation of the fundamental definitions of democracy says that this means "governing by the majority of the people" (Lijphart, 2000, p. 49), thus appreciating that it is, in fact, the most common model of democracy. An additional argument in favor of this support is the answer to the question of "who realizes the government and the interests of whom it needs to be answered, when the people disagree and have divergent preferences?" (Lijphart, 2000, p. 25), and the answer is "the majority of the people" (Lijphart, 2000, p. 25). In fact, the question and the answer mentioned are the conclusions reached by the quoted author, starting with the simplest but most meaningful definition, given to democracy - "rule by the people, for the people", and closer to the democratic ideal of a such governments are government by the majority and in accordance with the wishes of the majority (Lijphart, 2000, p. 25).

Through the Gettysburg Declaration (Speech) of 1863, Abraham Lincoln was the one who spoke, among other things, about "the rule of the people, by the people and for the people," a political and legal reality that is not enough just to assert, but also found in constitutions, fundamental laws, and in the practice of states. The best argument in support of our previous statements is the very meaning of democracy.

Thus, etymologically speaking, the word democracy originates from the Greek *demokratia*, a word composed of *demos* - people and *kratos* - power, meaning, in a free translation, the power of the people (https://dexonline.ro/definitie/democraţie).

Democracy, therefore, presupposes, first of all, that one of the constituent elements of the state, namely the people, hold and exercise power either directly through elections or by referendum, or indirectly through their representative organs.

In doctrine, this concept of democracy is seen as a specific feature of democracy, along with others: equality of all citizens before the law, protection and guarantee of fundamental rights of citizens by the state, ensuring political pluralism, ensuring the independence of justice and free access of everybody to justice, and ensuring the control of the constitutionality and legality of acts of public authorities (Deaconu, 2012, p. 105)

On the other hand, paraphrasing what Tocqueville said, the principle of sovereignty of the people should be a legal and omnipotent fact that rules the entire society, which is recognized by morals and by laws, by the fundamental law of any state, free and reaches its last consequences without encountering obstacles on its path. (Tocqueville, 1992, p. 101)

Likewise, we can also claim that the people should and must reign over the political world like God over the universe, the people being the cause and purpose of things, everything coming from it and returning to it. (Tocqueville, 1992, p. 104).

2.3. Rule of Law and Democracy – Necessity and Reality in any Constitutional Regime

Looking at the two above shortly analyzed concepts, the rule of law and democracy, we can observe an interpenetration of these concepts, given the "close correlation with principles and values such as the guarantee of fundamental rights, political pluralism, the responsibility of the governors, the supremacy of the law, the independence of justice "(Safta, 2015, p. 66).

Therefore, "democracy requires the observance of the human being and of the rule of law" (Muraru & Tănăsescu, 2008, p. 10), which expresses the character of the political regime in a state.

Just Like the rule of law, and the need for the democratic character of states are is recognized through international documents, such as the Universal Declaration of Human Rights, which by art. 29 par. (2), speaks of the exceptional nature of the restriction of the exercise of certain rights and freedoms, conditional restraint, inter alia, of the need for such a measure in a democratic society. The International Covenant on Civil and Political Rights also includes limits on the exercise of rights imposed by the democratic imperative of a society when it comes to free and equal access to justice and the right to a fair trial, art. 14 par. (1), the right to free meetings, in art. 21, or the right of association, in art. 22 par. (2).

Democracy is, moreover, one of the values on which the European Union is founded, as art. 2 of the Treaty on European Union states.

The constitutional regime of any present state must be coordinated with the rule of law and democracy, one without the other being inconceivable because, as we have seen, they mutually intertwine.

Democratic governance presupposes, in our opinion, in essence, the rule of the people by the people and for the people. Such a government cannot be viable and achievable only in a state governed by law, but which in turn is subject to the law, namely in a rule of law (Chevallier, 2012, p. 13).

In the doctrine, there is a phenomenon of international constitutionalization where, in a system of global governance, it is proposed that elements of constitutionalism be internationalized, become the preserve of some suprastate structures. In this context, we have to start from the legal system that includes the basic rules of the rule of law, the fundamental freedoms relating to proportionality and necessity, the separation of powers, the regulation of judicial control, and the inalienability of human rights. (O'Donoghue, 2013, pp. 1027-1028)

The fundamental constitutional value of the two concepts - a rule of law and democracy, an internationally recognized and protected value, determines their

takeover by the international dimension of constitutional law in order to be appropriated by present institutions or to be present in a system of global governance.

So, when we talk about the rule of law and democracy, referring to a constitutional regime, we have to consider the existence of the following coordinates: rule of law, consecration and guarantee of fundamental rights and freedoms, separation and balance of powers, political pluralism, free access to justice and the independence of the judiciary so that the people's rule can be done by the people and for the people.

3. Landmarks of the Rule of Law and Democracy in the Constitutions of some States of the European Union

The Member States of the European Union, meeting the requirements of membership of such an international, regional-level organization of a specific nature, which they have not met in such other organizations, contain in their constitutions provisions establishing the rule of law and their democratic character.

To highlight these issues, we randomly selected 8 constitutions of some EU Member States, namely: Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia and Slovenia.

Constitutional regulations have many similarities, but also different aspects that concretize the specificity of each constitutional regime enshrined in each fundamental law.

Sometimes the constitutional legislator chose to consecrate, expressis verbis, one of the characters of the above-mentioned state, or both, or even some of the elements that define and outline these traits. Obviously, the lack of express regulations in the sense mentioned above does not mean that they were not considered by the constituent legislator, but only that they must be deducted, by way of interpretation, from the constitutional provisions.

Most of the constitutions consecrate the fact that power belongs to the people. Thus, for example, Latvia, by art. 2 of the Constitution, states that "the sovereign power of the Latvian state belongs to the Latvian people," and Luxembourg, by art. 32 (1) of the Constitution states that "the power belongs to the nation". Meanwhile Poland, by art.4 par. (1) of the Constitution, states that "the supreme power ... is exercised by the people".

Some of the constitutions recognize the existence of the rule of law in their preamble. Thus, the Constitution of Lithuania, even in the Preamble, states that this constitution was adopted and proclaimed by the Lithuanian nation, including to militate for a rule of law, a solution which was also preferred by the Portuguese constitutional legislator stating that "the Constituent Assembly ... [to] secure the primacy of a democratic state based on the rule of law ... "and thus has even concretized the connection between the two fundamental constitutional concepts - the rule of law and democracy. In contrast,

both Slovakia and Slovenia preferred to register the rule of law in the very body of their own constitution, through art. 1 point (1), respectively by art. 2. Moreover, like the Portuguese constitutional legislator, and the Slovak constitutional assembly has chosen to incorporate in the same constitutional text both of the fundamental features of a contemporary state, stipulating that "the Slovak Republic is a sovereign and democratic state governed by the rule of law".

States such as Poland and Portugal preferred to consecrate, expressis verbis, the principle of separation and balance of powers. Thus, by art. 10, the Polish constitutional law stated that "the system of governance of this republic is based on the principle of the separation of powers in the state, the balance between the legislative, executive and judicial power". The Portuguese constitutional legislator preferred to devote a single but consistent article to the democratic state based on the rule of law, as it referred to art. 2, by which it almost surprised all the coordinates identified in the foregoing and by which we can identify the two characters of a state, mentioning, therefore, that this state is based "on the separation and interdependence of the powers in order to achieve a economic, social and cultural democracies and the consolidation of a participatory democracy. " Moreover, the Portuguese legislator developed this principle in a distinct article, namely art. 111, in a title dedicated to the general principles that govern the organization of political power. Even if they have consecrated the principle of separation and balance of powers in the state, the organization and functioning of public authorities (public authorities) exercising sovereign power on the basis of this principle is supplemented by the role, functions, attributions, relations between them constitutionally constituted by the legislator in the articles expressly and explicitly addressed to them. Thus, for example, the Constitution of Poland provides in art. 95, that the "Diet (Sejmul) and the Senate exercise the legislative power" by the following provisions of Chapter IV, determining the way in which the members of these parliamentary chambers are elected, issues concerning their mandate and status, the organization and functioning of the two chambers of the Polish legislature. Chapters V and VI are devoted to the President of the State and to the Council of Ministers whose membership in the executive power is indicated by their established role and attributions. Thus, according to art. 126 par. (1) and (2), "the President of the Republic of Poland is the supreme representative of that republic and the guarantor of the continuity of the state authority. He shall respect the observance of the Constitution and shall be the guarantor of the sovereignty and security of the state and of the inviolability and integrity of its territory"; article 146 par. (1) and (2), "the Council of Ministers shall conduct the internal and external policy of the republic and shall manage the affairs of state policy which are not within the competence of other state organs or territorial collectivities". Chapter VIII stipulates the constitutional principles regarding the courts and tribunals and the way in which they operate, and the art. 173 regulates that these institutions constitute a separate power and one independent of the other powers in the state. The equilibrium of powers is ensured also by the existence of control institutions

which, through specific attributions, tempt the power access of some or other of the public authorities exercising the three classical powers. In this respect, in the Constitution of Poland, Chapter IX is devoted to state control institutions and to the protection of rights, but, by art. 95 paragraph (2), it is consecrated, expressis verbis, the classic political control exerted by the legislative power on the executive, namely the Diet on the activity of the Council of Ministers.

Constitutions that do not expressly enshrine the principle of separation and balance of powers in the state, such as that of Slovenia, devote an entire chapter to the organization of the state, in accordance with that principle being presented the public authorities exercising these powers and the relations between them and their mutual control, as specified in art. 116 and the following articles. As far as fundamental rights and freedoms are concerned, all constitutions analyzed have devoted at least one chapter to them, some of them, such as Portugal's or Slovakia's, by organizing them on different categories according to criteria such as a person's life aspect of some rights, such as political life, or their nature, such as socio-economic and cultural rights. Also, some of the constitutions, such as Malta's, exploit some of these rights, as do the international documents, as principles, by dedicating a distinct chapter.

4. Conclusions

The constitutional regime of each state must focus on a number of landmarks that can be considered essential elements, of which no people or nation, implicity, a state should be deprived, such as the rule of law and democracy, their own dimensions and common points.

It is also, in our view, a matter that “a state beyond the law is inconceivable” (Kelsen, 2000, p. 367) and it must be recognized as an order of law (Kelsen, 2000, p. 368) to be a true rule of law. And in such a state, the duty of those at the helm of society may also consider the learning of democracy or its reanimation, the adaptation or even the change of government to correspond to times, places, according to circumstances and people (Tocqueville, 1992, p. 46).

Every constitution is improvable, but no matter how correctly and well a constitutional regime of a state was built, creating mechanisms and levers to consider, but also protect and even save, if necessary, fundamental values such as the rule of law and democracy, is essential that the governance to be carried out by the people, directly or indirectly, and for the people.

References

Aristotel. (2004). *Politica* [Politics]. Oradea: Antet.

Chevallier, J. (2012). *Statul de drept* [The Rule of Law]. Bucureşti: Universul Juridic.

Deaconu, Ş. (2012). *Instituţii politice* [Political Institutions]. Bucureşti: C. H. Beck.

Dicey, A. V. (1982). *Introduction to the study of the law of the constitution*. Indianapolis: Liberty Classics.

Kelsen, H. (2000). *Doctrina pură a dreptului* [Pure Theory of Law]. Bucureşti: Humanitas.

Lijphart, A. (2000). *Modele ale democraţiei. Forme de guvernare şi funcţionare în treizeci şi şase de ţări* [Patterns of Democracy. Government Forms and Performance in Thirty-Six Countries]. Iaşi: Polirom.

Lincoln, A. (1863). *Declaraţia (Discursul) de la Gettysburg* [The Speech at Gettysburg]. Available at: http://www.bartleby.com/268/9/26.html#note268.47. Accessed: 27-01-2018.

Malberg, C. de (1920). *Contribution a la Théorie générale de l'État* [Contribution to the general Theory of the State]. Paris: Recueil Sirey.

Muraru, I., & Tănăsescu, E. S., coordinators (2008). *Constituţia României. Comentariu pe articole* [Romanian Constitution. Comments on articles]. Bucureşti: C. H. Beck.

O'Donoghue, A. (2013). International constitutionalism and the state. *International Journal of Constitutional Law*, volume 11, issue 4, 1021-1045. Available at: http://icon.oxfordjournals.org/. Accessed: 26-04-2014.

Safta, M. (2015). *Drept constituţional şi instituţii politice, vol. II. Instituţii politice* [Constitutional Law and Political Institutions, 2nd volumes. Political Institutions]. Bucureşti: Hamangiu.

Tocqueville, A. de (1992). *Despre democraţie în America,* vol. I [Democracy in America, 1st volume]. Bucureşti: Humanitas.

European Union. *UE pe scurt*. Available at: https://europa.eu/european-union/about-eu/eu-in-brief_ro. Accessed: 26-01-2018.

European Union. *Accession criteria – Copenhagen criteria*. Available at: http://eur-lex.europa. eu/summary/glossary/accession_criteria_copenhague.html. Accessed: 26-01-2018.

European Union, *Tratatul privind Uniunea Europeană, versiunea consolidată* [Treaty on European Union, consolidated version], JOUE C 326/7, 26.10.2012.

United Nations, Security Council (2004), *Report of the Secretary-General. The rule of law and transitional justice in conflict and post-conflict societies.* S/2004/616. Available at: http:// www.un.org/en/ga/search/view_doc.asp?symbol=S/2004/616. Accessed: 26-01-2018.

United Nations, *Universal Declaration of the Human Rights*. Available at: http://www.un.org/en/universal-declaration-human-rights/. Accessed: 27-01-2018.

United Nations, *Pactul Internaţional cu privire la drepturile civile şi politice* [International Convenant on Civil and Political Rights]. Available at: http://www.ohchr.org /en/professionalinterest/pages/ccpr.aspx. Accessed: 27-01-2018.

United Nations, Charter of the United Nations. Availbale at: http://www.un.org/en/charter-united-nations/index.html. Accessed: 27-01-2018.

Curtea Constituţională a României, Decizia nr. 70/2000 referitoare la exceptia de neconstitutionalitate a dispozitiilor art. IV pct. 7 din Ordonanta Guvernului nr. 18/1994

privind masuri pentru intarirea disciplinei financiare a agentilor economici, aprobata, cu modificari, prin Legea nr. 12/1995, publicată în M. Of. l României, Partea I, nr. 334/19.07.2000.

Constituţii statelor [Constitutions of the states]. Available at: https://www.constituteproject.org/search?lang=en. Accessed: 27-01-2018.

*** https://dexonline.ro/definitie/democraţie. Accessed: 27-01-2018.

*** Stanford Encyclopedia of Philosophy. Available at: https://plato.stanford.edu/entries/rule-of-law/. Accessed: 26-01-2018.