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ORIGINAL PAPER

The constitutional philosophy and practice in the Romanian Principalities in 1765-1832

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Abstract

The Romanian modern institutional organisation was part of a general continental process, which included in its becoming the patterns of the Latin states. The history of the Romanian constitutionalism had been preceded by a transition era that had created the necessary background for the transition from the establishment of the Old Regime towards the Organic Regulations – the first fundamental organisational laws of the Romanian Principalities. The period that followed after 1750, when the reforms of Constantin Mavrocordat and Alexandru Ipsilanti appeared, announcing an enlightened absolutist monarchy, was of a great importance in the ulterior constitutional development of the Romanian Principalities. During this period, which was that of memoires and bills, there appeared the elements of a certain synchronisation with the constitutional tradition, founded on the documents elaborated in the age of the Revolution from 1789.

Keywords: *Romanian Principalities, 1765-1832, juridical documents, constitutional thinking, modernisation*

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From the perspective of law modernisation, the age after the second half of the 18th century, in which there are identified the reforms of Constantin Mavrocordat or Ipsilanti, announcing an enlightened absolutist monarchy, had a great significance in the later constitutional development of the Romanian Principalities. “In this era of intellectual mutations in the Romanian territory” (Stanomir, 2004: 19), there were being assimilated, in a personal note, and adapted to the new realities, certain elements that belonged to the occidental space (Cernovodeanu and Edroiu, 2002: 436).

As a consequence of the transformations emerged in the administrative organisation of the Romanian Principalities, starting with the ruling of the Mavrocordat line and until Alexandru Şuţu and Grigore Callimachi, there could be noticed the need to adapt the juridical norms to the new requests of those times (Cernovodeanu and Edroiu, 2002: 436). Although they were continually applied during the ruling of Nicolae Mavrocordat (Cronţ, 1973: 332-347), the old system of laws was not corresponding anymore to the modernising tendencies of the Romanian society (Cernovodeanu and Edroiu, 2002: 436). Therefore, starting with the second half of the 18th century, the law specialists and the great scholars, combined their efforts and erudition to elaborate new normative documents. The activity, and the efforts involved by the autochthonous writers of the code of laws, were component parts in the process for the modification of the landmarks system, which characterised the Romanian society, starting with 1780 (Stanomir, 2005: 15).

The removing of old customs, the necessity of the written laws, the rationalisation of the law system, are just few of the provisions that appeared in the normative documents from this period (Stanomir, 2005: 15). The first synthesising code, whose civil, penal and juridical organisation provisions were put into force in Wallachia, was The Register of Laws from 1780. Although the collaborators for this juridical paper are still unknown, it was assumed that Ienăchiţă Văcărescu (Cernovodeanu, Edroiu, 2002: 820), “a trustworthy and devoted servant of the Prince”, brought a major contribution to its final draft. The dispositions of this register were applied until the entering into force of *Caragea’s Law*, when they were tacitly abrogated. Nonetheless, certain provisions referring to boundaries, succession, dowry, were still applied after this date too, until the 1st of December, 1865, when *The Civil Code* entered into force. The importance of the text from 1780 is obvious, as much as, in some of its stipulations, it is limited the arbitrary of “the executive” through its censoring by an early-staged judicial power. Moreover, there can be mentioned the framing of an incipient legal background for the protection of the individual against the interference of the state (Rădulescu, 1957). New initiative was imputable to the European Enlightenment influence (Stanomir, 2004: 29).

Caragea’s Law elaborated in 1818, under the Prince’s supervision, by the “educated and experienced boyars”, was evaluated by a Commission that gathered the high boyars and, in the end, it was legalised by the Prince through a charter (Ceterchi, 1984: 75). The dispositions of this law entered into force in 1819, and were applied by the 1st of December, 1865. Although they had as a foundation the stipulations of *Napoleon’s Civil Code* from 1804, which were referring to successions and contracts, the main inspirational document was constituted of the *local custom* and the *Register of Laws*. The document had 630 paragraphs, with four general and special codes: civil, penal, civil procedure and penal procedure (Rădulescu, 1955). The dispositions that referred to the commercial law were replaced by the provisions of the *Organic Regulation*, and those for penal law and penal procedure were abrogated in 1841 and 1851.

An incontestable proof, for the debut of the modern structures of the Romania law, is constituted of the bills that were not sanctioned by the Prince through a charter, bills elaborated at the Prince's initiative. One of those documents is the Laws Manual, drafted by Mihail Fotino, known for its three variants, from 1765, 1766 and 1777 (Cernovodeanu and Edroiu, 2002: 820). Based on *the Emperor's Laws*, this juridical synthesis was addressed to the judges, who had to apply the law "without passion", bias and "hiding of rightness". Among the principles of the natural law, inserted in this bill, we mention: the sanctioning, by the Prince, of illegality and injustice; the creation of a legislative system based on the observing of law and equity; the instituting of the arbitrary justice, considered common court; the establishing of the taxes according to the wealth of the contributors. The work of the jurist Dimitrie Panaiotachi-Catargi, *The judicial art from 1793*, dedicated to Prince Alexandru Moruzi, was a working instrument for both the judges and the parties involved in a law suit (Ceterchi, 1984: 79). There were stipulated norms of procedure, inspired from the French encyclopedian people (Cronţ, 1973: 345) and it was also stipulated the supremacy of law and the need for the syllogistic arguments, according to the paradigms asserted by Aristotle. In the Moldavian space, the oldest attempt of law code belonged to Alexandru Mavrocordat Firaris, who elaborated, in 1785 The Ecumenical Charter. Approaching issues from the successional law, the document tried to define the property, influenced by the theories of the juridical modernity (Ceterchi, 1984: 79-80), and circulated until the age of Alexandru Ioan Cuza. Andronache Donici elaborated the manual: *Comprehensive succinct work from the Emperor's code of laws for the use of those who wish to study, with notes about the books, title and author*, which appeared in 1813. The text of the work, revised in 1814 and accompanied by a Preface, is an original paper approaching the juridical theory and the civil law (Rădulescu, 1959). As regarding the civil procedure and the judicial organisation, there were regulated the procedures for the appointing of the judges and mediators, the judicial behaviour, along with the claimant's and defendant's positions.

Callimach's Code, also known as *The Civil Code of Scarlat Callimach*, or *The Civil Code of Moldova*, was elaborated in 1871, at the request of Prince Scarlat Callimachi. To its drafting participated: Christian Flechtenmacher, Andronache Donici, Anania Cuzanos and Veniamin Costachi. The methodology and the elaboration plan of this juridical work had as a model, The French Civil Code, from 1804, and The Austrian Civil Code, from 1811. Initially, it was drafted in Greek, in 1838, being translated into Romanian too. In this code of laws, there was stipulated that the customs followed due to "ignorance and mistake" were inapplicable, and it was also specified the interdiction to resort to a custom, instead of the written laws, this mentioning being acceptable only if the written disposition lacks details, or is a way to sanction the deviance from the good manners (Rădulescu, 1958). It can be also remarked a certain preoccupation for the protection of property, because it started to appear "the goods" concept, which the juridical discourse could not be imagined without (Stanomir, 2004: 36).

The reformation process, started by the Phanariot rulers, was sustained through the effort invested by the autochthonous elites, to modify both the international statute of the both Romanian Principalities, and the procedure of exercising the leadership positions (Stanomir, 2005: 15). The memoir and the reformation bills elaborated in the period after 1770 "fulfil the role of a constitutional and legal laboratory" (Stanomir, 2005: 15) inside which there had been stated, for the first time, the questions that were answered in the following period of time. Thus, these questions considered the next aspects: the procedure of power transmitting; the necessity for founding a General Assembly that would

participate to the leadership of the country and, in the same time, to represent the dwellers; the drafting of citizens' rights and freedoms; the difference between the elective national monarchy and the foreign Prince. The principles formulated and recorded in *The declaration of the rights of man and citizen from 1789*, by the ideologists of the French revolution, along with those stipulated in *The French Constitution from 1791*, represented legal models that influenced the form of government from the Romanian Principalities; the ways to accomplish the socio-economic transformations and the direction of evolution, for the two Romanian countries (Georgescu, 1970: X).

In 1772, on the occasion of the peace treaties between Russians and Turks, which took place at Focşani, with the mediation of the Habsburg Empire and Prussia, a delegation of boyars from Muntenia addressed, on the 24th of July/4th of August, 1772, to the representatives of the Christian Powers through identic memoirs (Cernovodeanu and Edroiu, 2002: 517). Thus, in the memoir addressed to the delegate of the Vienna Court, it was mentioned the Union and the independence of the Romanian Countries under the leadership of a local Prince, through the compensation towards the Turks and the functionality of the new state as a buffer zone between the Porte and its adversaries, under the collective protection of Russia, Habsburg Empire and Prussia. In the same year, Ienăchiţă Văcărescu, in his *memoir*, addressed to the great vizier Mehmed pasha Muhsin-zade, requested: the observing of the old treaties' dispositions; the ceasing of the Phanariot abuses and the returning to the local ruling (Georgescu, 1970: 38-41). Between 1802 and 1821, it was elaborated a significant number of memoirs for the Imperial Courts and Constantinople, Paris and Sankt-Petersburg, in which there was requested the adopting of fundamental documents, named "establishments", "code of laws" or "regulations", demonstrating that the idea of Constitution, in the meaning of fundamental law of a country, had started to find more and more adepts among the local political leaders (Carp, Stanomir and Vlad, 2002: 16-17). Among these, we mention: the memoir called "aristo-democratic republican ruling", elaborated by Chancellor Dimitrie Sturdza, and addressed to Napoleon Bonaparte in 1807 (Georgescu, 1972: 108), the texts of Iordache Rosetti-Rosnovanu from 1818 in Moldova (Carp, Stanomir and Vlad, 2002: 17), and those of Barbu Văcărescu from Wallachia, from the 18th of February/1st of March, 1819.

A special juridical importance had the bill called *Plan or form of aristo-democratic republican ruling*. Initially attributed by Emil Vârtosu to the Moldavian Chancellor Dimitrie Sturdza and dated in 1802 (Ilin-Grozoiu, 2009: 36-39), the document seems to have an earlier history. The leading of the state was not attributed to the Prince, but, due to the separation of attributions, to some collegial bodies, named Divans: "the high", "the legal" and "the common" ones. Vlad Georgescu was noticing the eclectic character of the Legal Divan and the affinity with the system of Estate Assemblies (Georgescu, 1972: 148).

As it can be noticed, regarding the bills, the boyars' memoirs, and the codes, that an effort of modernisation is permanently present, due to the penetration of ideas and conceptions transmitted from the European Occident. They innovate, as well, through the attempt to project a background for people's rights and freedoms. From all these rights, a special importance is gained by the right to the free circulation, which is argued as a necessity. On addressing the first constitutional formulations, in the context of Tudor Vladimirescu's action, there can be noticed the early sprouts of a democratic touch, because we can really talk about the presence of a democratic spirit in the Romanian constitutional documents, only few decades after, as a sequence of other contextual evolutions. In the proclamations drafted by Tudor Vladimirescu, it can be remarked the

existence of an idea, related to the popular consent as regarding the governing, the tendency to offer protection to the private property, from which it emerged the legislative dimension of his action (Cornea, 1972: 42-46).

An establishment for the separation of powers is noticeable, if we consider the fact that, in the constitutional bill *The Requests of the Romanian People*, the legislative power belonged to the People's Assembly, which was made of members who had adhered to the programme of the revolution; the executive power was exercised by the Prince, who, "along with the other leaders, had to take good care of the internal and external welfare". The Prince had to observe provisions from *The Requests of the Romanian People*, a document legislated through "a charter and the great oath of the people", recognised by the sultan, guaranteed by Russian and Austria; the judicial power was exercised by the great and small officials, who were promoted according to their competence. Among the measures referring to justice, we should regard as being important the ones that considered the reduction of the judicial fees and the number of judicial servants. Moreover, it was stipulated the abrogation of *Cragea's Law*, because it had not been elaborated "according to all people's will".

As regarding the administrative area, it was mentioned that the high offices, "both the political and the clerical ones, from the highest to the smallest, to not appoint their leaders through payment" (Berindei, 1991: 224), because it was considered that this buying of positions had determined stealing and abuse. The police captains had to make the commitment that they would not "plunder". The magistrate office, the hetman's office and the sword-bearer's office were dissolved; the number of the judicial servants was reduced, along with their salaries, which became "lighter". A limitation of the boyars' power was also that the ranks of boyars, to no longer be grated according to the money paid, but "according to their service" (Cernovodeanu, Edroiu, 2002: 35).

The political turmoil from the two Principalities, between 1821 and 1828, were evidenced by numerous memoirs, reformation or constitutional bills, sent to Russian and the Sublime Porte, along with pamphlets, where there were discussed, both the juridical statute of the Principalities, and the issues related to the internal organisation (Cernovodeanu, Edroiu, 2002: 72). Among these memoirs and reformation bills, regarded as an expression of the different European concepts, but also as autochthonous options for the political-institutional organisation, we are going to stop next on the Constitution bill that the representatives of the small boyars from Moldova, showed to the Prince Ioniţă Sandu Sturdza, in the fall of 1822. Its authors desired that this bill to be the constitutional background of Moldova, until the further elaboration of a new Constitution or an "exquisitely drafted code of laws" (Şotropa, 1976: 65). This reforming bill, known as *The most significant requests of the people from Moldova* (Câncea, Iosa, Apostol, 1983: 17), and was containing principles, also stipulated in *The Declaration of the Man and Citizen Rights from 1789*, along with the memoir addressed for the delegation of the boyars from Moldova to the Ottoman Porte, in March 1822. Nevertheless, they were adapted to the situation from Moldova, generating an original content (Şotropa, 1976: 68). The theory of the natural rights, the separation of power in a state, the limitation of the monarch's power, the modernisation of the main administrative institutions, along with a written Constitution ("the boundaries of power"), are just few of the stipulations found in that document (Stanomir, 2004: 82). Through the announced concepts, the Carbonari were establishing a "liberal party" (Stan, Iosa, 1996: 33), which cleared the way for the democracy of the Romanian society.

As regarding the organisation of the state powers, the Carbonari took into account only partially the principle of the powers separation. The legislative power was exercised by the People's council, which was considered the Parliament of the country, and by the Prince (art.19). People's Council played the part of constituent power and included: the country's metropolitan, two bishops, the members of the Divans and the judicial departments, a boyar for each region, elected by the local boyars (art. 20). This Council had the following attributions: the drafting and the improvement of laws; the paying of the debts for the Porte; the founding of schools and public institutions; the entering into force of the laws (Iordache, 1996: 89). People's Council could meet without the request that its members to be summoned by the Prince. The decisions were taken on the basis of the absolute majority. All the members of the People's Council had to attend the meetings. The members, who, because of illness or other justified reasons, could not attend the debates, had to send someone to replace them. In case of divergence between the Council and the Prince, the last prevailed, because the Prince could reject only once a measure proposed by the Council, and if insisted, the Prince had to express his adhesion (Xenopol, 1898: 7).

The executive power belonged to the Prince. He enforced and executed the decisions of the People's Council, but did not have legal initiative, did not have the veto right and the right to dissolution. The Prince was the leader of the army, but he could not give orders to the gendarmes, but along with the People's Council; moreover, he could not appoint the boyars, in their ranks, by himself, and the state servants were appointed by the People's Council. The Prince enforced and executed the orders of the People's Council, which were advanced in a report, signed by all the members of the Assembly. He could send the report back, in a charter, in which he expressed his opinion. It was considered that the decisions, adopted by the People's Council and promulgated by the Prince, "express the will of the entire community". All "the people of the country" had to be subjected to these decisions, including the Deputies and the Prince (Xenopol, 1898: 7). The latter had to be a local personality, elected by the People's Assembly was constituted of the metropolitan, the bishops of the country and of "all the boyars, from the High Chancellor, to the smallest in rank" (art. 72). It was elected Prince only that who was "well-known for his good deeds, for his patriotism and for his respect for the suzerain power" (Xenopol, 1898: 221).

The form of government was represented by the constitutional monarchy. Therefore, the principle of powers separation was present, but it was requested the collaboration between the legislative and the executive power, and the reciprocal control. *The judicial power* was exercised by: the First Divan, the highest court, the Second Divan, the Department of foreign matters, and the Department of criminality. In each region, there was a court constituted of a judge and the sub-prefect of that region. The First Divan was made of: a High Chancellor; four Ministers of Justice; a Sword-bearer and a Ban. The Second Divan was made of: a boyar "without an important rank"; a high Cupbearer; an Equerry; a high Cavalry Commander and a High Steward. This Divan was similar to a Court of Appeal, which judged the civil and the commercial problems. The Department of Foreign Matters was made of: five boyars, "without an important rank" and the great Provost Marshal, who could attend the debates, having only a consultative vote, without signing the decisions (Xenopol, 1898: 171-174).

Unlike the other bills and memoirs, the Carbonari Constitution expressed, although feebly, the organisational principles and norms of the state, the reciprocal control and the collaboration between the state powers, proclaimed the autonomy of the state, the

individual freedom, the equality in front of the law, the freedom of education, work, commerce and industry, the freedom of thinking and press. Although it cannot be considered a veritable Constitution, from the juridical point of view, the bill belonging to the Carbonari party, from 1822, responded in the best way to the exigencies request by those times. As an argument, the dispositions of article 75, in which the Constitution was depicted as the fundamental text, to which the authority was related, and in which there are guaranteed the citizens's rights and freedoms. The first three laws, for the organisation of the Romanian Principalities that encompassed also dispositions from anterior bills, were the *Organic Regulations*. Having few differences in content, from one country to the other, and renouncing to many feudal institutions and customs, the *Organic Regulations* created a background for the modern state, adapted to reality of those times (Cernovodeanu, Edroiu, 2002: 86). These constitutional documents introduced elements that allowed the separation, even if incipient, of the executory and the creation of a controlling system of the decisions taken in court. The *Organic Regulations* stipulated that the Prince was elected by the People's Extraordinary Assembly, constituted, in Wallachia, of 190 members and, in Moldova, from 132 members (Negulescu, Alexianu, 1944: 1, 173). The necessary presence for the Prince to be elected was of 3/4 of the Assembly's members. The Prince was elected from the voting, if he had 2/3 of the votes, or a simple majority from the 10 favourable candidates, in case of the second ballot (Avram, 2007: 201). The election of the ruler, by the People's Extraordinary Assembly, had to be communicated to the Ottoman Porte, through a memoir, signed by all the deputies, "according to their ranks". The same deputies also signed "an official note addressed to the Petersburg court" (Negulescu, Alexianu, 1944: 179). Immediately after the fulfilling of this mission, the Assembly was dissolved. The Prince was elected on life, and he could be dismissed from his position by the suzerain and protecting courts, after an investigation. He could abdicate, under the request that the abdication to be acknowledged by the two Courts (Negulescu, Alexianu, 1944: 179). In case of ceasing or vacancy, the ruling power was exercised by the temporary leadership of the caimacams, in a number of three, elected among the leaders of high dignities: the president of the High Divan, the Minister of Affairs and the Minister of Justice, who were holding the positions at the moment of vacancy.

The candidates for the princely dignity had to observe few conditions: to be, at least, 40 years old and originate from a boyar's family (Negulescu, Alexianu, 1944: 5). After the appointment in the high position, the caimacams had to give account to him and to the People's Ordinary Assembly. The Prince had the right to legislative initiative. The Assembly had the right to approve the bill, to modify it, or to reject it. After it had been voted, the bill was sanctioned by the Prince. If he wanted to refuse the enforcement, the ruler could send the bill to the Assembly, "to be considered again". If we sanctioned it, he orders the entering into force, which was the equivalent of the promulgation. In Wallachia, the People's Ordinary Assembly was made of 42 members, and that of Moldova, from 35 members. The metropolitans and the bishops were righteous members in the two assemblies. The other deputies were elected among the boyars, and the electoral body was constituted only of boyars. The deputy electors of the counties were the boyars and the boyar's sons, of at least 25 years old, landlords of estates and with the domicile in that county. The President of the Assembly was the Metropolitan of the country. The chancellery of the Assembly was made of two secretaries and two deputy secretaries. It was stipulated that the ministers could not be members of the Assembly. Moreover, the deputies could be appointed in any other positions, without losing their mandate.

The Prince had the initiative of the laws and used to send the bills to the Assembly, through a princely decree, or princely order. The bills were voted as they were drafted, or with certain modifications. There was also the possibility that the Assembly to reject the bill. In order to become laws, the decisions of the Assembly had to be sanctioned by the prince, without motivating the gesture (Negulescu, Alexianu, 1944: 10, 182). The amendments for different articles had to be supported by at least 6 members of the Assembly (Negulescu, Alexianu, 1944:10, 182). The voting of the bills was made, considering the absolute majority (Şotropa, 1976: 89). The result of the voting was communicated to the ruler, through an address signed by all the deputies who had attended the meeting. No law could enter to force without the prince's sanctioning. The Assembly did not have the initiative of the laws. It could only express desiderate to the Prince. The decisions of the People's Assemblies were subordinated to the treaties and sultan's decrees, which were in force and to the observing "of suzerain and defending Courts' rights" (Negulescu and Alexianu, 1944: 11, 183). As a consequence, the People's Assemblies had a consultative role: they were debating, without deliberating, the sanctioning of the result of those debates of the People's Assembly being the Prince's prerogative. The legislative document was therefore depending, on his will and competence. Thus, the People's Assemblies did not have the ability to adopt a law; only the Prince had this right (Negulescu and Alexianu, 1944: 43-44).

The Assembly was elected on five years. The Prince could dissolve it, reporting to the two Courts the reasons for the dissolving, and asking their authorisation to re-elect a new Assembly. On the 1st of December of each year, the prince had to convoke the Assembly, the session taking place on two months, with the possibility to be prolonged (Oroveanu, 1992: 209). At the beginning of each session, there was cited the princely decree; then, it was appointed the Commission for the research of the elected deputies' ranks, it was established the number of meetings a week, there were elected the commissions: financial, administrative, clerical and judicial. Afterwards, the Assembly answered to the princely decree from the beginning. In order to validate the debates, it was necessary the presence of 2/3 of the members from the Assembly. The People's Ordinary Assembly was establishing the budget and was controlling the income and the expenses (Cernea, Molcuţ, 1993: 167), was sending the reports to the two Courts, in which there was depicted the situation from the country and the noticed discontentment, making proposals regarding the measures that had to be taken in certain fields: agriculture, industry, trade, the public order. The divergences between the Prince and the Assembly were solved by Turkey and Russia (Iorga, 1985: 580). The Prince, in his relations with the Assembly, had the possibility to resort, "in case of upbringing or riots and disorder", to the help of the two Powers (Negulescu, Alexianu, 1944: 11, 183).

Through the new organisation, we can meet, for the first time, the naming of *ministers* (Avram, 2007: 202). In the system of the Regulations, the prince appointed and revoked his collaborators, without taking into consideration other aspects, than those he thought necessary. The ministers could not have a policy different from that pf the Prince, who was establishing the directives and the necessary course. Because they were part of the Assembly, he could not express a vote of censure; yet, he could, due to his decrees, to "demonstrate" the inappropriate administration, the great unjust gestures made by certain ministers. The Assembly had the legal possibility to communicate these "demonstrations" to the Two Courts too, which could order an inquiry, whose result could be even the removal of the ruler, as it happened in 1841 with prince Alexandru Ghica (Avram, 2007: 203). For the leadership of the country, the ruler enjoyed the help of the ministers that he

could appoint and remove personally. They agreed all the measures proposed by the Prince.

The Ordinary Administrative Council was constituted of the ministers: of internal affairs, or finance and the secretariat of the state, being under the presidency of the prince or high Minister of Justice. It had the role to counsel the prince and to prepare the documents of the People's Assembly works. It was meeting twice a week for the elaboration of bills. After they were proved by the Prince, these bills were subjected to the deliberation of the People's Ordinary Assemblies. In order to debate problems of a certain importance, the ruler convoked the Extraordinary Administrative Council, also called "the great council of the ministers" (Avram, 2007: 203). This Council, created only in Muntenia, was made of the members of the Ordinary Administrative Council and the leaders of the departments: of militia, of faith and of justice.

According to the norms established by the Organic Regulations, there were founded (Ceterchi, 1984: 127): *the department of internal affairs*– it had in its subordination: the internal matters, the education, the health, the public works and the social instance; *the department of finances* – which supervised the income and expenses, trade and industry. At the end of each semester, it was reported to the treasury, the condition of the income and expenses, on which basis, the treasurer handed the lord a general situation, verified by 6 boyars, appointed by the Assembly; they drafted an annual report, presented by the lord to the People's Assembly; *the department of state secretariat*, led by the high Seneschal. He was the head of the princely chancellery and, with his help, there was presented the ruler's ordinances, to the certain departments of the People's Assembly. Under his leadership, there was the country diplomat for the relation with the Porte and the Community control; *the high chancellery of justice*, led by the high chancellor of justice. He presided the Supreme Court, having the duty to supervise that the verdicts of the judicial courts were according to the laws and regulations in force. *The high chancellery of faith and clerical misunderstandings*, was a department founded in Muntenia, through which, it was accelerated the interference of the state into the clerical matters. The judicial courts were reorganised according to modern principles: the separation of the juridical activity from the administrative one; the recognition of the definitive decision made by the court; the hierarchic organisation of the judicial courts. Although the dispositions referring to the institution of the ministerial responsibility were not clear and complete, the separation of powers brought forward the desire to limit the princely power (Stanomir, 2004: 19).

The Organic Regulations created, in Wallachia, the High Divan, and in Moldova, the Princely Divan, as the third and the highest instance, competent for judging the civil, commercial or penal matters. There were established two categories of judicial courts: ordinary and extraordinary. In the first category, there were the civil courts, and in the second, the military and clerical courts. The civil courts were ordinary and special. As regarding the judicial procedure, the Organic Regulations brought the following innovations (Avram, 2007: 204): the Prince had only the right to enforce the definitive decisions; the insertion of principle of final decision; as a penal proof, the torture was eliminated. As a rule, the Prince did not have the right to judge, but only to enforce the definitive judicial decisions. Nevertheless, in Moldova, he presided the meetings of the Princely Divan, which demonstrates that the principle of powers separation was just a formal one (Cernea and Molcuţ, 1993: 167). Thus, according to art. 281, from the Organic Regulation of Moldova, the right to judge was attributed to the judges who were judging in the name of the Prince. The people who administrated the justice, in the name of the

Prince, were appointed, in the High Divan and the other courts, for three years. The Prince, in agreement with the People's Assembly, ten years after the entering into force of the Organic Regualtions, could give irremovability to the judges who were already holding a position. The judges were appointed by the Prince, for a period of three years, with the possibility to prolong their mandate, with other three years.

For the first time, it also appears the institution of the *prosecutor*, with "responsibility for the civil and penal matters", the attributions of both the lawyer and the prosecutor being different from those of the bailiff, the steward or the high officials until then (Avram, Bărbieru, Radu, 2014: 122). The administrative-territorial organisation remained the same, with the distinction that the number of counties and districts was reduced. There appeared new elements about the names and the duties of the counties and lands. Thus, in Wallachia, they were called county chiefs, and in Moldova, sub-prefects. They were appointed for three years by the Prince, at the proposal of the Administrative Council (Cernea, Molcuţ, 1993: 169). According to the provisions of the Organic Regulations, they had administrative attributions, but they were still keeping certain judicial prerogatives.

On addressing the organisation of the other wards, districts and arrondissements, there were stipulated some modifications. Thus, in Wallachia, the wards and the districts were led by deputies, and the arrondissements, in Moldova, by supervisors. They were elected by the representatives of the villages, among the landlords of immobile goods, and were enforced by the prince. Their main attributions were to: cease the abuses, maintain the order and guarantee the health. Their activity was analysed by the heads of the counties and lands (Ceterchi, 1984: 152). The towns that were no longer on feudal domains received juridical personality and the right to be administrated by the Council elected by the dwellers. The town Council was led by a president, appointed by the Prince, who had both competence in the administration of income and expenses, and the organisation of the commercial activity. Extremely important, there were the dispositions that were referring to the planning of the Union for the two Romanian Principalities. These dispositions provisioned: the forming a unique market and economic activity identity; the freedom of trade, assured by the equality in treatment of the traders from the two Principalities and the elimination of the custom duties; the possibility of the citizens to own mobile and immobile properties, in any of the two Romanian Principalities; the citizens could travel without restraints from one country to another. Moreover, there were stipulated measures that were referring to the unification of the penal legislation, the concluding of agreements for the extradition of criminals, fugitives and debtors (Ceterchi, 1984: 128).

The Organic Regulations from Wallachia and Moldova were a characteristic model of legislative identity, because they established, in the two Romanian countries, the same organisation of the state. Furthermore, they constituted a transition stage, from feudalism to capitalism, foreseeing the organisation of the Romanian state. The Organic Regulations organised, on a modern basis, the public services, and created new ones, established their composition and competence, formed a group of permanent public servants, founded the national militia, modernised the financial system, abolished the buying of the positions, created a Legislative Assembly and stipulated the election of the Prince for life. The Organic Regulations did not entirely change the already existing political system. They were a juridical instrument, through which Russia maintained its political domination in the Romanian Principalities. Although the Ottoman domination

was removed, it was introduced the Russian one, much more demanding, for the Romanian Principalities.

The Romanian modern organisation of the institutions was framed into a continental general process, which used as a model of construction, the models of the Latin states. If the modern institutions of the Romanian state resulted from a general evolutional process, registered in the middle of the 19th century in Europe, this process was also founded on the internal background.

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