ISSN 1392-6195

JURISPRUDENCIJA
Mokslo darbai
2008 9(111); 20–25

IS THE CONSTITUENT ASSEMBLY A SOLUTION FOR THE REFORM OF THE ROMANIAN CONSTITUTIONAL SYSTEM?

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Pateikta 2008 m. rugsėjo 10 d., parengta spausdinti 2008 m. rugsėjo 23 d.

Summary. The Romanian Parliament can be dissolved, from a strictly formal point of view, only according to Article 89 of the Romanian Constitution. This constitutional procedure was designed from the very beginning in such a way that it is almost impossible to implement. At first glance, there is no alternative to the procedure described in the Constitution for Parliament dissolution. Still, if one analysis the text of the Constitution, both in relation with the constitutional theory and the practical experiences of comparative law, finds out that there is another possibility.

The Parliament can also be dissolved by the election of a new Constituent Assembly, which will draft the text of a new Constitution. The Parliament dissolution can happen at any time, through the initiative of a referendum for the formation of a Constituent Assembly. We are not talking about a revision of the Constitution, for which there are specific norms (Title VII, Articles 150-152) and which can lead to the changing of some articles; we are talking about a completely changed Constitution, with a new structure and a content that will be in accordance with the political realities of Romania's membership to the European Union.

It was often said that, until now, the Parliament was not dissolved by applying constitutional provisions. In fact, this is not true. It will be argued that there was a case, under the present Constitution, when the Parliament self-dissolved. This event took place in 1992, before parliamentary elections.

The self-dissolution of the Parliament, that year, came as a direct result of the Constituent Assembly ending its activity.

Taking into account this precedent, nothing prevents today the dissolution of the Parliament as a consequence of the endorsement by referendum of the formation of a new Constituent Assembly.

The setting up of a new Constituent Assembly and thus the dissolution of the current Parliament elected in 2004 - through other procedures other than those from the present Constitution - can only by made as a result of a referendum.

Keywords: Romanian constitutional system, Constituent Assembly, reform of the Romanian constitutional system.

1. THE CONSTITUENT POWER, THE CONSTITUENT AUTHORITY, THE CONSTITUENT ASSEMBLY

In any democracy, the constituent power belongs only to the people. This power is in the same time prior and superior to the state because it creates the Constitution. The Parliament is a political body that formulates the Constitution. Thus, the Constitution is just formulated by the constituent authority but the constituent power creates the Constitution. The constituent authority performed by a Constituent Assembly, must not be mistaken for the people, even though, from a constitutional point of view, the people does not express itself directly, but through a constituent authority.

Traditionally, the constitutional doctrine made the distinction between primary and secondary constituent authority/power[1]. The first refers to the process of drafting a new Constitution through a rupture with the existing Constitution. The second envisages the changing of a Constitution but keeping the basic concepts

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[1] For more information on this topic see Ion DELEANU, *Instituții şi proceduri constituționale în dreptul român şi în dreptul comparat [Constitutional Institutions and Procedures in Romanian law and comparative law],* C.H. Beck, Bucharest, 2006, p. 222 – 223.

that made possible its emergence. This distinction is questioned in recent writings of constitutional law[2]. Some authors only admit the existence of a primary constituent power[3].

Our option is to make a distinction between constituent power and constituent authority. The first represents the holder of the sovereignty, the people; the second is the constitutional result of the first, Constituent Assembly.

The constituent power was defined in constitutional doctrine as "the source of establishing constitutional norms or the power of making a constitution and thus determining the fundamental norms by which state's powers organize themselves"[4]. The constituent power goes beyond any effort of constitutionalization and cannot be totally integrated in the field of law. The constituent power manifests itself revolutionary, any constitution being, in fact, "the final act of the revolution"[5]. Any revolution puts an end to the constitutional legality in place and generates a new constitutional order; the revolution "gives to the people the practice of primary constituent power"[6]. The constituent power is an essential act of innovation within a political regime; it is man's ability to make history[7] and not only to live its consequences.

The theory of constituent power and authority in its modern sense takes up Spinoza's distinction between *potentia* and *potestas* – in the sense of power exercise[8]. The constituent power plays the role of 'puissance' (sovereignty) and the constituent authority the one of 'pouvoir' (authority).

'The revolutionary manifestation' of the constituent power does not necessarily entail a revolution or a insurrection, as it was the case in December 1989 when the Romanian people acted as a constituent power, setting in place a new state order disregarding the 1965 Constitution which was still in place on December 22nd 1989 and which will never have allowed the formation of the first organizations to lead the country (FSN, CFSN, PCUN, etc.). There are cases when the constituent power of the people can manifest as a consequence of a low-degree change of the democratic regime. Thus, the Romanian constitutional doctrine admitted that

"The constituent power should not make itself known through force but through authority […] its setting up should be peaceful […]. The constituent power has thus authority, that is – it is acknowledged […]. The constituent power has authority, that is – does not encounter resistance from behalf of its subjects because they are convinced of its legitimacy, because they are convinced of its competences"[9].

"The primary constituent authority appears in revolutionary settings. Revolutionary does not necessarily mean insurrectional […] Revolution is a rupture of the positive law, not an aggressive action"[10].

As we have stated before, a manifestation of the people as a constituent power happened immediately after the Revolution from December 1989 when through the Law Decree no. 92 of 1990 a Constituent Assembly was established. Nothing stays in the way of establishing a Constituent Assembly, as a means of constituent power manifestation, today. This power is residual, in the sense that its intervention cannot be limited by any state power. There are moments when this power manifests itself (the establishment of a Constituent Assembly), as well as moments when it does not (periods of time when the state limits its activity to applying the Constitution's provisions).

Here comes the obvious question: what exactly can the constituent power change - the whole Constitution or just a part of it? Another subsequent question arise from the latter: should the constituent power take into account or not the procedure of revision and the present limits regarding the Constitution's revision?

Constitutional theory and practice offer an answer to these questions.

The distinction between rigid and flexible constitutions is considered by some authors as being relative[11]. Their argument is that a constitution that is too rigid is no longer a formal constitution. These authors consider that any constitution has a certain degree of rigidity and flexibility. I share this perspective. The differences between constitutions can be made according to the ratio between rigid and flexible norms which make any constitution[12]. The Romanian Constitution has a high degree of rigidity, due to the stipulations regarding the limits of revision (Article 152). The authors of this Constitution were convinced of the perfection of their work, which resulted in trying to impose it for a very long period of time. A lot of obstacles were raised to safeguard the revision, which were almost impossible to overcome formally and in the same time were set way above the threshold of ensuring political stability. Regarding defining the limits of the revision of the Constitution, a political solution was preferred to the constitu-

[2] Louis Favoreu, Patrick Gaïa, Richard Gvevontian, Jean – Louis Mestre, Otto Pfersmann, André Roux, Guy Scoffoni, *Droit constitutionnel*, 9e édition, Dalloz, Paris, 2006, p. 98.

[3] Pierre Pactet, Ferdinand Mélin - Soucramanien, *Droit constitutionnel*, 25e édition, Dalloz, Paris, 2006, p. 65.

[4] Antonio Negri, *Le pouvoir constituant. Essai sur les alternatives de la modernité*, PUF, Paris, 1997, p. 2.

[5] Ulrich Preuss, *Constitutional Powermaking for the New Polity: Some Deliberations on the Relations between Constituent Power and the Constitution*, Cardozo Law Review, nos. 3 - 4, January 1993, p. 641.

[6] Pierre Pactet, Ferdinand Mélin – Soucramanien, *op. cit*., pp. 68 – 69.

[7] Antonio Negri, *op. cit*., p. 35.

[8] For a distinction made by Spinoza, see Gilles Deleuze, *Spinoza*, Minuit, Paris, 1981, p. 134.

[9] Dan Claudiu Dănişor, *Drept constituţional şi instituţii politice*, vol. I – *Teoria generală*, *[Constitutional law and political institutions, vol. 1- General Theory],* C.H. Beck, Bucharest, 2007, pp. 361 – 362.

[10] *Ibidem*, p. 375.

[11] Louis Favoreu, Patrick Gaïa, Richard Gvevontian, Jean – Louis Mestre, Otto Pfersmann, André Roux, Guy Scoffoni, *op. cit*., p. 104.

[12] For an apposite point of view, in favour of a clear distinction between rigid and flexible constitutions, see Ioan Muraru, Elena Simina Tănăsescu, *Drept constituţional şi instituţii politice [Constitutional law and political institutions]*, 12 edition, vol. I, C.H. Beck, 2005, Bucharest, p. 55 and seq..

tional one. As it was observed in the Romanian constitutional theory:

"In 1990/1991 […] the present generation of politicians ended up deciding, in advance, regarding the future that was to be born. Initiating the limitation of Constitution's revision stops being a simple legal action and enters the realm of lasting political options."[13].

Regarding the way in which the Constitution can be revised, the inter-war Romanian constitutional theory notices that:

"All these constitutions that could not be revised before a certain date or provisions by which certain forms or regimes are declared untouchable have no legal value because the right of a human society to form its government and the law they think is appropriate is […] imprescriptible and inalienable. They can be, at most, the expression of some wishes which can be accomplished or respected or not as the future generations consider"[14].

According to other views that belongs to the Romanian constitutional theory, expressed under the empire of the 1991 Constitution,

"People's freedom to decide in the future their own destiny and political status cannot be limited in any way and this includes declaring un-revisable some dispositions of a Constitutions adopted in a moment of time" [15].

"Both the doctrine and the practice of comparative law agree that the present legal power cannot compel the legal powers that will come"[16] – notice the confusion the authors make between constituent power and constituent authority

"No material limits can be enforced upon the constituent power […] the constituent power can make what ever it wants of the Constitution. The so-called material limits infringed upon the constituent power […] can be overcome"[17].

The same line of thought has the constitutional theory from other countries:

"Legally speaking, the procedure of declaring a part of the Constitution as not-revisable lacks value. The present constituent power is not superior to the future constituent power and cannot limit it, not even regarding a fixed matter. Such dispositions are mere wishes, political manifestations, but have no legal value, no compulsory force for the future writers of the constitution"[18].

The constitutional practice followed the same path. Thus, according to a decision of the French Constitutional Council:

"The constituent power is sovereign […] it can choose to dissolve, to change or to add to the provision with constitutional value, in the way they consider fit"[19]

There are also practical examples to support the view that the constituent power does not have to consider the formal limits of revision. The French Constitution from 1795 had a very difficult revision procedure, which did not prevent it from being completely changed, by the intervention of the constituent power[20].

Opposite ideas were also expressed in the constitutional theory. According to these ideas the constituent power should consider the limits of the revision described in the Constitution at that moment in time. Thus, it was stated that:

"It is preferred that the writers of the constitution make a distinction between matters that seem essential and cannot be changed […]and the others […] that can always be changed"[21].

This point of view is not accepted by the Romanian constitutional theory and many arguments against it are presented:

"if one was to accept Pactet's point of view, it means that even the revisions made under the pressure of the strong and largely-accepted opinions of some articles of the constitutions, declared not-revisable by the very constitution, will be qualified as coup d'etat."[22].

One should notice that even Antonie Iorgovan, the so called "Father of the Romanian Constitution from 1991", agreed that the limits of revising the Constitution from 1991 can be overcomed by the manifestation of the constituent power and the organization of a new constituent authority:

"The Constitution provisions declared as non-revisable could still be revised through a procedure in which, after consulting the Parliament, the President of the Republic would ask the people to express their wish towards organizing a new constituent power. Once this assembly would be established, it would have powers to adopt a new constitution, in which the provisions declared not-revisable by the present constitution to be changed"[23] – notice the same confusion made by Antonie Iorgovan between constituent power and constituent authority.

Initiating a referendum by Romania's President to form a new Constituent Assembly which will have the power to adopt a new constitution and not only to revise the existing one was formulated ever since 1994 by one of the main authors of the 1991 Constitution!

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[13] Ioan Stanomir, *În jurul Constituției – practică politică şi arhitectură legală*, *[Around the Constitution – political practice and legal architecture],* University of Bucharest Publishing House, Bucharest, 2006, p. 110.

[14] C. G. Rarincescu, *Curs de drept constituțional* (lito.*),[Constitutional Law Course]* Bucharest, 1940, pp. 204 – 205.

[15] Tudor Drăganu, *Drept constituțional şi instituții politice*, *[Constitutional law and political institutions],* vol. I, Lumina Lex, Bucharest, 1998, p. 55.

[16] Mihai Constantinescu, Antonie Iorgovan, Ioan Muraru, Elena Simina Tănăsescu, *Constituția României revizuită – comentarii şi explicații [Romanian Constitution Revised – comments and explanations]*, All Beck, Bucharest, 2004, p. 341.

[17] Dan Claudiu Dănişor, *op. cit*. p. 365.

[18] Julien Laferrière, *Manuel de droit constitutionnel*, Domat – Monchrestien, Paris, 1947, p. 289.

[19] Decision no. 92-312, 2 September 1992 - "Maastricht II".

[20] D.G. Lavroff, *Le droit constitutionnel de la Ve République*, Dalloz, Paris, 1999, p. 216.

[21] Pierre Pactet, Ferdinand Mélin - Soucramanien, *op. cit.,* p. 72.

[22] Tudor Drăganu, *op. cit*., p. 55.

[23] Antonie Iorgovan, *Drept constituțional şi instituții politice. Teoria generală*, *[Constitutional law and political institutions. General Theory],* "Galeriile J.L. Calderon" Publishing House, Bucharest, 1994, pp. 74 – 75.

Nevertheless, we have seen above that Antonie Iorgovan stated in 2004 that the will of the constituent power goes beyond the forms of political regime, which is in accordance with his statement from 1994.

Thus, a new form of manifestation of the constituent power may consider neither the procedure of revision nor the limits of revision described in Title VII of the present Constitution.

There are many procedures by which the constituent power – the people – intervenes:

- Before the adoption of the Constitution;
- After the adoption of the Constitution;
- Both before and after the adoption of the Constitution.

From the perspective of the democratic regime, the last procedure is considered the most suitable by the constitutional theory:

"The most democratic procedure is of course the one that requires the people to ratify the project drafted by a constituent assembly. The people express its will first at the beginning of the process of establishing a Constitution by appointing the representatives, than a second time, at the end of the process, by ratifying or rejecting it"[24].

This model was used to adopt the 1991 Constitution: the establishment of a Constituent Assembly, made up of the Parliament elected by the people at the elections from May 20th 1990; the adoption of the Constitution by expressing the will of the people, set into practice by the referendum from December 8th 1991.

The model that we are proposing for entering into force of a new Constitution, totally different from the present one, is based on the intervention of the constituent power – the people – with three occasions:

A. Participating to a referendum with the purpose of forming a new Constituent Assembly.
B. Appointing a Constituent Assembly, as consequence of approving a referendum – people electing a new Parliament.
C. Adopting a new Constitution by referendum, after the Constituent Assembly terminates its activity.

The Constituent Assembly as a result of the election of a new Parliament should appoint a Commission which will be in charged with the drafting of two projects for Constitution. The two projects should correspond to the two forms of state organization – the presidential political regime and the parliamentary one.

It is not advisable to proceed as in 1991, when the people had to choose between a Constitution project and the lack of constitutional order.

This argument is also supported by the Romanian constitutional law theory:

"In order for the referendum to be truly efficient there has to be the possibility of choosing between at least two kinds of constitution. The voters should not be faced with the option of choosing between a constitution and nothing else, because, in such circumstance the vote is negatively influenced by a psychological pressure: the voters are tempted to vote the proposed constitution, even if they are not convinced of its value because of a simple reason: "better something than nothing ""[25].

Presenting the voters a single project for a Constitution equals transforming the referendum in a plebiscite, for of public consultation which is not acceptable within a democratic regime. In such a circumstance,

"People's sovereignty is no longer active, but passive"[26].

According to the present constitutional laws, drafting the projects for Constitution has to be made in the same time with the functioning of the newly elected Chamber of Deputies and Senate. Nothing prevents a Constituent Assembly to function as a constituent power as well. This is what happened with all the Constituent Assemblies in Romania since 1866 and until the present day. The Chambers will be in charge with voting the law projects and the legislative initiatives.

2. THE CONSTITUENT ASSEMBLY FROM 1990–1991 AND THE SELF-DISSOLUTION OF THE PARLIAMENT FROM 1992

The constitutional activity after the December 1989 Revolution was made up of constitutional decrees issued by *Frontul Salvării Naționale* (FSN - The Front of National Salvation). The entire Romanian constitutional theory acknowledges the constitutional nature of these laws. The 1965 Constitution although it was not repealed by the new revolutionary power it was no longer applied from December 22, 1989 onwards. As evidence of this we have the FSN Decrees by which the basis of a new political organization of the Romanian state was set. This new order had nothing in common with the principles of organization of the Communist state, which were laid down in the 1965 Constitution. Once the 1991 Constitution entered into force, the one from 1965 was repealed by Article 149.

During the first days after the December 1989 Revolution the people acted as a constituent power, going beyond the limits of revision from the 1965 Constitution. It was later when people's constituent power took the shape of a Constituent Assembly.

This turn of events can also happen today. People expressing its will through a referendum for the formation of a new Constituent Assembly will actually be the expression of will of the constituent power. Afterwards, the Parliament will be dissolved, as a positive result of the referendum and a new Parliament will be elected to draft a project for Constitution and thus the people can express itself as a Constituent Assembly

On of February 1, 1990 *Consiliul Provizoriu de Unitate Națională* - (CPUN - Provisional Council for National Solidarity) was established. Shortly after its

[24] Pierre Pactet, *op. cit*., p. 72.

[25] Dan Claudiu Dănișor, *op. cit*., p. 380.

[26] Georges Burdeau, *La démocratie*, Seuil, Paris, 1966, p. 82.

setting up, CPUN adopts the Law Decree no. 92 for the election of Romania's Parliament and President[27].

According to Article 80 para. 1 of Law Decree no. 92 of 1990:

"The Assembly of Deputies and Senators, in common session, will lawfully be the Constituent Assembly for adopting Romania's Constitution".

Notice that, according to Law Decree no. 92 of 1990, Romania's President had the right to dissolve the Constituent Assembly if this does not adopt the constitution within nine months. The Constituent Assembly would rightfully dissolve "in at most 18 months after its formation" (Article 82 (d))

After the presidential and parliamentary elections from May 20th 1990 the Assembly of Deputies and Senators were established as a Constituent Assembly. This Assembly chose a Commission to draft the project for Romanian Constitution which was made up of members of Parliament and experts in the field of constitutional law, as well as other sciences.

By the Decision no. 1 from July 11, 1990 of the Constituent Assembly[28] the Constituent Assembly Regulation was adopted and was supplemented by the Decision of the Constituent Assembly no. 2 from September 10, 1991[29].

The Constitution was voted in the Constituent Assembly's session from November 21, 1991 and was endorsed by the referendum organized on December 8, 1991.

The Assembly of Deputies and Senators gathered in a last session as a Constituent Assembly on December 13, 1991 to validate the result of the referendum.

During this meeting the following discussion took place:

Mr. Ion ILIESCU: *"If you allow me to make an amendment: please forgive me for interfering in the matters of the Assembly. In my view, this provision of the Constitution refers to the 4-year mandate of the Parliament, not to this Parliament that was elected for a limited period of time until the next elections."*

Mr. Alexandru BÎRLĂDEANU: *"I have to thank Mr. President for solving this problem we were facing"*[30].

Thus, although the Constitution that just entered into force envisaged that the Parliament has a 4-year mandate (Article 60 para. 1) and that the "laws and all other legal documents are applicable as long as they do not infringe upon the present Constitution" (Article 150 para. 1), which meant that the provisions of Article 60 para. 1 prevail over Law Decree 92 of 1990, Romania's President, Ion Iliescu, and the President of the Senate, Alexandru Bîrlădeanu, decided to break these constitutional norms and continue to apply Law Decree no. 92 of 1990!

Naturally, the Parliament as a Constituent Assembly should self-dissolve once a new Constitution was approved. This did not happen.

Opposite to the present line of thinking, in Romania after 1990 there was a case when the Parliament was dissolved before the end of the 4-year mandate envisaged by the Constitution. It happened 2 years after its election.

The Parliament should have rightfully dissolved 18 months after the setting up of the Constituent Assembly as a direct result of the Law Decree no. 92 of 1992. In practice, self-dissolution of the Constituent Assembly happened much earlier, before this date as a direct result of the parliamentary elections from September 27, 1992. Notice that there is no formal decision for the dissolution of the Constituent Assembly as it was normal.

Nothing prevents this precedent to be summoned today. In 1992 the Parliament self-dissolved before the end of the four-year mandate as a consequence of the end of its activity as a Constituent Assembly and the convocation of a new Parliament. The same procedure can be adopted by the present Parliament as a consequence of approving by referendum of a new Constituent Assembly.

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L'ASSEMLEE CONSTITUANTE, UNE SOLUTION POUR LA REFORMES DU SYSTEME CONSTITUTIONNEL ROUMAIN?

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Du point de vue formel, le Parlement peut être dissolu seulement conformément à l'article 89 de la Constitution de Roumanie. Si on utilise la théorie constitutionnelle et les expériences pratiques du droit comparé, il y a une autre possibilité: il peut être dissolu par l'élection d'une Assemblée Constituante qui doit rédiger le texte d'une nouvelle Constitution. Rien n'empêche dans le système constitutionnel roumain (ou dans des autres systèmes constitutionnelles) une dissolution du Parlement comme effet de l'approbation par referendum de la formation d'une nouvelle Assemblée Constituante.

Conformément a la théorie constitutionnelle, la volonté du pouvoir constituant transcende toutes les formes du régime politique. La manifestation révolutionnaire du pouvoir constituant n'est pas l'équivalent d'une révolution (comme c'était le cas en Décembre 1989) ou d'une insurrection armée. Il y a des situations quand le pouvoir constituant du peuple peut agir suite a un changement d'intensité réduite du système politique.

L'Assemblée Constituante doit designer une commission ayant comme tache la rédaction des deux projets de Constitution. Les deux projets doivent correspondre aux formes d'organisation des pouvoirs étatiques. On ne devrait pas procéder comme en 1991 quand le peuple a choisi entre un projet d'une Constitution et l'absence de l'ordre constitutionnelle.

Le Parlement élu en 1990 a été proclame Assemblée Constituante par l'effet du décret-loi no. 92/1990. La Constitution a entre en vigueur en 1991. Conformément à l'article 60 § 1, le Parlement est élu pour un mandat de 4 ans et l'article 150 § 1 dit que « les lois et toutes les autres actes normatives restent en vigueur dans la mesure si elles ne contredissent la Constitution ». Si on fait l'application des ces normes, la conclusion est que le Parlement élu en 1990 devrait être dissolu après l'entrée en vigueur de la nouvelle Constitution. Contrairement a cette logique constitutionnelle, le Président de la Roumanie et le Président du Sénat a cette époque ont décide d'appliquer le Décret–Loi no. 92/1990 même après l'entrée en vigueur de la Constitution. Le Parlement a été dissolu avant les 4 ans du son mandat. Ce précèdent peut être utilise aujourd'hui pour la dissolution du Parlement avant le fin du son mandat constitutionnel des 4 ans. En 1992 le Parlement a été auto dissolu comme effet de la fin de l'activité de l'Assemblée Constituante; maintenant il peut être dissolu pour former une nouvelle Assemblée Constituante.

AR STEIGIAMOJI ASAMBLĖJA YRA KONSTITUCINĖS REFORMOS RUMUNIJOJE SPRENDIMAS?

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S a n t r a u k a

Demokratiškoje valstybėje suverenitetas priklauso Tautai, kuri pati referendumu priima Konstituciją. Po 1989 m. Revoliucijos Rumunijos Tautos valia buvo priimtas teisės aktas, įkuriantis Steigiamąją Asamblėją. Konstitucijoje nustatyta, jog jokia kita valstybės valdžios institucija negali varžyti Steigiamosios Asamblėjos veiklos, todėl tik Konstitucija nustato Steigiamosios Asamblėjos jurisdikcijos – mandato ribas.

Tačiau čia kyla esminis klausimas: ar Steigiamoji Asamblėja gali pakeisti visą Konstituciją, ar tik jos dalį? Ieškodamas atsakymo į šį klausimą, straipsnyje autorius analizuoja konstitucijų keitimo tvarkos specifiką.

Pagal Rumunijos Respublikos Konstitucijos 89 straipsnis parlamentas gali būti paleistas, tačiau ši nuostata yra praktiškai neįgyvendinama. Kita vertus, jeigu nuosekliai analizuosime Konstitucijos tekstą, remdamiesi konstitucinės teisės teorija ir praktine demokratinių valstybių patirtimi, surasime kitų galimybių. Parlamentas taip pat gali būti paleistas, išrinkus naują Steigiamąją Asamblėją, kuri tuomet galėtų parengti naują šalies Konstitucijos projektą. Šiame straipsnyje neanalizuojami pavieniai Konstitucijos straipsnių pakeitimai, kurie yra būtini Rumunijos politiniam gyvenimui, pavyzdžiui, dėl narystės Europos Sąjungoje.

Rumunijoje susiformavo praktika, jog Tauta referendumu gali nuspręsti išrinkti naują Steigiamąją Asamblėją, kuri gali keisti Konstituciją. Vienas iš Konstitucijos autorių, Rumunijoje vadinamas Konstitucijos tėvu, *Antonie Iorgovanas* yra pareiškęs, jog net ir tos Konstitucijos nuostatos, kurių keitimas Konstitucijoje nenumatytas, gali būti keičiamos, jei Prezidentas, pasitaręs su parlamentu, pateikia Tautai referendumu spręsti, ar reikia naujai išrinkti Steigiamąją Asamblėją, kuri priimtų naują Konstituciją, taip pakeičiant tas Konstitucijos nuostatas, kurios dabar galiojančioje Konstitucijoje reglamentuojamos kaip nekeičiamos. Autorius straipsnyje analizuoja istorines klaidas, kurios galėtų turėti lemiamą įtaką Konstitucijos nuostatų keitimui.

Pagrindinės sąvokos: Rumunijos konstitucinė sistema, Rumunijos Konstitucinė Asamblėja (Susirinkimas), konstitucinė reforma.

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