

# Manuel Guțan, Oana Rizescu, Bogdan Iancu, Cosmin Cercel and Bogdan Dima: *Șefii de stat. Dinamica autoritară a puterii politice în istoria constituțională românească*

[Hheads of State. Authoritarian Dynamics of Political Power in  
Romanian Constitutional History]

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The aim of this review is to present a volume published in Romania, by several authors, in order to highlight its importance, and also to summarise its contents.

*Șefii de stat. Dinamica autoritară a puterii politice în istoria constituțională românească* [Hheads of State. Authoritarian Dynamics of Political Power in Romanian Constitutional History] is written by Manuel Guțan, Oana Rizescu, Bogdan Iancu, Cosmin Cercel and Bogdan Dima. The monograph was published by *Universul Juridic Publishers* in the spring of 2020. Its 498 pages may seem daunting at first glance, but as I'll argue below, immersion into the book constitutes a worthwhile endeavour. The chapters – though discussing the same topic in a chronological order – can also be read separately, without affecting the reading experience.

Before attempting to describe the questions raised in this volume and the contents of the book itself, I consider it of utmost importance to draw attention to the topicality and novelty of such a writing in Romanian legal historiography. The innovation of the work lies in the fact that it breaks with the historiographical tradition of the Romanian Soviet-type dictatorship and its often ahistorical approach, which plagues historical narratives of the period to this day. It is not characterized by historical denialism and does not burdened by proto- or anachronisms as means of compensating. The monograph can be considered as a necessary augmentation of Romanian historiography, because this fundamental piece of work was missing until now from the scientific literature. It attempts to explain, among other things,

by the means of the history of public law, how democratic deficit in Eastern Europe evolved and why liberal democracies had such a hard time consolidating themselves in the region. The explanation offered by the book, is that this phenomenon has historical roots, and that authoritarian patterns have in fact survived in one form or another throughout the ages. In the national histories of Central and Eastern Europe, authoritarianism has played a much larger role, than on the western side of the continent. The book is an exemplary presentation of this idea and offers the proper lens through which one can view current authoritarian tendencies in Romania and also in neighbouring countries.

It is no coincidence that the figures mystified by Romanian historiography and considered national heroes were also the greatest autocrats that ever came to power in this region. The longing and the predilection for a strong-willed leader, endowed with an excess of power and the ability to use it in an unrestricted manner is engraved in Romanian society's cultural genome. Recollections of such leaders constitute an integral part of the national consciousness. This is not only a symptom, or an inclination of Romanian historiography, it is also typical of the history of all small states in Central and Eastern Europe. This is only another facet of "[t]he misery of Eastern European small states", as the Hungarian legal philosopher István Bibó so eloquently put it.

Looking at the entire theme of the book, one can affirm that it is primarily (though not exclusively) a historical-legal analysis of the issue of authoritarianism as displayed by the head of state – regardless of title (Voivode, Phanariot, King or President) attributed to the figure – in the last 300 years of Romanian constitutional history.

According to the authors, by summarising this topic, they wanted to achieve precise aims. The first being of a critical purpose: their research started from the observation of the general lack of a critical, systematic analysis of the role, the place and the formal (and also informal) powers that the heads of state have held in modern and contemporary Romanian constitutional history.<sup>1</sup> The analyses made so far, often coming from the sphere of historiography, abound in conceptual clichés and are methodologically flawed, offering the reader perspectives that have often become canonical. By combining interdisciplinary perspectives with a coherent and critical approach and by questioning a number of common misconceptions in Romanian (constitutional) historiography regarding the evolution of the constitutional construct, the book intends to decode and elicit the dynamics of political power and the place occupied by the head of state within it.<sup>2</sup>

The volume also has an explanatory purpose and a normative finality, as its conclusions explain not only why the direct election of the president and the limitation of presidential powers have been the central problem of the post-communist process of enacting a new Constitution, but also the process of personalization of political power and the authoritarian tendencies of post-communist Romanian presidents. It

1 Manuel Guțan; Oana Rizescu et al. (2020): *Sefii de stat. Dinamica autoritară a puterii politice în istoria constituțională românească* [Heads of State. Authoritarian Dynamics of Political Power in Romanian Constitutional History], Universul Juridic, București, pp. 18–19.

2 Guțan et al. (2020): p. 19.

is also a historical analysis of the post-communist constitutional transition, which determines whether Romania has chosen the best system of government and the most appropriate balance of powers in order to avoid abuse of power by the head of state.<sup>3</sup>

In order to address the above issues, during the research two main hypotheses were laid down and tested. The first thesis is that from a legal and constitutional point of view, the Romanian heads of state have had, from the 18th century to the present day, a central role in the constitutional architecture of Romania. The second proposition is, that from a political perspective, Romanian constitutional-political life has constantly experienced a personalisation of political power and various forms and degrees of authoritarianism manifested by the head of state.<sup>4</sup>

In the following, a short presentation of the contents of the monograph is indispensable for the offering of an extensive depiction of the book.

Manuel Guțan opens with an introductory essay, questioning whether the function of the head of state in Romania is a constitutional manifestation of the desiderates of Romanian society, and how this yearning translated itself into the current political reality. He explains how the French centralist view – and example – influenced the Romanian constitutional legislator of 1991, how the powers of the Head of State aren't sufficiently well defined in what regards relations to the Government (the inherent problems of the two-headed, "*bicephalic*" organization of the executive), how the Constitutional Court of Romanian lacks unitary case-law when it comes to the prerogatives of the President, and how still the common perception in society is that the President is the most powerful public entity, even though factually speaking this is not the case.

In the next significant chapter, Oana Rizescu goes back 300 years, and analyses the role of the Phanariots in the Romanian Principalities. These voivodes were the ones who bought the right to despoil these territories for a limited amount of time, from the Ottoman court. There is a wide consensus that the abuses committed by these rulers constitute the starting point for the discussion about the origins of autocracy in the modern period.

Manuel Guțan returns to discuss in the next chapter authoritarianism during the reform era for the Danubian Principalities. It is mentioned here how the principalities adopted a French model of state organization, but which ironically was implemented after the tsarist example, and under Russian oversight.

Bogdan Iancu's following chapter deals with events in the newly formed Kingdom of Romania during the *Belle Époque* and the First World War. The first Romanian Constitution dates back to this period, being adopted in 1866. This already limited the power of the monarch, but, as it is apparent in the chapter, simple legal constraints were not thoroughly respected by the rulers, they would exist only as mere formalities without any substantial background.

Cosmin Cercel discusses authoritarianism in the age of extremes, between and after the two World Wars. He calls this *intermezzo* an exception from the

3 Guțan et al. (2020): p. 19.

4 Guțan et al. (2020): p. 19.

ideals presented by a liberal democracy. Not accidentally, this is the longest chapter, as it deals with the Royal Dictatorship of Carol II, the pseudo-fascist system of Ion Antonescu and the installation of the Soviet-type dictatorship under Stalinist surveillance.

Bogdan Dima had the task to write the last chapter of the book about the transition following the collapse of the Soviet-type dictatorship in 1989 and to elaborate in greater detail about the political, symbolic and practical role of the President in the current political order.

The book was written for anyone interested in the larger context of legal history of Romania. For one wishing to comprehend how the current semi-presidential system is put into practice, with its own historical deficiencies, and egregious contradictions, this can also be an edifying source. In particular, the volume addresses the passionate few, willing to engage and grapple with difficult ideas about freedom and subordination. Besides this, it offers a wider picture about the psyche of Romanian society, raising and partially answering questions about how it evolved its particular idiosyncrasies.