THE OFFICIAL CONSTITUTIONS AND DOCUMENTS OF THE REVOLUTION FROM 1848 IN ROMANIAN COUNTRY AND THEIR ROLE IN THE MODERNIZATION OF POLITICAL STRUCTURE OF THE STATE

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ABSTRACT

The Romanian Revolution from 1848, caused by the social-economic realities from the three Romanian countries – the Romanian Country, Transylvania and Moldova – was the great event which not only revealed the Romanians’ national legitimate goals, but also established an unitarian programme to follow afterwards, in order to achieve the political unit of the Romanian nation and modernize the structures of the society. For Romanians, their national goal was the primordial condition of a creative and respectable life, and modernizing goals became the support through which the Romanian recovered the level differences between their civilisation that had gone through difficult times due to the Turkish occupation after 1538, and the Western one.

Key-words: programmatic documents, statutory reign, national emancipation, constitutional project.

1. Introduction

A general European phenomenon [1], the revolution from 1848 marked a new stage in the history of humanity. The revolutions from this period on the European continent, although they had specific forms, were characterized by a series of homogeneous features [2].

The Revolution from 1848 burst as a result of political and social tensions, aggravated by the action of natural disasters which affected a large part of the population [3]. Also in this period, the movement for reforms, initiated by the liberal nobility, intensified. The agrarian regime established in the Organic Regulations caused the increase of peasantry’s state of nervousness in the Romanian Principalities.

The beginning of the Revolution in Paris, Wien and Pest had a powerful echo in the Romanian Countries where the Romanian revolutionaries, according to the historian Dan Berindei[4], understood to combine traditional elements specific to their space with the ideas gathered by them in the democratic circles of advanced countries and especially in the French ones, from previous decades. Therefore, at the beginning of March, the state of nervousness covered both the Romanian Principalities and Transylvania.

At the meeting organized on 8/20 March 1848[5], by Nicolae Bălcescu, where [6]: Al. G. Golescu, Dimitrie Bolintineanu C. Mavrodin, along with the Moldavians: Iancu Alecsandri, Vasile Mălinescu, I. Lecca, Teodor Rășcanu took part, the elaboration of a programme was decided, that stipulated peasants’ setting free and appropriation by means of compensation. They did not accept the proposal according to which, the Moldavians and the Muntenians, gathered in the Romanian Country, should start the revolution that was to extend in Moldavia. The Moldavians asked that “the movement be simultaneous and everyone should go to its own Principality”[7]. The stipulations of this programme were later included in the Proclamation from Islaz, from June 1848.

2. Provisions and principles included in the programmatic documents drawn-up in the Romanian Country in 1848.

In April 1848, Gheorghe Bibescu received the Anonymous Petition of boyars to the voivode Gheorghe Bibescu, which consisted of 23 points [8]: abolishing compulsory services and all noble ranks; enlarging electoral rights: “extending the election right to all landowners, without any difference of religion and nationality; to all those who pay first class patent; to everybody that exercises a
liberal profession: doctors, lawyers, engineers, professors and artists” [9] (point 5); every citizen’s right to submit complaints to the National Assembly; establishing the number of deputies from the National Assembly to 120; ministerial responsibility; abolishing censure; judges immovability; domicile inviolability; every citizen’s right to sue dishonest judges, without special approval: “the right to sue judges without having to require any approval” [10] (point 14); abolishing taxes and legal costs; establishing a national guard freeing and appropriating the peasants; establishing a national bank. In order to accomplish everything included in this petition, it provided the “immediate call of an extraordinary national assembly for reviewing the Regulations and make it comply with the aforementioned principles”[11].

The brochure What are handicraftsman [12] appeared during the same time, inspired by Abbe Sieyes’ pamphlet: Which is the third state?, published in 1789 [13]. It was considered that the author of this brochure was Ion Ghica[14]. Handicraftsmen included all those that carried a productive activity. It stipulated: ranks and privileges abolishing; the National Assembly had to consist of 100 Romanian deputies with ages of at least 25 years; ministers’ responsibility; establishment of an assembly based on the new principles; establishing a national bank; enforcement of juridical decisions [15]; abrogating judgment fees; calling the Assembly in order to review the Organic Regulations; dismissing the “Ministers of Interior, of Finances of Public Education and Police”[16].

This brochure can be considered a “declaration of rights and liberties, where several lexical and ideological invariants can be noticed by modelling the profile of the time”[17].

In May 1848, on the occasion of commissar Talaat Efendi’s presence, sent by the sultan to determine the situation in the Principalities, a memoir document was handed to him [18] by the heads of the bourgeoisie and the liberal nobility that provided: the Organic Regulations were an amalgam of heterogeneous and contradictory provisions” that “left a free space to any kind of abuse due to the ambiguous meaning of their provisions” and allows “the place the entire burden of taxes on the poorest social classes” and allowed the Tsarist Empire to interfere in the internal affairs of the state. In these circumstances, they required: Romanians should have “a more equitable representation of the various classes of society in the National Assembly”; freedom of the press; establishing a national guard; abolishing slavery with compensations from the state; the principle of ministers’ responsibility; abolishing nobility titles and decreasing the civil list of the voivode; political Unification of the two Principalities [19].

In July-September 1848, the government and the representatives of the Romanian Country drew-up a series of memoirs addressed to the Ottoman Empire, to the dignitaries or representatives of the protective power, to bodies and institutions from Western countries. Among the memoirs addressed to the Ottoman Empire, we can mention [20]: the memoire submitted to the Ottoman Empire in June 1848; the one from 27th of June/9th of July 1848; the memoire submitted to the Ottoman Empire and England and France ambassadors at Constantinople by Ion Ghica, on 30th of June /12th of July 1848; the memoire submitted to the Turkish commissar Soliman Paşa by the temporary government on 19th/31st of July 1848; the memoire submitted to the Ottoman Empire by Romanians on 23rd of July /4th of August 1848; the memoire submitted to Soliman Paşa by several boyars from the Romanian Country, on 24th of July/5th of August 1848; the memoire submitted to the Ottoman Empire and England and France ambassadors at Constantinople by Ion Ghica, in July-August 1848, the memoire submitted to the sultan by the members of the Deputies of the Hospodar on the 3/15th of August 1848, general Magheru’s memoire to the sultan from 16/28th of September 1848, the two notes of Ion Ghica to the Ottoman Empire, from September 1848. It stipulated: the new “constitution” was suitable to the country; a national government, not subjugated to external requirements; Romanians’ right to remove the old institutions and elaborate a new Constitution; the Ottoman Empire had to approve the measures and reforms proclaimed by Romanians. In October 1848 Ion Ghica sent a memoire to the commissars of Turkey and Russia militating for the election of the voivode from the boyars and boyars’ sons in compliance with the condition that they were over 35 years old. As far as the election for the National Ordinary Assembly is concerned, the Romanian revolutionary asked the return to the broader electoral basis from the temporary government of general Kiseleff[21]. That same month a new memoire was drawn-up stipulating: the election of administrators from the most honest and intelligent people; administrators’ obligation to determine the compliance with the laws in their district; appointing inspectors with full powers, to control the county administration and remove abuses [22].

From the category of memoirs addressed to the bodies and delegates of protecting power, we can mention [23]: Dimitrie Ghica’s memoire from September-October, two memoirs addressed to the tsar, one by the revolutionary government on 24th of June /6th of July 1848, and the other one by the Deputies of the Hospodar in September 1848.

Therefore, the memoire from 24th of June/6th of July 1848, stipulated: according to the Principality’s right to autonomous interior administration, it was required that the tsar recognize “this peaceful regeneration action, the only real expression of the country’s will”.

The second memoire from September 1848[24], stipulated “people’s right ... to harmonize the institutions that government them with the intellectual and moral level of development they reached” a harmony that was actually the “eternal law of progress required from peoples and
individuals”, to which “no human power can prevent its legal exercise”, because, even if temporarily, the exercise of a right is suspended by force “the violation of a right does not suppress that right”. The constitution project accepted and signed by the voivode occurred from “the people’s will”, the temporary government was elected “by acclamation by the people”.

From the memoirs addressed to the bodies or representatives of the other European, central and Western Powers, we can mention [25]: the memoir of the Deputies of the Hospodar to the parliaments of Germany, England and France from August 1848; the protest of “the Romanian people” addressed to the consuls of England, France, Germany, Prussia, Greece and Bavaria at Bucharest; Ion Maiorescu’s memoir to the ministry of Germany from Frankfurt, from 17/29th of September1848; Alexandru G. Golescu’s memoir, from September 1848. These memoirs provided [26]: Russia and Ottoman Empire lack of interference in the internal affairs of the country; free peoples’ solidarity in defending their rights and liberties; eviction of interventionist troupes; enforcement of the “constitution that we have always wanted to government our country” incorporation of a Romanian state that has “a territory which includes the entire former Dacia”.

On 23rd of January 1849, Ion Ghica made a project at Constantinople [27] meant to serve as “basis of a new constitution that answered the needs of the principality”. The inspiration sources for this project were the provisions of the Proclamation from Islaz. Among the provisions of this project, we can mention: Principalities union; domicile inviolability; powers separation in the state’ Constitution review by the extraordinary Constituent Assembly.

Another Constitution project [28] was drafted by Ion Ghica. Project drafting, begun in 1848, was completed in 1851.

It provided the principles of state powers separation. As far as state organization was concerned, the following were stipulated: the executive power was exercised by the voivode, the General Assembly and by the Senate. The General Assembly consisted of deputies elected by the district councils and from the landowners that had a certain income. The General Assembly had the following attributions: it monitored the activity of public officials, it controlled finances. The Senate consisted of rightful senators and of 40 members appointed by the General Assembly and by the Voivode. The Voivodeselected by the Senate and by the General Assembly. In order to be elected voivode, he had to have Romanian citizenship and be at least 40 years old. He had the following attributions: the command of the army; appointing ministers, officials and a part of senators. He had pardoning right, but could make no decision without the consent of the Council of Ministers, the responsibility being held by the ministers that had signed the decisions.

As far as administrative organization is concerned, it provided the organization in communes and counties. As far as juridical organization is concerned it stipulated the organization of a jury for certain penal actions.

3. The Proclamation from Islaz in the Romanian Country

The revolutionary platform from the Romanian Country, draw-up by the revolutionary committee consisting of Nicolae Bălcescu, Ioan Heliade-Rădulescu, Dumitru and Ion Brătianu, Alexandru G. Golescu and Ion Ghica [29], with the help of the governmental platform drawn-up initially in Paris, during the Assembly from 8/20th of March 1848 at the initiative of Nicolae Bălcescu [30], partially expressed in the petitions from March and April, a was included in the Proclamation from Islaz, from 9/21st of June 1848[31]. As it was noticed: “The Proclamation is indubitably included in the tradition of American and European declarations of rights”[32]. It was unanimously admitted that the document from 9th of June 1848 from Islaz was a constitutional document that proclaimed modern political principles of democratic government.

The Proclamation consisted of 22 articles and included an emancipation and reform platform, in order to organize the Romanian modern society [33]. A series of provisions were introduced both in previous Romanian platforms, and in the platforms from the other European countries included in revolutionary processes [34]. The Proclamation consisted in a declaration of rights and a state organization project based on the beliefs and aspirations of the revolutionary bourgeoisie from the Romanian Country. The following people contributed to the elaboration of the Proclamation [35]: Ion Heliade Rădulescu, Ştefan Golescu, Nicolae Golescu, C. Filipescu, Gheorghe Magheru, Cristian Tell, I. C. Brătianu, Cezar Bolliac, Nicolae Bălcescu, C. A. Rosetti.

Point 1 stipulated the “international status” of the Romanian Country, which preserved the “same connections even tighter with the Ottoman Empire. This will is legal, in accordance with the treaties and does not harm the people”[36], an attitude that did not comply with the Russian protectorate. The Romanian Country proclaimed its full “administrative and legislative autonomy” rejecting any interference of any Power.

As far as state organization is concerned, supreme central bodies were stipulated: the General Assembly and the voivode.

The General Assembly, which replaced the Common National Assembly, included representatives of all social classes. This provision was not considered a new measure, but rather a restoration of a right and an old liberty: “The Romanian people gives all the classes the old right to have representatives in the General Assembly, and stipulates as
from today before the free, right election, where all the Romanians have the right to be called and where only the capacity, behaviour, virtues and public trust give it the right to be elected”[37]. It also enumerated the conditions that had to be met in order to be an elector and eligible.

On 4/16th of August, the Deputies of the Hospodar attenuated the initial platform of the Muntenian Revolution hoping for full recognition of the regime from the Romanian Country by the Ottoman Empire. They gave up the idea to request that the Assembly consisted of the representatives of all social categories and requested that it consist of “the representatives appointed by all the citizens that knew how to read and write” [38].

It also stipulated the establishment of a “constituent extraordinary general assembly” (point 22), which had the task of elaborating the Constitution of the country and appointing an extraordinary Assembly, elected once in 15 years, with the task of reviewing the Constitution: “This Assembly will left this Constitution as a legacy for the future and it will have to conclude with a law, according to which, once in 15 years, the people could elect extraordinary deputies, who, coming from an extraordinary Assembly, be able to introduce the reforms in the spirit of the time”[39]. This Constitution organization and reviewing way was also argued by the fact that: “All these prevent the need to ask for reforms with the help of the army and our children and grandchildren will be happy with the need that the Romanian people faced today” [40]. Based on these provisions, the heads of the revolution wanted to avoid a possible revolution, because necessary changes and transformation were to be made by the Extraordinary General Assembly [41]. This was to consist of 250 deputies, elected from Romanian citizens “of any religion, free status, independent, with the age of 21 years” and foreigners established in the Romanian Country, who paid taxes and were not under foreign protection, one for every 10000 inhabitants. In the Romanian Country, the programmatic provisions for the establishment of a Constituent Assembly started to be enforced. On 14/26th of June, The Government announced that it was about to listen “the deputies sent by citizens, in order to express the desires, suspicions or complaints of the crowd”. A month later, a decree decided to call “as soon as possible the General Constituent Assembly”, consisting of 250 deputies, one for every 10000 inhabitants. Based on this decree, peasants were to vote doubly, meaning through the elector deputies appointed each by 25 families. They even established the date of the elections. They were supposed to take place on 18/30th of August 1848 and the Constituent Assembly was supposed to begin its works on 25th of August/6th of September. On 16th of August, due to the external pressures made especially by Russia, the Deputies of the Hospodar issued a decree according to which elections were suspended [42].

As far as the reign is considered, it provided: “The voivode elected for five years and looked for in all the classes of the society”[43] (point 5). It also provided that the people “following its former rights”[44], wanted that the voivode “be strong through public love, be right, enlightened, good willing for the country, a complete man and be able to find out during the election, this is what it stipulates, to look for him in all the classes of the society, all over the nation, and not in a limited number of people”[45]. The reign was not hereditary: “The reign is not an inheritance right of a family, the reign belongs to the country”[46]. As far as the title of the head of state is concerned, the proclamation stipulated that this had to be that of voivode, and that they should cancel all the names introduced “by foreigners against its former customs”, like for instance that of “prince” borrowed from all the European languages or that of “Highly Enlightened” that came from the Phanariots [47]. Any citizen enjoyed the right to have such a function. It also provided the reduction of the “civil list”.

Juridical organization.

It stipulated under the influence of Beccarian Enlightenment, [48] the abolishment of the death and corporal punishment, the establishment of penitentiaries in order to re-educate only the convicted ones [49].

This Proclamation has the merit of having introduced, for the first time, constitutional principles, on which the government based its political legitimacy.

Central governments were represented by ministers: “the responsibility of the ministers and all the officials in their functions”[50] (point 496). Ministers formed the government, mentioned as a collective responsible body in the Proclamation towards the “Romanian people”[51]. Regarding the bodies of the local administration, it provided the main principle of their establishment through election: “every district’s right to chose its rulers, which comes from the entire people’s right to elect its Voivode” [52] (point 10). They used the phrase “public officials” which also included the ministers, stipulating their responsibility [53]. These institutions aimed towards the “achievement of a republican form of state” [54].

Two days after the Proclamation was read, voivode Gheorghe Bibescu agreed with the provisions of this proclamation, but he later abdicated and left the country. The proclamation was considered for three months during the temporary government, the basis for the future constitution [55]. Taking into consideration both the administrative interventions of Nicolae Bălcescu, and their use as legal guide marks, in various circumstances, we can say that the provisions of the Proclamation from Islaz, already had constitutional value. In fact political Muntenian heads had stated, in various occasions that the principles recorded in the Proclamation had to be validated in a future Constituent Assembly [56].

Being inspired from The Declaration of Human and Citizen’s Rights from 1793, the Proclamation from Islaz “appears as an interruption in the Romanian Countries’
development towards the adoption of the parliamentarian regime”[57]. Because it provided that the voivode answer to the General Representative Assembly and all the classes, the political system was headed towards the assembly government and not towards the parliamentarian regime [58].

Regarding the juridical nature of the Proclamation from Islaz there have been various opinions. Therefore, I. Vântu and G. G. Florescu thought that it is a constitution. The act got the entire peoples’ adhesion, being accepted by the voivode; at point 22 it provided the establishment of a Constituent Assembly able to elaborate a Constitution based on the 21 points of the platform.

D. Ionescu, Gh. Țuțui and Gh. Matei thought that it is a constitutional act because: “it indicated the solution line for the main problems related to the removal of feudal government and the adoption of bourgeois government”; it was adopted at the Assembly from Islaz, and later on “it gathered the entire people for fighting, and they swore on it”, “it was approved by the voivode”, “it established a new organization in the state”; “it had the purpose of turning the Romanian Country into a bourgeois-democratic republic” [59]. The same opinion is shared by Valeriu Șotropa as well [60].

T. Drăganu [61] and I. Vântu and G. G. Florescu [62] thought it is a declaration of rights because: according to art. 22, this act cannot be considered a Constitution, because in the view of the proclamation authors, as it was the work of a Constituent Assembly, together with other declarations of rights, it stipulated human liberties and established universal fundamental principles, like the French Declaration of Rights from 1789 which had the task of expressing certain fundamental liberties and principles of state organization.

The Proclamation from Islaz was also considered a platform [63]; the basics of the constitutions [64]; a constitution project [65].

In the Romanian Country, the provisions included in the platforms of the revolution from 1848 that referred to the establishment of a Constituent Assembly had begun to be enforced. The platform from Islaz had stipulated the provisions of the future Constitution of the new regime from the Romanian Country. In order to call a Constituent Assembly, with the task of elaborating this Constitution, debates took place between the members of the temporary Government and the revolutionary Committee [66]. Therefore, on 14/26th of June 1848[67], the temporary Government, considering the Romanian nation’s right to express through its messengers in an assembly and preparing its calling, it showed that it would listen to “the deputies sent by citizens, to express the crowd’s desires, suspicions or complaints to the Government”. The decree from 14/26th of July 1848[68], stipulated the call “of the Constituent General Assembly as soon as possible”, which consisted of 250 deputies, distributed “proportionally on districts and capital cities”, one deputy for 10.000 inhabitants [69]. Therefore, it abrogated the provision from 28th of June 1848, according to which the National Assembly was supposed to consist of 300 deputies [70]. At the same time, peasants were supposed to vote through their deputies appointed each by 25 families. The primary elections from the villages were established for 9/21st of August 1848, and the elections for the Constituent Assembly for 18/30th of August 1848. The Constituent Assembly was supposed to begin its activity on 25th of August/6th of September 1848 [71]. The deputies appointed a “preparatory commission, consisting of a president who was the oldest of all” and two secretaries that checked “the titles of the majority of deputies”. At the same time, the Constituent Assembly elected an interim government that ruled until “the election and consolidation of the new voivode”. Later on, the temporary Government adopted another decree [72] according to which elections were postponed for 19/31st of August 1848, respectively 29th of August/10th of September 1848. The Constituent Assembly was called on 6/18th of September 1848. But, the development of the events from the following period did not allow the Constituent Assembly to begin its works.

4. Conclusions

Although the revolution was defeated, the exile sentenced for the revolutionary heads caused a tighter collaboration between the representatives of the Romanian nation and the high European circles.

The revolutionary moment 1848, except for its economic and social claims it expressed, is a crossroad moment for expressing the ideas of liberty and political reform, having the major task of introducing a modern constitutional and democratic regime, based on the principle of peoples’ sovereignty, the principle of state powers separation and free election of the legislative body.

After the revolution was defeated, the democratic goals regarding the organization of political institutions based on the principle of peoples’ sovereignty, of universal vote and powers separation, were reactivated under the new circumstances of the struggle to form the unitarian national state.

References

[8]Year 1848 in the Romanian Principalities, I
[9]Year 1848 in the Romanian Principalities, I.