

FORMS OF GOVERNMENT THEORETICAL AND PRACTICAL EXPOSE

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ABSTRACT: *State government has represented a preoccupation and has raised interest ever since its apparition. The desire to reach the top of social organization, to be able to make decisions, have determined societies to organize and establish rules and limitation and sometimes even create certain system that function based on the rotation of political forces at government. The two great formulas of government are based on different principles regarding the means of designating the head of state, the term this public dignity can be held for and there are some state leaders with great power of decision and influence while their homologous exclusively detain rather symbolic or representative attributions.*

KEY WORDS: *republic, monarchy, president, constitution, elections, heredity.*
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1. INTRODUCTION

All communities, be they small or big, have always had a leader or a group of individuals that coordinated the activity on a certain territory within a certain timeframe. Ever since states formed, no matter how many problems appeared on the account of these forms of social organization, still there are no instances when leaders lacked and the critical aspects derive from the attitude many of them have. Even if, during the passage of time, there have been periods of crisis at the level of the leader as an institution, regardless its name, generated usually by its death, it being captured by enemies or it giving up the power of the sovereign and maintained by the disputes for taking over the throne by its successors or by diverse groups that desired to take over the power, the crisis of identifying a new leader always found solving sometimes with benefic effects, other times with less positive results, for longer or shorter periods of time.

Taking into consideration the means of exercising the power itself in a state, the succession/occupying the office of state leader or the attribution conferred in the doctrine and the legislation, two main types of government have crystallized: the monarchy and the republic. Under the aspect of a chronological analysis, over time, the first mentioned form

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of government has been much more frequently used in states world-wide, although even the republic viewed in certain interpretations has been known as early as the Antiquity, being instituted in 509 BC when the kings were removed and elected councils were nominated for time-frames equivalent with a year. Towards the end of the Roman republic, while under an economic point of view, unheard-of successes were recorded, on the other hand the rivalries and social mutations in the Roman world were at their peak and generated misunderstandings and deep dissensions in society (Cocoş, 1997, p.14).

2. FORMS OF GOVERNMENT

The historic context, the geographical positioning, the traditions, the position of masses and other internal or external factors have influenced the choice of the type of government for world states. Once these two types of government are recognized, each having its own versions, the scholarly but also political disputes began in favor of one or the other ways of governing a state and most of the times out of the interests of those social classes that held the power or out of fear of changing regimes, which would have led to loss of privileges and other hypothesis unwanted usually by those that these belonged to.

If we would propose ourselves to establish which of these two forms can give a higher efficiency, we would probably not reach any concrete result or, better said, a unanimously accepted one. There are enough arguments pro and against any of these two versions so an analysis such as these would not reach the desired result. Concerning the way in which state structures are organized, on the reports between those that lead a country and its citizens, as well as the perspectives of certain theoretical considerations on the principles that form the base of any form of government, all these aspects and more will be analyzed and filtered. Also, examples will be evoked, from the facts of the way world states were organized and are still organized including our country.

At a first look, only two great types of government could seem rather few, especially compared with the hundreds of states organized on our planet. However, depending of the way power is practically exercised in each of these, they can be grouped in one of these two forms of government. As far as traditions are concerned, there are again great differences between nations and some have nomadic traditions anchored in immemorial times while others gather also long periods of time, in their own history, when the republic was or is the governmental formula implemented. In our case, the Romanian state, we have had both within a little less than a century and perhaps even this aspect represent a reason for dispute not merely between the authors but also between those that support one of these two trends, the monarchic one and the republican one.

Within the monarchical form of Government, the office of head of State is held by a monarch, whether if through the ages this had the title of King, sultan, emir, Emperor, ruler or another princely title. In terms of acquiring the function, monarchy is classified into two versions: the hereditary monarchy and the elective monarchy. The hereditary monarchy implies that the throne is inherited and the mere lineage gives the heirs the right to occupy the highest position in the State. There have been, in case of each form of monarchy, various other conditions, either that the first born boy is entitled to occupy this dignity or that the heirs were able to fight among themselves in order to prove which one is able to attain it. In this way, there existed a presumption that the winner will perform in

the best manner the tasks as the highest ruler. Thus, the fratricide policy (killing the other brothers to ensure access to the function) became, in a certain period, the applied and expected solution within the former Ottoman Empire. Uses of this technique were recorded not just in the Balkans, but also in other parts of the globe.

Concluding, heredity involves taking over the supreme function in the State as inheritance from the one that holds it. However, from a legal point of view, we cannot speak of an actual opening of the succession and the taking over of the prerogatives this function implies, as there are records of situations when the monarch abdicated during its life span and the successors took over the monarchic attributions. Through the usage of this method dynasties were formed and some of these ruled over states and empires for centuries while others limited to merely several generations of monarchs until they died off or were replaced.

Concerning the elective monarchy, the attaining of the monarchic function is done through a different mechanism than the simple inheritance. We would include here also the acquiring of the monarchic function through nominalization and the effective dictating under the influence of an external force. We cannot retain the existence of a hereditary system but an atypical form of choice in the case of the nomination of the Phanariots at the government of the extra-Carpathian Romanian countries, by the sovereign power. We consider to be still a type of elective monarchy the system that allowed the acquiring of the royal function by a person that is not a successor of any royal family but holds the populations' or even the military support, as was the case in many moments in history. In the modern age history of Romania, we can distinguish between both types of monarchy, from the point of view of acquiring the throne. Thus, bringing on the throne of the Principalities the Lord of the Union or a foreign prince some years later, represent the manifestations of the elective monarchy, and this would later become hereditary, by inheriting the throne by the successors in law from the Royal House of our country!

Regarded under a legal aspect, the monarchy is classified in the following versions:

- a) The absolute monarchy
- b) The limited monarchy, through the Constitution
- c) The contemporary parliamentary monarchy
- d) The dualist monarchy, referring to the enumerations found in the scholarly studies (Muraru, 1997, p.129). Being the most used form of government over time, it presents more variations as resulting from those previously exposed compared to the republican form of government.

The absolute monarchy is practically confused with the monarchic absolutism – that situation where the head of the state holds absolute powers and is not subject to any law. The monarch, in this form of government, is the one that elaborates the laws or changes these whenever he desires it, is responsible with enforcing them and is also the greatest judge in the country. In the light of the previous, his power is practically unlimited, at the level of the territory and population he governs. Over time, great leaders of the world, some of these highly praised today for their actions or their military successes, were situated in the previously exposed posture. Although the number of examples is high, we use only one: *I am the state* (Ludovic the 14th). In the last century society, this version of monarchy, although still isolate present in some parts of the globe, is actually outdated and condemned by international bodies and world states.

Towards the beginning of the last century of the recently ended millennium, in the area of our continent, a large part of the population still lived between the extended borders of two empires, that of the tsars and that of the sultans, both still characterized by absolutism in its traditional form (Popescu & Manta & Răcean & Şuţă, 2010, p. 61).

The monarch had absolute powers and along the passing of time the habits began to be replaced with written texts under the form of laws, but obviously these were mandatory only for the subjects and not for those that elaborated them. The true fall of absolutism can be traced in the times when the monarch had to subject himself to laws and this historic period is called rule of law and characterizes the evolution of the English legal system (Losano, 2005, p.80) by constitutionalism.

The monarchy limited through the Constitution, called constitutional monarchy entails a diminishing of the prerogatives of the monarch through the fundamental legal provisions in the form of the constitutional text. In other words, once the supreme law is adopted and in enters into force, in those legal systems that have succeeded in implementing this system, the omnipotence of the monarch was defeated. However, the king still retains broad powers, especially in the field of the judiciary and of the executive. The apparition of constitutions meant the creation of certain legislative limitations for those that issued normative acts but also for the leader of the State, which sees itself forced to accept the devolution of some powers, initially in legislative matters. Through the rules of conduct listed in the Constitution, certain guarantees are established and changing them is no longer possible, unless the constitutional norms are replaced or a new supreme law is adopted. The constitutional monarchy has been a decisive step towards the true separation of powers and the limitation of the possibility of free actions of the monarch. Under a traditional aspect however, the apparition of constitutions, both customary but mostly written ones, has brought an unprecedented in world history repositioning of state level attributions.

However, if considered from the perspective of state organization, the separation of powers in the state has been a decisive step in the evolution of state and law, a logical question arises: why has this principle appeared so late on the scale of state organization. The collective mentality, the attitude of the masses did not have enough determination (Dănişor, 2011, p. 207) or perhaps the level of culture and access to knowledge may have contributed to the recognition after not short periods of time of the difference of approach in organizing society through dividing state powers.

The contemporary parliamentary monarchy, as derives even from its nominations, is specific to our present days and can be found in many states that over the years have decided the major institutional reformation but also kept the institution of the monarchy and therefore this became a symbol of secular traditions of state organization and government. Within this form of government, the king does not hold but symbolic attributions concerning different nominations in certain positions or offices and the granting of distinctions and other appreciations. However, at a representative level it has been concluded that states that have opted for such a form of government, especially European ones, are characterized by a system of well-developed foreign relations. On this matter, it is clear that the diplomacy specific to old royal families has intervened and cooperation mechanisms, between the most well-known monarchs of the period, had been activated.

There are opinions that consider this variant of the monarchy to be the most democratic one but there are also criticisms, sometimes arising from the republican area, other times with different argumentations, on the subject of maintaining some privileges that are not obtained by a person or a group of person through an elective system but merely by dynasty succession.

The dualist parliamentary monarchy represents another variant of this form of government that implies, as we can conclude from its very name, that a true balance exists between the monarch and the legislative body. The parliament finds itself in balance with the monarch and there are internal mechanisms of reciprocal collaboration and control, of active and limited involvement on both parties in adopting major decisions at state coordination levels. Through the terminological association between monarchy and dualism a lexical imbalance is created for the term monarchy is of Greek origin – *monosarchein* meaning a single leader (<http://www.artline.ro>) and dualism cannot mean a unique leadership but a dual one with approximately equal attributions.

With the indicated positive aspects and the critics consecrated to it, monarchy remains the most used form of government over time, regardless of its version. Even in present it enjoys a large numbers of adepts in different states of the world, mostly in many situated in Northern Europe due to its historical and traditional value arguments but also due to economic reasons. Seen through the mediation of the scholarly literature, the form of government expresses a triple specter of state organization. Concretely, it expresses the way in which state powers are organized, the real means of enforcing the attributes of state power by the bodies habilitated to this end and not lastly the limitations of the competences of each power and implicitly of state bodies that exercise them (Popa & Eremia & Cristea, 2005, p.87), all these represent the solid bases for normal conditions state functioning, situation where none of the powers is situated above the others and therefore cannot turn into a superpower.

The republic is the other form of state government used in world states, showing an increase not only of its number of adepts, mainly among natural persons, but also of states that have opted for a republican system as a form of government. Like many other state entities, Romania has given up monarchy and has chosen the republic as state government form.

Under an ideological aspect, the republican form allows citizens to govern themselves but the formulation is somewhat utopist since the great mass of voters never or almost never participate, unless we exclude referendums and citizen legislative initiatives, in taking decisions regarding the governing itself. However, in this form of government, the head of the state is elected, either by the citizens, either by their representatives. At this point, we can see the first difference between the two forms of government, namely that directly or by mediation, the people participate in designating the head of the state, this desire having deep roots in the civic consciousness of many nations.

If in the case of monarchy, depending on two criteria, we distinguished more versions, the republic also, at its turn, can take more than one shape:

- a) Presidential republic
- b) parliamentary republic

The combination of the mentioned two versions, under a functional perspective, leads to obtaining a third version of the republic, called semi-presidential, although it could

have been called just as well semi-parliamentary, with characteristics taken from each of the first two versions, as we will underline.

The presidential republic is characterized by the fact that the head of state is chosen directly by the citizens having the right to vote. In order to designate the head of the state, before the end of each presidential term elections are organized, elections at which all citizens that fulfill the conditions established through the law can take part in, and as result of the elections only one of the candidates will be declared winner. The president elected in a presidential republic becomes then a very influential politician for it holds extended competences compared to those of its homolog from a parliamentary republic. The president is on a position almost equal with that of a member of the parliament, holding significant attributions in naming the government or the technique of law elaboration. There are situations, in some world states, where the president holds also the attributions of the prime-minister for this office does not exist separately and directly leads all activities of the executive. However, this is the case of merely some states where the presidential republic is the form of government, the best example being the case of the United States of America.

The parliamentary republic is characterized by the election of the head of the state not directly by the population with the right to vote but by the legislative body whose members have been elected by the population. It is therefore a system of designating the person that holds the greatest office in the state through mediators. The population chooses the member of the parliament and this later chooses the president. Although at first it would seem that under a democratic view it is not a recommended system of choosing the president, under a more practical approach it has been proved that many times this mechanism ensures an optimum functioning of state institutions, that in relation to external partners or enemies, parliamentary republics always take unitary stands. The arguments reside in the fact that the parliamentary majority resulted from general elections or constituted after these were organized will nominate a president that will be able to work until the end of the term.

Unlike the monarchy, within the republic, in any of its modalities, the head of the state is nominated for a determined period of time and under no circumstances can the office be granted for the duration of a lifetime. However, there have been situations, mostly in democracies from the east of the continent, where the election of the head of the state was mimed and one leader took multiple nominations, throughout decades, at governing their state.

The attributions of the president in a parliamentary republic are much more diminished compared to those specific to the head of the state in a presidential republic. The president elected by a parliament has almost no attribution specific to the executive power and its role is one inferior to the institution that elected him and to which he can be obliged to offer different explanations. In a parliamentary republic, the chances of the person that becomes the president are easy to appreciate through the lens of the political structure of the parliament. Taking into consideration the fact that the head of the state will benefit from the direct vote of merely a few hundred persons (the members of the parliament), its representative trait is lighter, hence the limited attributions. Still, next to the previously presented advantages, such a form of government allows the avoidance of any unilateral decisions with deep effects for only the president of a presidential republic detains extended competence, obviously within the constitutional limitations, unlike the president

of the parliamentary republic where the main decisional uni-personal role is found at the prime-minister, in principle the most influential person in the state when it comes to taking decisions.

Besides the two exemplified versions, there also exists the semi-presidential republic. This represents a combination between the presidential and the parliamentary one as it borrows and combines elements specific to each form in part.

Therefore, the head of the state in a semi-presidential republic is elected by using the procedure of designating the president in the presidential republic, through elections, at which take part all those that have the right to vote. However, after taking on the term, the attributions of the elected president are much closer, as length and competence scope, to those specific to the president of the parliamentary republic. Although elected directly by the people and having enough legitimacy for the office it holds, the president cannot lead the Government and has not an equal position with the parliament as its powers are diminished. The choice of this form of government, as mixed version, is understandable if we take into account the desire to create a wide balance at the level of power entrusting at top-state levels, taking also into considerations the dictatorships throughout history in some states, where leaders although in a republic, have instituted personal dictatorships that reminded of the once existing absolutism.

The designation of the head of the state within semi-presidential republics can be accomplished either through direct vote, as is the case of our country and also others such as France, Ireland and Portugal, or by a system based on electors. For example, in Finland, the election of the head of the state is done by using such a system, similar to the North-American one. (Manta & Răvaș & Cilibiu & Manta C, 2014, p.19).

There are opinions expressed in the scholarly literature according to which the semi-presidential republic does not represent in itself a form of government and is just a version of the presidential republic. However, most opinions, consecrated in works dedicated to constitutionalism or theory of law, analyze the semi-presidential republic distinctly, also pointing out the resemblances and differences with the other two forms.

Relating to the head of the state in a parliamentary republic, there were cases when the supreme office did not have a personal character, being rather a collective form of a presidium or collegial body, especially within a specified period in some countries in Europe.

In Romania, at present, according to the fundamental law currently in force, it has been opted for a republican form of government (Constitution of Romania, 1991, art. 1, paragraph 2). This was the decision of the Constituent National Assembly, formed concurrently with the first Parliament elected after the revolution of December 89, the text of the supreme law being confirmed by referendum of the Romanian electorate, in the last month of the year 1991. From this solution later opinions and over time several arguments have been invoked over the fact that previously to the creation of the fundamental law there was no consultation of the population regarding the choice of the form of government. More so, the current Constitution cannot be revised for other options of the form of government as the republic is expressly listed on the list of the limits of amending the text of the fundamental normative act (Constitution of Romania, 1991, art. 152, paragraph 1). On the other hand, this does not represent the only limitation against the revision of the fundamental law and the constitutionality control exercised within clearly determined procedures has as goal either the prevision or the finding of situations that

could exceed the revisable limitations of the supreme law (Vida, 2012, p. 184). The form of government that would have been elected by the Romanian electorate at the dawn of the new regime based on the separation of powers is hard to confirm, because there has not been even an experimental general simulation concerning the option in choosing monarchy of republic as form of government. Personally, we consider that in those times the options would massively lean towards the republican form of government but the fact that it is forbidden to revise it is debatable for the populations has practically no means of deciding in one way or the other, in a near or further future, so long as the present constitution is still in force.

It is the right of each nation to choose in which manner it desired to be governed and this must not be limited. As we have mentioned, there is not yet a perfect form of government and the way in which the attributions at state leadership are organized can be perceived differently by different generations, generations of persons that live on the same territory at dozens of decades of centuries apart. If there are states in the world about which with objective arguments can be stated that have traditions in maintaining certain forms of government (Great Britain for monarchy or the United States of America for the republic), in the case of the country around the Carpathians both forms have been used in the past century so that under a traditional aspect the arguments cannot be as solid for both forms of governments.

In the same time, through the provisions of the supreme law, Romania opted for the semi-presidential republic seeking to combine the general wish of the electorate to participate at the decision making process of choosing the chief of the state, and this was possible for the first time in the first year post-revolution, as well as to reduce the levers held by the president especially in the light of the previous experiences. According with the initial variant provided for in the Constitution of the country, the head of the state was elected for a 4 year term. After the revision in the autumn of 2003, the fundamental law provides that the presidential term is of 5 years. However, one and the same person cannot hold more than two terms as head of the state and these two can be consecutive. As we have already shown, the designation of the person that will occupy the first position in the State, is achieved through universal, equal, direct, secret and free suffrage, and the election of the President can be achieved either in the first round, if one of the candidates gets more votes than all other challengers or in the aftermath of the second round, held between the top two finishers of the first round.

The state president elected according to the model used in presidential republic holds, however, diminished powers comparable to those held by the head of state in a parliamentary republic. The chief of the state keeps, however, under certain conditions and after various procedures the prerogative of assigning the candidate to the position of prime-minister, of dissolving the parliament or of appointing magistrates - to high lighten its connections with each of the institutions that have duties in the organization of the three powers of the State.

On our continent, by the creation of the European Union things have evolved in the matter of member-state organization. Consequently, the point has been reached, after half a century from its foundation, that in certain areas of activity the states that form the union gave up their own prerogatives, attributions or competences to the European Union and yet for other areas of activity the member states still detain all competence according to their own organization and the decisions taken at internal level (Diaconu, Crăciunescu,

2010, p. 15) on the subject of establishing the form of government of each state in particular and the European institutions do not get involved in favor of one or other form of government.

However, we can find at the level of the European Union, as member-states with full rights, some states that are organized on the model of a monarchy, some even with authentic traditions in this sense, others that are, on the contrary, republics, placed among the most developed countries in the world. Within the Union, the compatibility of these states has already been proved, even if there are certain supra-state regulations that impact both monarchy states and republican states. This is the case, for example, in the fiscal area, concerning the general policies of the European Union in the field of direct and indirect taxation or of administrative collaboration and in fiscal matters (Costea, 2015, p. 295) these have been accepted by European states regardless of their government form.

3. RESULTS

Although we take into consideration long periods of time and states characterized by particularities from across the planet and even despite of the multiple difference not only on cultural and linguistic levels but also on political ones, at the level of central government and especially at the level of the first office in the state many common points can be identified for many countries in the world. Truly, monarchy leads detached at the expense of other forms of government under the aspect of its application in time and especially if we take into consideration the forms of absolutism, although the Antiquity was about a different conception and in a completely different organization and republic form.

Taking into account the traditions, the external influence or the regime changes, the world states have successively adopted or maintained one of the mentioned forms of government. Towards the contemporary period in the states considered developed and having a great degree of civilization, even if the option was to keep the monarchic form, the attributions of the monarch were greatly diminished, sometimes reaching even certain significations and symbols compared to the old feudal privileges.

Both forms of government offer advantages and weak points and the attitude of the population oscillate from one country to another and from one period to another. In order to find acceptable formulas, there have been identified more than one version for both the monarchy as well as for the republic. At times, these two forms have been recombined as is the case of the creation of the semi-presidential republic – concept that is not unanimously accepted in the dispute between theoreticians.

The substance difference between these two forms if we take as guidance the hereditary character of the monarchy, is given by the way in which the supreme office in the state is obtained, although, as we have seen, supremacy today does no longer mean despotism but clearly set attributions, more vast or on the contrary more restrained according to the constitutional system adopted by each state at its turn.

4. CONCLUSIONS

Both democracies, although it represents a concept inherited from the ancient Greeks, consisting of entrusting the nation through certain fictions of the power as well as the

separation of powers in the state do not represent perfect models of government. They are however considered higher versions compared to others, but they also have their limitations, meaning that although the power is entrusted to the people it is exercised through its representatives that in so many cases forget their representative role and decide depending on other factors, and in the case of separation of powers, those that win the elections basically control two or even all three powers in the state either directly or through other mechanisms, obviously constitutional.

It is extremely important to respect the principles that stand at the basis of state organization, of assuming and obeying the law. Between the civic attitude and the level of education of the population a directly proportional relation can be seen: an assumed legal education will lead to a high degree of normative compliance (D. Eduard, 2012, p. 253).

Switching one form of government with another has been done not in few cases as a consequence of negative events so that although both forms in the light of contemporary legal provisions defend fundamental rights and freedoms and promote the protection of human life obtaining these protections, including the evolution from the absolutist form to present times entailed social complications and rebellions, national or sometimes even inter-state ones.

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