National and Territorial Reunification of the Romanians - Legality and Legitimity

Alexandru ARSENI¹

¹ Professor, Doctor Habilitat in Law,
Republic of Moldova

Abstract: The national and territorial unity of the Romanians was and is a research topic approached especially during the 18-20 centuries and it continues to be a current topic nowadays. The problem was exposed and argued on historical, juridical, diplomatic and even moral levels.

Beginning with the occupation from 1940 (resumed in 1944) and till the proclamation of independence of the Republic of Moldova and present times there have been outlined two diametrically opposed movements: One natural and divine - reunion with Mother-country - Romania and the other one being exported and explained by Russia - „statality”.

On the edge of this dispute, as a result of a complex study of juridical acts (meaning that we do not neglect the other proreunion studies), the present article, fully sharing the eternal truth of national and territorial unity of the Romanians, as a unique European people, divided into two states, argues this truth through the prism of constitutional and international right, through the prism of juridical legitimacy principle on the background of the other areas of existence and prosperity of a nation.

Keywords: *legality; legitimacy; nation; state; unity; right to self-determination; national unity; territorial unity.*

How to cite: Arseni, A. (2019). National and Territorial Reunification of the Romanians - Legality and Legitimity. *Anuarul Universității “Petre Andrei” din Iași, Fascicula: Drept, Științe Economice, Științe Politice*, 24, 19-28.

<https://doi.org/10.18662/upalaw/27>

Annotation

The national and territorial unity principle was also reconfirmed by Paris Charter for a New Europe. This, due to certain circumstances, was generated by interests which are foreign to Romanian nation and even against their will.

The historical process of consolidation and cementation of national and territorial unity of the Romanians demonstrates the legality and legitimacy of this unity, confirmed also by international acts.

Contrary to this national and organic phenomenon, the attempts to prove the opposite, that is the existence and prosperity of a part of a nation in an independent state lead to failure and denationalization. As the national and territorial unity of the Romanians in the framework of Romania from 1918 till 1940 has shown evolution and progress.

Thus, the material and spiritual support of emancipation, progress and democracy in a law state is the national and territorial unity of each nation, and respectively the Romanian nation.

Research Aim

As a result of the investigation of the stages of evolution of the Romanian nation, including the acts adopted in different periods about the statute of the Romanian principalities and then that of the Romanian Kingdom, the aim of the research resides in the outlining and formulating juridical-political arguments indisputable to the legality and legitimacy of national and territorial unity of the Romanians in present times.

Research Objectives

In order to achieve the determined aim we shall approach the following topics:

- 1) The statute of the Moldovan Principality (country Moldova) in 1812 and the rapture of the territory between the Prut and the Nistru through the peace from Bucharest on 26 May 1812;
- 2) The legitimacy of the unification of principalities in 1859 and Kingdom;
- 3) The legitimacy of the unification of Bassarabia, Bucovina and Transylvania with Romania (1918)

- 4) The statute of Romania confirmed and acknowledged by the Paris Peace Treaty;
- 5) Illegitimacy and illegality of the Ribbentrop-Molotov Pact from 23 August 1939 and its impact on Bassarabia;
- 6) Proclamation of independence of the Republic of Moldova and perspectives of national and territorial reunion with Romania.

At that stage the forms of government were inclosed in the classification given by N. Machiavelli, according to whom „all states, all powers that had and have power over people were and are either republics or principalities” (Machiavelli, 2008: 13).

In 1812 Country Moldova was a principality with a statute of suzerainty. In general „suzerainty” forsee the right of a state over other state, which has its own government but not autonomy (2016). Under such a statute the rulers „were given all the freedom and almost all the former power to make laws, to punish the subjects, to chastise and to take the boyar’s property, to put up taxes, to name bishops” (Cantemir, 1992: 45). Even if it did not have autonomy, the territorial integrity was insured.

During the Russian-Turkish war from 1806-1812 the Russian Empire followed a single and eternal purpose - the conquest of new territories and subjugation of peoples. This intention is proven by the secret rescript of the tsar Alexandru I to the commander of the Russian Army field marshal M.I. Kutuzov from 22 March 1812: „In an exceptional case I allow you personally to conclude to peace having the Prut till its flowing into the Danube as the border. *But this permission I entrust to your personal responsibility, I request that nobody, without any exception, should know about this till the hour of signing*” (Kutuzov, 1952: 851) (our italics - A.A.).

This policy was clearly appreciated by Russia. „The tsars, - wrote V.I. Lenin - promoted a policy of annexes, using rude ways, changing a people with another one according to some agreements with other monarchs (division of Poland, the transaction concluded with Napoleon in respect to Finland, etc.) in the same way the landlords exchanged between them the serf peasants” (Lenin, tom 32: 7).

The illegality and illegitimity of the rapture of Bassarabia from Moldova principality was also an approached subject in the Marxist theory: „Turkey, - wrote K. Marx, - cannot give up what does not belong to it because the Ottoman Empire has never been sovereign over the Romanian countries. The Empire itself acknowledged this fact, when at Carlovits, being pressed by the Poles to give up Moldo-Vlahia, it answered that it did not have a right to do any territorial cession because the capitulations confer to it only a right of sovereignty” (Marx, 1964: 106).

This Treaty from 1812 was qualified on October 2 1812 by 14 high officials of the Moldova Country, members of a council known as Divan (the supreme country forum) as a „tearing from the body of Moldova” of the historic territory from the east of the Prut, considered by the Moldovans „the granary and the pasture of the principality” (*Uricariul*, 1857: 345-346).

Anyway, in 1812, as in the whole its history, Moldova with Bassarabia formed together a special state, with its laws and its prince, and they were subject only to what diplomacy improperly called the Ottoman Empire’s suzerainty. Bassarabia was in this situation in 1812, in the act of „official cession acquired by Russia from the Ottoman Empire, but in reality raptured from its legitimate and real owner, which was Moldova, and transmitted by those who did not have a right to give it up to those who did not have a right to take,...”.

„The fight of the Romanian patriots from the territories east of the Prut to protect the springs of right of Moldova principality allowed the keeping, at least partially, of the aboriginal Bassarabian and Transnistrian population in the framework of the juridical system of the Romanian peoples” (Gramă: 1994: 94).

Thus, through the Bucharest Peace Treaty from 1812, undeniably, Bassarabia was annexed to the Russian Empire. In the international law, the annexion is characterized by actions of „incorporation through violence by one state of a territory that belongs to another state”.

The new Russian power from 1917 itself affirms that through annexion or fusion of some foreign territories „... *the government means any joining of a small or weak nationality to a big or strong state without its consent or wish of this nationality, expressed precisely, clearly and willingly, without taking into account when this forced joining had taken place*” (our italics – A.A.), without taking into account the fact how much developed or non-developed is the joining by force nation in the borders of the given state (Lenin, tom 35: 14).

Developing this idea, the Decree also stipulates: „If any nation is retained by force within the borders of a state, if this nation, contrary to the expressed wish by it - no matter if this wish is expressed in mass-media, in popular meetings (ex.: To Bassarabia - Soroca, etc.), through decisions of parties or through protests and revolts against national oppression - is not given the right to solve without the slightest constraint, by free vote, the problem of the forms of its existence as a state, with the condition of the complete withdrawal of troops of the annexing state or in general of a stronger nation, then the incorporation is an annexion, that is a fusion and a violence” (1968: 27).

The French revolution gave birth to a new historical process of organization and functioning of states on the basis of nations principles, a juridical constitutional concept and ground valid till nowadays.

Doctrinally, the *nation* is „the highest form of human community and is a a) product of a long historical process based on; b) community of ethnic origin; c) language; d) culture; e) religion; f) of psychic nature; g) life; h) traditions and i) ideals, but especially the historical past and the will to be together of those who had lived on a certain territory. Thus, the national feeling is the strongest ferment of state cohesion and permanence” (Deleanu, 1996: 13). This is namely the principle that stayed at the basis of the Paris Convention which led to the union (from January 4 and January 24, 1859) of the Romanian principalities into a unitary national Romanian state.

Subsequently the united Principalities prevailed from the acts of the Paris Congress from 1856 concerning the principle of nationalities acknowledged today with the title of national self-determination. Namely on March 5, 1877 Romania proclaimed its independence from the Ottoman Empire. Actually and legally it applied the international rule according to which „any human community connected through identity of aspirations and interests, language, customs, characters and traditions have the right to free themselves from the aggression of a foreign government and incorporate themselves into their own state” (Drăganu, 2000: 128).

The First World War (1914-1918), along with all the horrors, led to the fall of three empires: Ottoman, Russian and Austrian. Again, in the foreground, there was imposed the principle of nationalities, of national self-determination. Thus, in February 1917 in Russia the bourgeois- democratic revolution takes place and on October 26, 1917 the bolshevik revolution takes place. In the whirlpool of the events, the new power adopts the *Declaration of Rights of the peoples of Russia from 2(15) November, 1917*, by which it officially proclaims „the right of the peoples of Russia to self-determination untill the separation and the formation of an independent state” (1968: 36).

Developing this act, in order to achieve the nations’ right to self-determination, the Bolshevik Government (the Council of Peoples’s Commissars) considered it necessary to follow certain conditions, among which c) *the creation in the respective region of a provisional leadership made up of democratically elected representatives of the nation that is self-determined*” (Lenin, tom 35: 130-131)(our italics - A.A.).

The national feeling of the Bassarabian Romanians was immediately felt. Thus, on the days of October 20-27 (2-9 November) when the second Moldovan Congress took place, on the 22 October, 1917, the Congress proclaims:

- 1) Territorial and political autonomy of Bassarabia, coming from the principle of revolution that each peoples have the right to decide their own fate;
- 2) Choosing the office for the organization of the parliament – Sfatul Tarii composed of 120 deputies + 10 Moldovans from across the Nistru (Halippa, 1991: 73-74).

Achieving the resolutions of the Congress, on November 21, 1917, the meeting of the formation of Sfatul Tarii takes place, and on December 2, 1917 the Moldovan democratic Republic is proclaimed. Subsequently, the Sfatul Tarii (Council of the Country) proclaims the independence of the Democratic Republic of Moldova (1991: 61).

The process of national emancipation triumphs on March 27, 1918, through the adoption of the Sfatul Tarii of the forever Union act with Motherland - Romania. On this legal basis Bassarabia annexed by Russia in 1812 returns to its natural and territorial source.

This process of national unification and the right to self-determination was outlined by the president of the USA Woodrow Wilson who reiterated that „the future post-war international settlement should have at basis the idea that each peoples have the right to choose the sovereignty under which they have to live” (Apud Drăganu, 2000: 130).

The Romanian people have fully achieved this right. Thus, the fall of the Habsburg Empire is reflected in the „Imperial Manifesto to peoples of Austria” from October 16, 1918 by which the emperor decrees that „...every people on the land they live to form their own state and that the emperor...will guarantee each nation their independence...” (1918).

The mission to carry out this act was entrusted to „national councils formed from parliamentary deputies of each nation...”. In this context, on October 17, 1918, the emperor issued an order to the army and the fleet which, among other things, showed that „... there is a clear path for unrestricted development of each people for their own good...”. Based on these regulations, the General Congress of Bukovina (Dieta) on November 15, 1918 voted „Unconditional and life-long union of Bukovina, in its old borders up to Ceremuș, Colacin and the Nistru with the Romanian Kingdom”.

The unification of Transylvania is done through another legal procedure. Thus, the Romanian National Central Council through the circulars from November 2/15, 1918 summons the Great Romanian National Assembly. At the same time, the Romanian National Guard take the oath of faith to the Romanian National Council.

On November 18/December 1, 1918 the Great Romanian National Assembly of All Romanians from Transylvania, Banat and the Hungarian

Country, assembled by their authorized representatives in Alba-Iulia on November 18, decrees the union of those Romanians and all the territories inhabited by them with Romania.

It should be mentioned that all the three acts of unification with Romania (March 27, 1918, November 1, 1918 and December 1, 1918) were ratified through decree-laws and, respectively, by the King.

In this way, on the principle of international law of national self-determination and the acts issued as a whole, the historical process of national and territorial unification of Romanians in a modern legally and legitimately constituted state was concluded. Rightly, „The country is the united state that contains both the nation and the soil. The organized, settled and peaceful state which lives in the way determined by fate. The state born naturally from the blood-soaked earth, and not a mere legal creature for the time being of international interests and agreements” (Teodorescu; Oroveanu, 1992: 263).

In terms of public international law, the Paris Peace Conference from March 3, 1920 acknowledges the unity of the Romanian state and, implicitly, the union of Bassarabia with Romania. On October 20, 1920 representatives of England, France, Italy and Germany on the one hand and of Romania on the other hand signed in Paris the treaty which acknowledged the sovereignty of Romania over Bassarabia. This treaty was ratified in April 1920 by Romania's Parliament. On May 19, 1922 the treaty was ratified by Great Britain, and then, on May 11, 1924 by the Parliament of France (Cojocaru, 1991).

Only Russia did not acknowledge the union of Bassarabia with Romania, ignoring, in a specific way, its own valid normative acts (indicated above). It is worth noting the civilized opposite of Austria, which did not question the integrity of Romania.

Soviet Russia, establishing on June 9, 1934 diplomatic relations with Romania, *de jure* recognized the union of Bassarabia with Romania. But, *de facto*, as in the case of Finland and Poland, it reoccupied the territories of Finland (the Russian-Finnish war), Romania, Poland and the Baltic States under the Ribbentrop-Molotov Pact from August 23, 1939.

The consequences of the pact: Bassarabia and North of Bukovina were annexed to USSR on June 28, 1940. Later the North of Bukovina, Herța County and the south of Bassarabia are transmitted in the composition of Ukraine, and from the rest of the territory and a part of the former ASSR of Moldova, contrary to all norms of international law and even USSR law, on August 2, 1940, the Moldovan SSR was created. The situation was preserved after the World War II.

The event of June 28, 1940 analyzed „in the light of the fundamental criteria of the Soviet legislative acts from 1917 and the norms of international law is presented as an annexation. Moreover, the Soviet dignitaries tended to substantiate this illegitimate act by the injustice committed to the Moldovan state in 1812” (Grama, 1992: 38).

It should be noted that the German people also suffered terribly after the Ribbentrop-Molotov Pact being divided into two states.

Only in 1989 the USSR Parliament - Congress of Deputies condemned the Ribbentrop-Molotov Pact. The Republic of Moldova, as a Sovereign State through the adopted approval by the Parliament on June 23, 1990, also condemns this pact and its consequences on Bassarabia and North of Bukovina (1990).

This legal position is reconfirmed in the Declaration of Independence from August 27, 1991 outlining the fact that parliaments of many countries declared the Pact from August 23, 1939 null and they request abolishment of its consequences over Bassarabia, North of Bukovina and Herta County.

As a sovereign state, the Republic of Moldova, through the Decision of the Parliament from July 28, 1990, adheres to the Universal Declaration of Human Rights. On the same day the Pacts from 1966 are ratified in which it is declared: „All people have the right to dispose of themselves. By virtue of this right they freely determine their political status and freely provide their economic, social and cultural development” (art.1)¹.

Subsequently, the Republic of Moldova adhered to the final Act from Helsinki and to the Paris Charter for a new Europe, being admitted with equal rights in OSCE. Significant is the Paris Charter in which, along with other principles of international law, one more law is set up, that of the „national unity”. Thus, the text of the Charter stipulates: „We reaffirm the equality of rights of peoples and their right to self-determination, according to the UN Charter and the relevant norms of international law in this field, including those regarding the territorial integrity of the states”. At the same time it foresees: „We note with great satisfaction the Treaty on definitive regulation concerning Germany, signed in Moscow on September 12, 1990, and we sincerely welcome the fact that the German people (our emphasis)

¹ 1) Pactul Internațional cu privire la drepturile economice, sociale și culturale din 16 decembrie 1966. Ratificat prin Hotărârea Parlamentului nr.217-XII din 28 iulie 1990, Publicat în „Tratate internaționale”. Ediție oficială, 1998, vol. 1, p. 18.

2) Pactul Internațional cu privire la drepturile civile și politice din 16 decembrie 1966, Ratificat prin Hotărârea Parlamentului nr.217-XII din 28 iulie 1990, Publicat în „Tratate internaționale”. Ediție oficială, 1998, vol.1, p. 30.

reunited into one state in accordance with the principles of the Final Act of the Conference for security and cooperation in Europe and in full agreement with their neighbours. The achievement of the national unity (our emphasis) of Germany is an important contribution to the establishment of a just and sustainable peace order in a united, democratic and aware of its responsibility Europe in the field of stability, peace, and cooperation².

Taking into account these stipulations, following the spirit and wit of the Paris Charter, we find, with regret, that a single nation, namely the Romanian one, is not unified and reunited in one state until nowadays. And the practice of German national unity and the reunification of Germany serve us, the Romanians, as an example to follow, having also strict regulations in this field.

Moreover, in developing the spirit of the Paris Charter for a new Europe, the European Parliament, through the Resolution from September 19, 2019, condemns acts of aggression, crimes against humanity and human rights violations committed by totalitarian regimes - Nazi and Communist - while emphasizing the fact that the World War II was the immediate result of the Ribbentrop-Molotov Pact.

In this context, the Resolution of the European Parliament invites „all member-states of the EU to carry out a clear and judicial assessment of the crimes and acts of aggression committed by the totalitarian communist regimes and the Nazi regime”. Romania is a victim of this Pact, through which Bassarabia (today the Republic of Moldova), Herța County and Northern Bukovina were abducted, these territories being occupied on June 28, 1940 by the Soviet Union through the ultimatum from June 26, 1940.

The Resolution encourages Romania to initiate a full assessment of the consequences of the Ribbentrop-Molotov Pact for the Republic of Moldova, Herța County and North of Bukovina and removing them by reintegrating these territories with Romania - a legal and legitimate consequence from the legal point of view and that of the Divine Truth.

The performed study in the field of national and state unity of the Romanians based on norms and principles of the international law led us to the following conclusions.

- 1) The rapture of Bassarabia in 1812 from the body of Moldova Principality and the one from June 28, 1940 from the body of national, unitary state Romania constitute annexes, condemned by

² Carta de la Paris pentru o nouă Europă din 21 noiembrie 1990. Republica Moldova a aderat prin Hotărârea Parlamentului nr.707-XII din 10 septembrie 1991. Publicat în „Tratate internaționale”. Ediție oficială, 1998, vol. 1, p. 304.

the unanimously recognized norms and principles of international law.

- 2) The spirit of national unity is inherent to the evolved human society as a nation, a fact that was demonstrated in the history of the mankind. The North American states after the proclamation of independence were united into one nation. Poland was divided three times, but there were no states created, but unified.
- 3) The unification of principalities from January 4-24, 1859 was legal and legitimate, being committed on the basis of principle of nationalities.
- 4) The formation of the Romanian state on December 1, 1918 by Uniting Bassarabia on March 27, 1918, Bukovina on November 1, 1918 and Transylvania, Banat, Crișana, Maramureș on December 1, 1918 constitutes a natural legal and legitimate process confirmed by norms and principles of the constitutional and international laws.
- 5) The proclamation of independence of the Republic of Moldova and the ratification of the Agreement with the European Union is a natural, legal and legitimate step towards the integration in the EU and the national reunion of the Romanian people.
- 6) Starting from the norms and principles of the international law and, in particular, of the Paris Charter for a new Europe, the people of the Republic of Moldova, as part of the Romanian Nation, like the German people, have a right to national unity - a fundamental right of free and prosperous United Nations.

We consider that the achievement of this right is legal and legitimate for the Republic of Moldova, starting from the principle of unity of peoples set up in the Paris Charter for a new Europe that should be expressed through an *unconditional and as a priority acceptance of the Republic of Moldova in the framework of the EU as a legal form of reunion and reunification with Romania. This will be the triumph of truth.*

References

- Cantemir, D. (1992). *Descrierea Moldovei*. Chișinău: Hyperion.
- Cojocaru, Gh. (1991). „Recunoașterea internațională a Marii Uniri”, în *Cugetul*, nr. 4.
- Deleanu, I. (1996). *Drept constituțional și instituții politice: Tratat*. vol. 2, București: Europa Nova.
- Drăganu, T. (2000). *Drept constituțional și instituții politice*. Vol.1, Cluj-Napoca.
- Grama, D. (1994). „Destin românesc”, în *Revistă de istorie și cultură*, nr.1.

- Grama, D. (1992). „Anexarea Basarabiei la URSS în 1940 - consecință a sfârtecării statului Moldovenesc în 1812”, în *Cugetul. Revistă de istorie și științe umanistice*, nr. 2.
- Halippa, P. (1991). „Întâiul Congres al ostașilor și ofițerilor moldoveni din Chișinău”, în *Politica*, nr. 4.
- Kutuzov, M. I. (1952). *Culegere de documente*. vol. 3, Moscova.
- Lenin, V. I. *Opere complete*, vol. 32.
- Lenin, V. I. *Opere complete*, vol. 35.
- Machiavelli, N. (2008). *Principele*. București: Mondero.
- Marx, K. (1964). *Însemnări despre români*. București.
- Oroveanu, M. T. (1992). *Istoria dreptului românesc și evoluția instituțiilor constituționale*. București: Cerma.
- Teodorescu, A. „Valoarea juridică a unui cuvânt românesc”, în *Analele Academiei Române. Memoriile secțiunii istorie*. Seria III. Tomul XXVIII, memoria 11.
- ***. (1968). *Culegere de legi ale URSS și decrete ale Prezidiului Sovietului Suprem al URSS, 1938-1967*, vol. 1, Moscova.
- ***. (2016). *Dicționarul explicativ al limbii române*. București: Univers Enciclopedic.
- ***. (1990). *Patrimoniul*, nr. 1.
- ***. (1991). *Patrimoniul*, nr. 3.
- ***. (1918). *Unirea. Foaie bisericească politică*. Anul XXVIII, nr.65, 23 octombrie 1918.
- ***. (1857). *Uricariul*, vol. IV, Iași.
- ***. (1990). *Veștile Sovietului Suprem*, nr.6, 7, art. 186.