

ROMANIAN PARLIAMENTARY ELECTIONS OF 2020. A CASE STUDY OF THE LEGAL FRAMEWORK AND THE CHALLENGES OF THE COVID-19 PANDEMIC

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Abstract: Romania does not have an electoral code but has a real legislative framework that is the basis for the organization of elections: laws, decisions of the government or of the Permanent Electoral Authority, or decisions of the Central Electoral Bureau. The 2020 parliamentary elections were organized on December 6th, under the special conditions generated by the SARS COV 19 pandemic. It was a complex electoral process involving numerous public institutions and an record number of officials and volunteers. The budgetary effort was approximately 128 million euros. The result: a bicameral legislative body, made up of 330 deputies and 135 senators. The purpose of this paper is to present the way these elections for the constitution of the Legislative Body were organized and conducted, but also to show the need to unify the normative acts that determine the legal framework of the organization of elections. In the first part, I will briefly review the evolution of Romanian parliamentarism, which begins with the formation of the modern state. The creation of the Romanian democratic state was achieved with considerable difficulty, in a complicated international context, by modernizing the political system, relying on constitutional acts followed by fundamental acts issued under both types of the Romanian political regime (monarchy and republic). In the second part, I will explain the process of organizing the electoral process for the election of members of the Senate and the Chamber of Deputies through the lens of legal provisions, the role of the Permanent Electoral Authority, the Prefect's institution and the mayors involved in the organization and conduct of elections, but also the activities of electoral experts and of computer operators. We paid special attention to the way elections are organized for the citizens living abroad, both in the polling stations set up with the support of the Ministry of Foreign Affairs, but also to voting by mail.

Keywords: parliamentary elections, political system, Romania, SARS COV 19 pandemic, voting system

Rezumat: România nu are un cod electoral ci un ansamblu de acte normative care stă la baza organizării alegerilor: legi, hotărâri ale guvernului sau ale Autorității Electorale Permanente, decizii ale Biroului Electoral Central. Alegerile parlamentare din anul 2020

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au fost organizate pe 6 decembrie, în condițiile speciale generate de pandemia SARS COV 19. A fost un proces electoral complex, care a implicat numeroase instituții publice și un număr impresionant de funcționari și voluntari. Efortul bugetar a fost de aproximativ 128 de milioane de euro. Rezultatul: un corp legislativ bicameral, format din 330 de deputați și 135 de senatori. Scopul acestei lucrări este de a prezenta modul de organizare și desfășurarea alegerilor pentru constituirea Corpului Legislativ, dar și de a arăta necesitatea unificării actelor normative care determină cadrul legal de organizare a alegerilor. În prima parte a textului voi trece în revistă pe scurt evoluția parlamentarismului românesc, care începe cu formarea statului modern. Crearea statului democratic român s-a realizat cu dificultate considerabilă, într-un context internațional complicat, prin modernizarea sistemului politic, prin acte constituționale urmate de acte fundamentale emise în cele două tipuri de regim politic românesc (monarhie și republică). În partea a doua a textului, voi explica modul de organizare a procesului electoral pentru alegerea membrilor Senatului și Camerei Deputaților prin prisma prevederilor legale, rolul Autorității Electorale Permanente, al Instituției Prefectului și al primarilor în organizarea și desfășurarea alegerilor, dar și activitățile experților electorali și ale operatorilor de calculator. Am acordat o atenție deosebită modului de organizare a alegerilor în străinătate, atât în secțiunile de votare organizate cu sprijinul Ministerului Afacerilor Externe, cât și votului prin corespondență.

Cuvinte cheie: alegeri parlamentare, sistem electoral, sistem politic, pandemia SARS COV 19, România

I. Brief History of Romanian Parliamentarism

Romanian parliamentary appeared in a period when in the Romanian space – fragmented from a territorial point of view – society, predominantly rural, was struggling to break away from late feudalism. Democratic ideas had a hard time to establish themselves, with one of the explanations being the complicated international legal situation in which the Romanian Principalities found themselves. Occupied by the Russian Empire following a war with the Ottoman Empire, the two small Danube states remained under Ottoman suzerainty. Russian rule, with or without permission, triggered the beginning of Romanian parliamentarism by imposing the Organic Regulations for adoption on July 1st, 1831, in Wallachia and on January 1st, 1832, in Moldova. Apart from the provisions related to the election of the Lord or those of the prerogatives of administrative and judicial bodies, the Organic Regulations contained mentions for the existence of Public Assemblies, one

“Extraordinary” and the other “Ordinary”¹. This is how the first assemblies appear, which were going to be the result of elections, within an electoral system that was new for the Romanian space and in which the legislative power was not yet independent from the executive power. Until 1848, four elections were held in the Principality, and what was notable was that due to the way in which the right to vote was granted, in the first elections, the number of voters was very small: 303 in Moldova and 439 in Muntenia².

Because the Great European Powers were interested in the formation of a buffer state between the Russian, Ottoman, and Habsburg empires, despite the complicated legal situation of the Romanian space in international relations, the political system was in continuous evolution. Thanks to the involvement of the Great European Powers, constitutive acts were adopted that decisively contributed to the formation of the modern Romanian state (Convention of Balta Liman – 1849, Treaty of Paris – 1856, Convention of Paris – 1858 and the Cuza Statute (in Romanian known as „Statutul Dezvoltător al Convenției de la Paris” – 1864)³. However, the political system was a long way from having an Assembly with a deliberative role attributed in the Organic Regulations to the Parliament established by the Constitution of 1866: between 1848 and 1857 the deliberative body, the so-called *Divane Ad hoc*, was appointed, not elected. Later, the Senate will be elected (1864-1866), but not the second chamber. Thus, bicameralism was born, the Assembly of Deputies, made up of elected members and the Senate, keeping the idea of some elected senators and some *de jure* until 1939. The Parliament of 1946 referred only to the “Assembly of Deputies”, so it was a unicameral one, and between 1948 and 1989, the “The Great National Assembly” represented the Legislature of the communist regime. The return to bicameralism was achieved in 1990 (the “Assembly of Deputies”, and from 1992 the “Chamber of Deputies” and the “Senate”), both chambers elected based on universal suffrage⁴.

The first electoral law, in the modern sense of the term, was adopted on July 2nd, 1864, and published in *Monitorul Oficial* [Eng. trans.: Official Gazette] no. 146 of July 15th, 1864. It was the result of the coup of May 2nd, 1864, and the beginning of Romanian bicameralism. Voting was based on census (system preserved until the end of the First World War), voters were “direct” and

¹ Eleodor Focșăneanu, *Istoria Constituțională a României (Third edition)* (București: 2007), 34.

² Cristian Preda, *Rumâni fericiți. Vot și putere de la 1831 până în prezent* (Iași: Polirom, 2011), 44-46.

³ Focșăneanu, *Istoria Constituțională a României*, 2007, 35.

⁴ Preda, *Rumâni fericiți*, 2011, 28-29.

“primary” and could only elect deputies to the Elective Assembly⁵. The “Senate” was the „Corpul ponderator” [Eng. trans.: Balancing body] and consisted of appointed members (members of the clergy, military, etc.), and 64 of them were appointed by the ruler⁶. This Law remained in force until 1866, being repealed by the Electoral Law voted by the Constituent Assembly on July 6th, 1866, and published in the *Monitorul Oficial*, after it was promulgated by King Carol I, on July 30th, 1866. The new Electoral Law, in harmony with the Constitution of 1866 (and which would remain in force until 1884), kept the census and secret ballot, introduced colleges, and increased the number of electors⁷.

Romania became a constitutional monarchy, and the establishment of a government by rotation (*rotativa guvernamentală*), maintained until 1916, ensured political stability and the organization of parliamentary elections once every four years. The formation of *Greater Romania* brought changes in the Romanian electoral system, the elections of November 1919 being the first organized by universal suffrage (but only for men). Notably, until 1926, Transylvania and Bucovina had majority voting and the Old Kingdom and Bucovina had an proportional electoral system. The Constitution adopted in 1923⁸ was followed by the Electoral Act of 1926 which was finally applicable to the whole country⁹.

In 1938, King Charles II imposed a new Constitution, adopted following a referendum with an overwhelming majority in an environment characterized by political intimidation. The Parliament (*Reprezentanța Națională*) remained bicameral but was powerless and became an appendage of the authoritarian regime. The democratic institutions introduced by the previous constitutions were practically eliminated¹⁰. A year later, a Decree-Law for electoral reform was issued, stating that the vote was secret, mandatory, and expressed by uninominal voting in constituencies and that the right to vote was given to men and women

⁵ Lege din 02.07.1864 cu privire la alegeri, published in *Monitorul Oficial* no. 146 from 15.07.1864, <https://legislatie.just.ro/Public/DetaliiDocument/19649>.

⁶ Apostol Stan, *Putere politică și democrație în România. 1859-1918* (București: Albatros, 1995), 30-31.

⁷ *Ibid.*, 62-64.

⁸ Constituția din 1923, published in *Monitorul Oficial* no. 282 from 29.03.1923, <https://legislatie.just.ro/Public/DetaliiDocument/15014>.

⁹ Preda, *Rumânii fericiți*, 2011, 142.

¹⁰ Constituția României din anul 1938, published in *Monitorul Oficial* no. 48 from 27.02.1938, <https://legislatie.just.ro/Public/DetaliiDocument/14930>.

from the age of 30 who knew how to read and write. Despite the provision for universal suffrage, the Decree-Law led to a decrease in the number of voters¹¹.

In the period that followed, the idea of democracy and the adequate organization of parliamentary elections disappeared from Romania's political life. The fundamental institution of the consolidated democracies in the West entered under the shadow in Romania, and parliamentary elections were not organized again until 1946. After August 23rd, 1944, the Constitution of 1923 was reinstated, but due to the state of war and complex political movements, an electoral law was only adopted in 1946. The now unicameral Parliament was called the Great National Assembly and was made up of deputies with a four-year mandate, elected in constituencies, based on proportional representation on the lists, through universal, direct, and secret vote of Romanian citizens who were at least 21 years of age¹². Elections were held on November 19th, 1946, and the resulting Great National Assembly was the product of electoral fraud on a grand scale¹³. The liberal democracy disappeared from Romania, replaced by popular democracy, and the electoral laws of 1952 and 1974 demonstrate the formal nature of the electoral process. After almost 50 years, on May 20th, 1990, the first free elections were organized in post-communist Romania.

The first free elections meant the return to democracy and the multi-party system and for the Romanians, the return to freedom. Society had a lot to recover from because during the communist regime most people did not participate in the political decision-making process, there was only one political party, and parliamentarism was not manifested as in the liberal democracies of the West. The beginning of 1990 was marked by social convulsions, generated by the dissatisfaction of a part of the population with the seizure of power, after the Revolution, by the National Salvation Front, whose leadership was ensured by Ion Iliescu and many former members of the Romanian Communist Party. The re-establishment of the historical parties, the National Peasants' Party and

¹¹ Ioan Scurtu (coord.), Theodora Stănescu-Stanciu, and Georgiana Margareta Scurtu, *România între anii 1918-1940. Documente și materiale* (București: Universitatea București, 2001), 130-133.

¹² Legea no. 560 (Decret-lege privitor la alegerile pentru adunarea Deputaților), published in *Monitorul Oficial* no. 161 from 16.07.1946, https://www.cdep.ro/pls/legis/legis_pck.lista_mof?idp=8901.

¹³ Marius-George Cojocaru, "Manifestations of Opposition parties in Romanian press (1944-1947)", in *Communication, Context, Interdisciplinarity. Volume III (Section History)*, ed. Iulian Boldea (Târgu Mureș: "Petru Maior" University Press, 2014), 213.

the National Liberal Party, led to the emergence of a vocal opposition, that loudly protested against the new power¹⁴.

The May 1990 presidential and parliamentary elections were the elections with the highest voter turnout since the Revolution and until today: 86.19%. A record number of political parties participated (73), and the results showed that the Romanian society had to build political culture from scratch: the National Salvation Front obtained 74.46% of seats in the Senate and 69.46% of seats in the Chamber of Deputies¹⁵.

In the following years, there was a decrease in the participation of citizens in the parliamentary elections, but also a maturation of the political thinking of the voters and the appearance of an extensive electoral legislation. In 2008, an experiment was tried, that of uninominal voting: citizens no longer voted for a list compiled and proposed by a party but voted for a person. Unfortunately, at only 39.20%, the voter turnout was the lowest recorded in the Romanian democracy¹⁶. The result of the parliamentary elections in 2012 also determined a first: an alliance won over 58% of the mandates in the Romanian Parliament. This was the Social-Liberal Union, composed of parties that were traditionally on either side of the political chessboard, the Social Democratic Party and the National Liberal Party (that is, the most important representatives of the left and of the right in Romanian politics).

Next, the 2016 parliamentary elections were held on the basis of a new legal framework, benefiting from a law that appeared only a year before (Law no. 208 of July 20th, 2015 on the election of the Senate and the Chamber of Deputies, as well as on the organization and operation of the Permanent Electoral Authority¹⁷), which brought a series of novelties regarding the organization of elections: the Permanent Electoral Authority, the institution that ensures a large part of the coordination process around the organization of elections, gained an important role. It oversaw the recruiting and training of electoral experts, forming and managing a corps from which, by drawing lots,

¹⁴ Alexandra Șerban, „De la Carol I la Traian Băsescu: scurt istoric al alegerilor din România”, *Historia*, <https://historia.ro/sectiune/general/de-la-carol-i-la-traian-basescu-scurt-istoric-al-577407.html>.

¹⁵ Autoritatea Electorală Permanentă, „Alegeri 20 mai 1990 – Rezultate alegeri pentru Senat”, https://www.roaep.ro/alegeri_1990/index8067.html?page_id=14.

¹⁶ Autoritatea Electorală Permanentă, „Alegerile pentru Parlamentul României – 2008”, <https://becparlamentare2008.roaep.ro/>.

¹⁷ Lege no. 208 from 20.07.2015 (privind alegerea Senatului și a Camerei Deputaților, precum și pentru organizarea și funcționarea Autorității Electorale Permanente), published in *Monitorul Oficial* no. 553 from 24.07.2015, <https://legislatie.just.ro/Public/DetaliiDocument/170037>.

the presidents and deputies of the polling stations were designated¹⁸. The computer system for monitoring the turnout and preventing illegal voting (SIMPV) was introduced and a new type of official appeared in the polling station: the computer operators (whose recruitment was also handled by the Permanent Electoral Authority)¹⁹.

II. The Legal Framework for the 2020 Parliamentary Elections in Romania

The year 2020 was a difficult one for the institutions involved in the electoral processes: two types of elections, local and parliamentary, were to be held two months apart, in special conditions, generated by the SARS COV 19 pandemic. The involvement of the Ministry of Health was needed which issued orders to ensure sanitary measures in the polling stations. After the experience of organizing the ballot for the election of local public administration authorities on September 27th, 2020, the one for the election of the Senate and the Chamber of Deputies went a little easier. Thirty-six normative acts were used, to which are added those issued during the electoral period by the Central Electoral Bureau²⁰.

The legal framework necessary for the organization and conduct of the elections comprised of the known legislation (Law no. 208/2015 on the election of the Senate and the Chamber of Deputies, as well as on the organization and operation of the Permanent Electoral Authority; Law no. 202/2020 on the amendment and completion of some normative acts in electoral matters; Law

¹⁸ Hotărâre AEP privind aprobarea Metodologiei de admitere în Corpul experților electorali, published in *Monitorul Oficial*, no. 832 from 06.11.2015, <https://www.roaep.ro/instruire/wp-content/uploads/2015/11/Hot-AEP-11-2015-metodologie-Corpul-expertilor-electorali.pdf>.

¹⁹ Hotărâre AEP pentru aprobarea Normelor metodologice privind funcționarea Sistemului informatic de monitorizare a prezenței la vot și de prevenire a votului ilegal, selecția și desemnarea operatorilor de calculator ai birourilor electorale ale secțiilor de votare, published in *Monitorul Oficial*, no. 812 from 02.11.2015, <https://www.roaep.ro/instruire/wp-content/uploads/2015/11/Hot-AEP-9-2015-norme-SIMPV.pdf>; Hotărâre AEP pentru modificarea și completarea Normelor metodologice privind funcționarea Sistemului informatic de monitorizare a prezenței la vot și de prevenire a votului ilegal, selecția și desemnarea operatorilor de calculator ai birourilor electorale ale secțiilor de votare, aprobate prin Hotărârea Autorității Electorale Permanente no. 9 / 2015, published in *Monitorul Oficial*, no. 273 from 11.04.2016, <https://www.roaep.ro/instruire/wp-content/uploads/2015/11/Hotar--re-nr.-15-2016.pdf>.

²⁰ Biroul Electoral Central, „Alegerea Senatului și a Camerei Deputaților din 6 decembrie 2020”, <https://parlamentare2020.bec.ro/legislatie/>.

No. 91/2020 on the amendment of Law No. 115/2015 for the election of local public administration authorities, for the amendment of Local Public Administration Law No. 215/2001, for the amendment and completion of Law No. 393/ 2004 regarding the Statute of local elected officials, for amending Law no. 208/2015 on the election of the Senate and the Chamber of Deputies, as well as for the organization and operation of the Permanent Electoral Authority).

Additionally, government decisions were issued (Government Decision no. 744/2020 on setting the date of the elections for the Senate and the Chamber of Deputies in 2020; Government Decision no. 745/2020 for the approval of the calendar of actions within the electoral period of the elections for the Senate and the Chamber of Deputies in 2020; Government Decision no. 754/2020 regarding the establishment of the technical measures necessary for the good organization and conduct of the elections for the Senate and the Chamber of Deputies in 2020; Government Decision no. 754/2020 regarding the establishment of the expenses necessary for the preparation, organization and holding in good conditions of the elections for the Senate and the Chamber of Deputies from 2020).

Aside from these, decisions of the Permanent Electoral Authority were also used (Decision of the Permanent Electoral Authority no. 8/2016 for the approval of the application models of registration in the Electoral Register; Decision of the Permanent Electoral Authority No. 16/2016 regarding the conditions for bringing to public knowledge the delimitation and numbering of polling stations in the country, as well as their headquarters; Decision of the Permanent Electoral Authority No. 44/2016 regarding the set of minimum conditions that must be met by the locations where the polling stations operate, as well as their minimum equipment).

Lastly, we can also refer to decisions adopted by the Central Electoral Bureau (Decision of the Central Electoral Office no. 1/29.09.2020 regarding the unitary application of the provisions of art. 83 paragraphs (1) — (3) of Law no. 208/2015 on the election of the Senate and the Chamber to the Deputies, as well as for the organization and operation of the Permanent Electoral Authority; Decision of the Central Electoral Office no. 40/2020 regarding the exercise of the right to vote by mail; Decision of the Central Electoral Office no. 41/2020 regarding the application of the provisions of art. 117 para. (2) from Law no. 208/2015 regarding the election of the Senate and the Chamber of Deputies, as well as for the organization and operation of the Permanent Electoral Authority;

Decision of the Central Electoral Bureau 41/2020 regarding the exercise of the right to vote by means of the special ballot box; Decision of the Central Electoral Office 45/2020 regarding the application of the provisions of art. 84 para. (3) lit. e) and para. (4) lit. a) the last sentence of Law no. 208/2015 regarding the election of the Senate and the Chamber of Deputies, as well as for the organization and operation of the Permanent Electoral Authority; Decision of the Central Electoral Bureau 61/2020 regarding the technical rules for completion and verification, as well as the circuit of the minutes regarding the recording of the voting results in the elections for the Senate and the Chamber of Deputies in 2020).

III. Organization and Conduct of Parliamentary Elections in Romania

Parliamentary elections are organized by the Government of Romania, under the command of the Central Electoral Bureau, through the Prefect's Institutions in each county, as well as by the Permanent Electoral Authority and by the Mayor's institutions, with the support of the Special Telecommunications Service. Parliamentary elections in Romania are held respecting the universal, equal, direct, secret and freely expressed nature of the vote. Senators and deputies are elected by list voting, according to the principle of proportional representation. The representation norm for the election of the Chamber of Deputies is one deputy per 73,000 inhabitants. The representation norm for the election of the Senate is one senator per 168,000 inhabitants²¹.

According to the applicable legislation, the Prefect's institution conducts a series of technical measures, such as ensuring the printing of ballots; printing the typesets and forms necessary for carrying out the activity of the electoral offices of the polling stations; ensures the making of the stamps of the constituency electoral offices, of the electoral offices and control stamps of the polling stations; ensures the production of badges for the members of the electoral offices of the polling stations; ensures the transport, packaging and distribution of the materials, documents and typesets provided by law for the conduct of the electoral process; ensures the logistical conditions necessary for

²¹ Legea no. 208 from 20.07.2015, art. 5 alin. (1) – (3).

the organization of the training sessions for the presidents of the electoral offices of the polling stations, their deputies, as well as the computer operators²².

In order to coordinate and monitor the fulfilment of the tasks prescribed by the legislation in force regarding the elections for the Senate and the Chamber of Deputies in 2020, which are attributed to the ministries and other specialized bodies of the central public administration, as well as to the prefect's institutions, the “Central Technical Commission for the Coordination of Activities” was established for the organization of the elections for the Senate and the Chamber of Deputies from 2020, along with “the county technical commissions and the Technical Commission of the municipality of Bucharest”²³. Electoral constituencies were established at the level of each of the 41 counties, a constituency in the municipality of Bucharest and a constituency for Romanian citizens with domicile or residence outside the country²⁴.

Mayors have a very important role in the organization of elections, implementing a series of technical measures such as ensuring the updating of the Electoral Register; registering voters in the Electoral Register with their address of residence; issuing the extract from the Electoral Register to the political/electoral formations participating in the elections; drawing up and printing the permanent electoral lists; securing ballot boxes, special ballot boxes and voting booths; updating the delimitation of polling stations and their headquarters, with the approval of the Permanent Electoral Authority; bringing to public knowledge, with the help of the prefects, the delimitation and numbering of each polling stations in the country, as well as their headquarters; ensuring the special electoral display places and the placement of electoral panels; providing support to the representatives of the Special Telecommunications Service for the installation of equipment and the provision of the necessary services; handing over to the presidents of the electoral offices of the section voting time, the materials necessary for voting.

On election day, citizens find their names entered in the permanent electoral lists, which include citizens with the right to vote registered in the Electoral Register, with domicile or residence in Romania and are printed by the

²² Hotărârea Guvernului no. 754 from 10.09.2020 privind stabilirea măsurilor tehnice necesare bunei organizări și desfășurării a alegerilor pentru Senat și Camera Deputaților din anul 2020, published in *Monitorul Oficial*, no. 836 from 11.09.2020, art. 2 alin. (5), <https://legislatie.just.ro/Public/DetaliiDocument/229922>.

²³ Ibid., art. 1 alin. (1) and art. 7 alin. (1).

²⁴ Ibid., art. 4.

mayor in two copies²⁵. These are printed from the Electoral Register, a national computer system in which the identification data of Romanian citizens with the right to vote and the information regarding their assignation at the polling stations are entered²⁶. Voting stations are organized in each administrative-territorial unit, in a number proportional to the number of voters, a maximum of 2000 voters are allocated to a voting station. In the parliamentary elections of December 6th, 2020, 18,802 polling stations were organized. The Permanent Electoral Authority administers the Register of polling stations in the country, which represents a centralized database regarding the delimitation, numbering, headquarters, and equipment of voting stations²⁷.

Each polling station is set up in an electoral office which is composed of a president, a deputy, a maximum of eight representatives of the political formations participating in the elections, and a computer operator²⁸. The president and deputy of the electoral office of the polling station are appointed by computerized drawing of lots by the Permanent Electoral Authority from the Corps of electoral experts. This is the permanent record of the persons who can become presidents of the electoral offices of the polling stations in the country or their deputies, established, managed and updated by the Permanent Electoral Authority²⁹. The computer operators have the status of auxiliary technical staff in each electoral office of the polling station and ensure the verification of the identity of the voters in the IT System for Monitoring the Attendance to Vote and Preventing Illegal Voting (SIMPV)³⁰.

Before the elections, the president of the electoral office of the polling station receives from the mayor the necessary materials for voting: a copy of the permanent electoral list; additional electoral list forms; the forms of the extracts from the permanent and additional electoral lists in which the voters who vote by means of the special ballot box will be registered; two ballots cancelled by the president of the constituency electoral office, one for the election of the Senate and one for the election of the Chamber of Deputies; sealed packages with ballot papers for the Senate; sealed packages with ballot papers for the Chamber

²⁵ Ibid., art. 49 alin. (1)-(5).

²⁶ Ibid., art. 24.

²⁷ Ibid., art. 20.

²⁸ Ibid., art. 15, alin. (1).

²⁹ Autoritatea Electorală Permanentă, „Corpul experților electorali”, <https://www.roaep.ro/instruire/corpul-expertilor-electorali/>.

³⁰ Autoritatea Electorală Permanentă, „Operatori de calculator secții votare”, <https://www.roaep.ro/instruire/operatori-de-calculator-sectii-votare/>.

of Deputies; stamps with the mention “VOTED”; control stamp, etc.³¹. Election day is Sunday and voting starts at 7:00 a.m. and ends at 9:00 p.m.

The elections of December 6th, 2020, took place, as we showed above, under special conditions generated by the SARS COV 19 pandemic. For the unhindered conduct of the elections, the joint Order of the Minister of Health and the Ministry of Internal Affairs no. 1594/140/2020, according to which measures will be taken so that access for people who present a high risk of developing a serious form of SARS COV 19 pandemic (for example, over 65 years of age, people who have diabetes or other chronic diseases, people with deficient immunity) to have priority access to the polling station.

The Joint Order no 2.009/166/2020 issued by the Ministry of Health and the Ministry of Internal Affairs, stated that: “For the voter who displays obvious respiratory symptoms (for example, cough, runny nose, breathing difficulties) or is febrile (is detected with a temperature over 37.3°C), the technical staff of the electoral offices of the polling stations will organize prioritized access in the polling station as follows: the voter will wear a mask, to cover his nose and mouth, and will be kept at a distance from the other people outside the polling station premises; the number of the voting station to which the voter is assigned will be quickly identified and the president of the electoral office of the voting station will be notified of the existence of the case of a voter that requires prioritized access; the necessary preparations will be made in the voting room, so that the respective voter spends as little time as possible inside it; the voter will disinfect his hands upon entering the polling station headquarters; the voting booth will be disinfected by wiping the surfaces by spraying with an alcohol-based disinfectant and by wiping with a clean cloth that will be thrown away after use; where possible, after the first voter with fever and/or respiratory symptoms, the booth will be reserved until the end of the voting day only for voters with fever and/or respiratory symptoms; the voter will be advised to wear a protective mask until they arrive at home, avoid public transport, contact the family doctor or the 112 service, as appropriate; if the voter’s medical condition is worsens, the 112 service will be contacted, and he will be isolated in a separate room, avoiding contact with other voters or other people, and will be supervised until he is assisted by the medical staff”³².

³¹ Legea no. 208 from 20.07.2015, art. 81.

³² Ordinul comun al Ministrului Sănătății și al Ministrului Afacerilor Interne no. 2.009/166/2020 privind stabilirea unor măsuri și acțiuni de sănătate publică necesare a fi respectate pentru desfășurarea în siguranță a procesului electoral din țară la alegerile pentru Senat și Camera

I kept this long paragraph to better illustrate the exceptional conditions generated by the pandemic. It is observed how the technical staff of the polling station, through a normative act, were turned into health workers. These people, without medical training, should have focused solely on the proper conduct of the electoral process. The special conditions in which the elections were held have, in some situations, called into question the ability of some electoral experts to also manage the problems related to the pandemic in the polling stations.

The elections took place on Sunday, December 6th, 2020, and the activity in the polling stations started at six in the morning. To ensure the transparency of the electoral process, only accredited persons and the candidates themselves could be present in the polling stations. Despite the discussions about digitization, the electoral process in Romania relies on a large scale of paper recording of events, covering the number of those registered on the electoral lists, those present at the polls, the number of ballots received, the number of stamps. According to the electoral law, citizens can vote only at the polling station corresponding to the street or town where they live. Those who are away on election day, but within the same county, can vote at any polling station.

To avoid multiple voting or to check if a citizen has the right to vote, they present the computer operator their identity document that will be scanned through the SIMPV system. The system is connected to the database of the Electoral Register and generates a response, establishing the identity of the voter and indicating whether they have voted in the election already or if they have suspended electoral rights. In this phase, it is necessary to have a paper record: depending on the message displayed by the computer system, it is possible to fill certain forms, and the citizen will have to sign the electoral list to be able to vote. Speaking of the paper record required for the elections, three types of electoral lists were used: permanent electoral lists (printed based on information from the Electoral Register), supplementary electoral lists (used to register voters who were omitted or who on election day they are not in their place of residence or do not vote at their polling station) and the “extract” from the permanent electoral roll or from the supplementary electoral roll (used for the special or mobile ballot box).

At the end of the voting in the polling station, a series of operations are carried out which are audio-video recorded by the computer operator. Unused

ballots are cancelled; minutes of proceedings are compiled by recording the number of voters present at the polls; ballot boxes are opened; ballots are checked; and candidates are sorted; voting results are recorded³³. As mentioned above, even if the election results arrive electronically at the Central Electoral Office, the files containing the documents to be transferred to the County Constituency Electoral Office are redacted manually³⁴. The electoral offices of the polling stations cease their activity on the date of completion of the verification of the minutes regarding the results of the election³⁵.

Human resource-wise, in no election round organized after 1990 was the delivery of ballots, minutes, forms, and materials addressed in a timely fashion and without putting people in challenging situations. The same thing happened in the 2020 parliamentary elections when the elections took place in the winter, the materials were handed over late after midnight, in conditions of great fatigue, and against the background of very low temperatures. The media reported that people acted in a rushed manner disregarding the restrictions imposed by the SARS COV 19 pandemic. Queues formed in the cold, and people became dissatisfied and nervous about the slow pace of receiving documents³⁶.

IV. Organization and Conduct of Elections Outside the Country

It is very cumbersome and expensive to organize elections outside the country to ensure the right to vote for Romanian citizens with domicile or residence abroad. There are similarities with how the process is organized in the

³³ Legea no. 208 from 20.07.2015, art. 93.

³⁴ Biroul Electoral Central, „Decizie no. 61/2020 privind normele tehnice de completare și verificare, precum și circuitul proceselor-verbale privind consemnarea rezultatului votării la alegerile pentru Senat și Camera Deputaților din anul 2020”, art. 3, alin. (2), https://parlamentare2020.bec.ro/wp-content/uploads/2020/11/dec_61.pdf.

³⁵ Biroul Electoral Central, „Hotărârea nr. 1/2020 – Hotărâre privind aprobarea Regulamentului de organizare și funcționare a birourilor și oficiilor electorale constituite la alegerile pentru Senat și Camera Deputaților din anul 2020”, art. 24, https://parlamentare2020.bec.ro/wp-content/uploads/2020/09/hot_1_p.pdf.

³⁶ Bereczki Reka et al., „Membrii secțiilor de votare, ținută toată noaptea în frig ca să predea buletinele”, *Știrile Pro Tv*, 07.12.2020, <https://stirileprotv.ro/stiri/alegeri-parlamentare-2020/membrii-sectiilor-de-votare-tinuti-toata-noaptea-in-frig-ca-sa-predea-buletinele-za-fost-un-fel-de-comunism.html>.

country, but also several differences. Abroad, voting takes place across two days, Saturday and Sunday, and for the organization of the elections, the Electoral Bureau is established for Romanian citizens with domicile or residence outside the country. The coordination of activities is the responsibility of the Central Electoral Office, but the Ministry of Foreign Affairs and the Permanent Electoral Authority are in charge of the organization process. Voting stations are usually organized in the headquarters of diplomatic missions³⁷. The electoral offices of the polling stations are organized similarly to those in the country – president, vice-president and at most eight members, representatives of political formations or staff of diplomatic missions, as the case may be. The president of the voting station also fills the role of “computer operator”³⁸, and the operations he has to carry out (before and on the days of the elections) are similar to those in the country. Also, the materials required for voting and the conduct of voting, as well as the operations after voting has ended, are similar: there are electoral lists and additional electoral lists, while the verification of the right to vote is also carried out through SIMPV³⁹. The files with the forms in which the results and ballots were recorded are handed over to the headquarters of the diplomatic missions of Romania in each country where polling stations were organized⁴⁰.

Specific to parliamentary and presidential elections for Romanians outside the borders is voting by mail, a procedure that is cumbersome, debatable, and without a consistent number of participants in the electoral process. Despite the small number of citizens using this system, voting by mail benefits from consistent logistics: electoral offices are organized for voting by mail according to the number of requests (in this election there were three); permanent electoral lists are drawn up for postal voting, typed and self-adhesive stamps are used for each voter⁴¹ and the envelopes; both those containing the

³⁷ Biroul Electoral Central, „Hotărârea nr. 1/2020”, art. 23, alin. (1).

³⁸ Autoritatea Electorală Permanentă, „Anexa la Hotărârea nr. 36/2019 pentru aprobarea Normelor metodologice privind funcționarea Sistemului informatic de monitorizare a prezenței la vot și de prevenire a votului ilegal”, art. 5, published in *Monitorul Oficial*, no. 823 from 10.10.2019, <https://www.sts.ro/files/userfiles/hotararea-nr-36-2019-pentru-aprobarea-normelor-metodologice-privind-functionarea-sistemului-informat.pdf>.

³⁹ *Ibid.*, art. 5, alin. (6), lit. e).

⁴⁰ Legea no. 208 from 20.07.2015, art. 93, alin. (9) – (10).

⁴¹ Autoritatea Electorală Permanentă, „Hotărârea AEP no. 20 from 29.10.2020 privind aplicarea prevederilor Legii no. 288/2015 privind votul prin corespondență, precum și modificarea și completarea Legii nr. 208/2015 privind alegerea Senatului și a Camerei Deputaților, precum și pentru organizarea și funcționarea Autorității Electorale Permanente la alegerile pentru Senat și Camera Deputaților, published in *Monitorul Oficial*, no. 1010 from 30.10.2020, <https://legislatie.ju.st.ro/Public/DetaliiDocument/231958>.

materials necessary for voting by mail and those containing the votes, are sent via the National Post Company, for a fee⁴².

For the parliamentary elections of December 6th, 2020, 748 polling stations were organized in 27 states where 244,200 citizens voted, far less than in the presidential elections of 2019⁴³. In the 2020 parliamentary elections, Romanian citizens with the right to vote and domicile or residence abroad could opt to exercise their right to vote by mail. For this they had to register online on a dedicated platform, then verify the validation of this option in the Electoral Register⁴⁴. By the deadline, December 3rd, 2020, 39,244 citizens had registered, a smaller number than in the 2019 presidential elections⁴⁵. Citizens had to carefully follow a complicated procedure to register on the online platform, wait for confirmation from the Permanent Electoral Authority, wait for the envelope containing the voting materials to arrive, follow the instructions for voting and send the envelope with their electoral option⁴⁶.

Considering that the election date was set for December 6th, 2020, the envelopes had to arrive by December 3rd, 2020, at the latest, otherwise they were canceled and the votes were no longer counted. Unfortunately for the democratic electoral process, in these elections, 14,000 envelopes did not arrive in the country within the legal term required to be counted. The authorities' explanations were related to delays due to the SARS COV 19 pandemic or that citizens simply did not ship them⁴⁷.

⁴² Hotărârea Guvernului no. 673 from 09.09.2019 privind votul prin corespondență, Annex no. 8, published in *Monitorul Oficial*, no. 749, from 13.09.2019, <https://legislatie.just.ro/Public/DetaliiDocument/217955>.

⁴³ Autoritatea Electorală Permanentă, „Raport privind organizarea și desfășurarea alegerilor pentru Senat și Camera Deputaților din anul 2020”, 20.07.2021, 100, <https://www.roaep.ro/legislatie/wp-content/uploads/2021/07/Raport-alegeri-parlamentare-2020.pdf>.

⁴⁴ Legea no. 288 din 19 noiembrie 2015 privind votul prin corespondență, precum și modificarea și completarea Legii nr. 208/2015 privind alegerea Senatului și a Camerei Deputaților, precum și pentru organizarea și funcționarea Autorității Electorale Permanente, art. 4, alin. (1), <https://legislatie.just.ro/Public/DetaliiDocumentAfis/216283>.

⁴⁵ Digi24, „Votul prin corespondență. Câți români din diaspora au ales să voteze prin poștă la alegerile parlamentare din 2020”, 03.12.2020, <https://www.digi24.ro/fara-categorie/votul-prin-corespondenta-cati-romani-din-diaspora-au-ales-sa-voteze-prin-posta-la-alegerile-parlamentare-din-2020-1411536>.

⁴⁶ Ministerul Afacerilor Externe, „Q&A: Desfășurarea alegerilor parlamentare 2020 în străinătate. Votul prin corespondență”, https://www.mae.ro/sites/default/files/file/anul_2020/alegeriparl_2020/ntreb%C4%83ri_frecvente_-_vot_prin_coresponden%C8%9B%C4%83.pdf.

⁴⁷ Radio România Actualități, „Președintele AEP, despre plicurile cu voturi care nu au ajuns în țară”, 06.12.2020, <https://www.romania-actualitati.ro/stiri/romania/presedintele-aep-despre-plicurile-cu-voturi-care-nu-au-ajuns-in-tara-id144584.html>.

V. Elections Results

The election results and the algorithm by which the number of votes obtained by each electoral competitor is transformed into the number of deputies and senators mandates in each electoral district, are established using the d'Hondt method. The Romanian electoral system is based in proportional representation, which means that the number of mandates assigned to each party must correspond to the number of votes the party won. For the percentage of votes to be as close as possible to the percentage of mandates obtained, a series of mathematical operations is performed. In Romania, in the parliamentary elections, citizens vote for a list of the political formation, with a number of politicians listed in the order desired by the party. There can also be independent candidates, political alliances and electoral alliances.

To begin with, the Central Electoral Bureau determines which are the political formations that meet the “electoral threshold”, for the two chambers of the Parliament, and it represents the “minimum number of valid votes cast for parliamentary representation”⁴⁸. The electoral threshold is 5% at national level or 20% of the total valid votes cast in at least for electoral constituencies for all electoral competitors⁴⁹. In the case of political alliances or electoral alliances, three percent is added for the second member of the alliance. The “electoral threshold” is a whole number and once met (separately for the two chambers of the Parliament) allows political formations to participate in the distribution of mandates. This is done in two stages: at the county constituency level and at the national level. In the first stage, the “electoral coefficient” of the constituency is established separately, a whole number, not rounded, which results from dividing the total number of valid votes cast (for all electoral competitors) by the number of parliamentarians (deputies and senators separately) related to the constituency. Each competitor will receive as many mandates as many times as the “electoral coefficient” is included in the number of valid votes cast for him. Independent candidates receive mandates if they have obtained a number of votes at least equal to the “electoral coefficient”. Unused votes and unassigned mandates at the local level will be distributed in the next stage by the Central Electoral Bureau.

⁴⁸ Legea no. 208 from 20.07.2015, art. 94.

⁴⁹ Ibid.

The result of the elections of December 6th, 2020, largely reflects the political education of the Romanian electorate and the low interest in voting, in the exercise of a fundamental constitutional right. The voting turnout was 33.24%, and the distribution of mandates opened the way for a set of parliamentary coalitions: first between the National Liberal Party and the Union Save Romania (USR), followed by the one between the Social Democratic Party and the National Liberal Party, theoretically the “left” and “right” of Romanian politics. In the Chamber of Deputies, the Social Democratic Party obtained 110 mandates, and the National Liberal Party 93 mandates. The USR-PLUS Alliance – 55 seats, the Alliance for the Union of Romanians – 32 seats, the Hungarian Democratic Union of Romania – 21 seats, and the national minorities, 18 seats⁵⁰. Regarding the results for the Senate, the Social Democratic Party obtained 47 mandates, the National Liberal Party – 41 mandates, the USR-PLUS Alliance – 25 mandates, the Romanian Union Alliance – 14 mandates, the Hungarian Democratic Union of Romania – 9 mandates⁵¹.

VI. Conclusions

According to the Report on the organization and conduct of the 2020 Senate and Chamber of Deputies elections drawn up by the Permanent Electoral Authority, in the 2020 parliamentary elections, 18,802 polling stations were organized in the country, and 18,191,396 voters were expected⁵². 748 polling stations were organized abroad, and 2,600,000 ballots were sent⁵³. The electoral experts body included 60,880 experts⁵⁴ and 46,027 computer operators⁵⁵. The cost of the elections: 128,000,000 euros⁵⁶.

⁵⁰ Biroul Electoral Central, „Procesul-verbal no. 1639/BEC/SCD/2020 privind rezultatele finale ale alegerilor pentru Camera Deputaților”, 17.12.2020, https://parlamentare2020.bec.ro/wp-content/uploads/2020/12/pv_1639.pdf.

⁵¹ Biroul Electoral Central, „Procesul-verbal no. 1640/BEC/SCD/2020 privind rezultatele finale ale alegerilor pentru Senat”, 17.12.2020, https://parlamentare2020.bec.ro/wp-content/uploads/2020/12/pv_1640.pdf.

⁵² Autoritatea Electorală Permanentă, „Raport privind organizarea și desfășurarea alegerilor”, 20.07.2021, 17, <https://www.roaep.ro/legislatie/wp-content/uploads/2021/07/Raport-alegeri-parlamentare-2020.pdf>.

⁵³ Ibid., 27.

⁵⁴ Ibid., 29.

⁵⁵ Ibid., 35.

⁵⁶ Hotărârea Guvernului no. 755/2020 privind stabilirea cheltuielilor necesare pregătirii, organizării și desfășurării în bune condiții a alegerilor pentru Senat și Camera Deputaților din

The organization and conduct of the parliamentary elections of December 6th, 2020 showed the lack of a unitary legislative policy in the electoral field. The absence of an electoral code that regulates the organization and conduct of all types of elections is felt in the context of the various challenges associated with the electoral process. Many normative acts were used which made it difficult for the Electoral Offices and this stressed the activity of the polling stations. As for the voting sections, their presidents or the persons designated by them, were transformed into health workers, increasing the number of activities they carried out, and, as such, increasing responsibilities. The pandemic context, but also the evolution of society, demonstrates that despite the existence of “voting by mail”, the step towards electronic voting is necessary but very difficult to achieve.

In conclusion, I argue that the organization of the parliamentary elections in Romania after the return to democracy took place in a turbulent political and social context, agitation generated by the transition from communism to democracy, to the difficulties of adapting society and state institutions to the new political realities and European ambitions. The government constantly tried to show international organizations, participating as observers in the elections, the positive side of the organization, the transparency and correctness of decision-making process based on the rule of law. But the participants in the electoral process have complained each time, concerned with suspicions of fraud, and, above all, the cumbersome way of organizing and managing a very complex legislation. Politicians in Romania have not been able to agree on the gathering all the normative acts related to elections in a single law, an electoral code, which would simplify the way of organizing elections. The reasons can range from carelessness to the belief that many normative acts can make it difficult to follow the correct application of legal provisions and, in this way, one or another of the political formations could gain an electoral advantaged.

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