

## **INTERNATIONAL LAW**

### **CONSIDERATIONS UPON SOME INTERNATIONAL TREATIES WHICH SHAPED THE HISTORY OF MODERN ROMANIA (1918 - 2018)**

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#### **Abstract:**

This research will provide a new perspective on the history of Romania, in general, and on history of modern Romania (1918 - 2018), in particular, from the perspective of various and numerous international treaties signed with or without the participation of Romania and which influenced the destiny of our country. Certain internal legal documents important for the history of Romania will be also introduced. The first document presented at the beginning of this research will be the Decree no. 3631 regarding the validation of the Unification of Basarabia, Bukovina and Transylvania with Romania, on 24<sup>th</sup> of December 1918. One of the last treaties will be The Treaty of Accession 2005 which is an agreement between the member states of European Union and Bulgaria and Romania, which entered into force on 1 January 2007. Between the two documents, almost 100 years of history are comprised.

The main method of research used in drafting this study is the content analysis - simple or comparative, as the case may be - approached in a manner specific to the research in the field of social-human sciences, respectively in the field of legal sciences and history. Therefore, this analysis is mainly qualitative (broadly speaking) and less quantitative, a few statistic aspects being however emphasized where they are naturally completing the analysis of some qualitative aspects. My personal experience in the last 20 years in the field of public international law has played a very important role in the paper herein.

#### **Introduction**

This study is the first step of a larger scientific initiative of reevaluation, rediscovery and recapitalization of the texts in the international treaties that have radically shaped the fate of Romania. The study debuts with the introduction of

several elements regarding the law of international treaties, solely for the purpose of evaluating the international treaties that have defined the history of Romania from a new perspective. Their presentation and examination will be conducted through instruments specific to the international law, as considering the fact that we are dealing with international treaties that are landmarks in the history of Romania.

This is an original approach to use concepts, definitions and principles not in use until 1969. The Vienna Convention on the law of treaties was adopted on 23 May 1969, in order to evaluate the international conventions assumed before much before 1969. Nevertheless, I believe it as a justified action so as to notice how the Principalities were referred to and, later, Romania, by the great powers of that time and how strong the Romanian people's desire of unification was, in spite of the challenges to be faced.

I truly believe that the few pages of the first part, 'Several elements regarding the international treaty' are essential for the study herein and, later, for the scientific initiative of reevaluation, rediscovery and recapitalization of the texts in the international treaties that have radically shaped the fate of Romania, since it is the main tool used to look at the treaties aforementioned examined, it is the filter to reveal the fate of Romania for a period longer than a century. In other words, the part concerning the treaties needs to be read in a constant reporting to the actual presentation of the treaties in a chronological order.

Article 34 in the Vienna Convention stipulates that '*A treaty does not create either obligations or rights for a Third State without its consent.*', yet the great powers have concluded treaties throughout years in which they simply decided on certain areas, regions or territories, with no restraints.

## **I. Several elements regarding the international treaty<sup>1</sup>**

Treaty is an agreement concluded in writing among states and governed by the international law, either recorded in a single or two instruments or in more connected instruments and irrespective of its name, according to Art 2(1) in the Vienna Convention on the law of treaties on 23 May 1969<sup>2</sup>. The purpose of concluding a treaty is to create legal effects (to create, amend or settle rights and obligations in the relations among actors of international law).

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<sup>1</sup> This short presentation of the general theory of the international treaties is based on chapter 8 'The law of treaties' in the volume 14, lectures on Public International Law, A. Năstase, C. Jura, F. Coman, CH Beck Publishing House, Bucharest, 2012

<sup>2</sup> Published in the Official Gazette 18 on 23 May 1969. The Vienna Convention on the law of treaties became effective on 27 January 1980.

It can be noticed that the Act no. 590/2003 concerning treaties<sup>3</sup> was adopted in Romania, an Act that repeals the Act no. 4/1991 regarding the conclusion and ratification of treaties.

Substantive issues on which an international document is defined as a treaty are as follows:

- a) the parts of the treaties – need to be international law issues (more correctly, the parties of the treaty must have the capacity to conclude treaties) ;
- b) the will of the parties – needs to be freely expressed, with no vice of consent, and the treaty object should be significant lawful and reasonable (possible);
- c) the treaty should create legal effects (establishing certain mandatory conduct norms of a general and permanent nature or creation, amendment or settlement of certain rights or obligations among parties);
- d) governance of the treaty by the international law norms.

The conclusion of the treaty represents the set of activities being conducted, procedures that need to be complied with and rules to be followed so that the treaty be created, become mandatory for the parties, become effective (to exist in accordance with the international law).

The authorities capable to conclude treaties are stipulated by the Constitution and the legislation of each state and in the articles of incorporation of the international organizations, respectively. In general, the executive power (president, government) has the competence to negotiate and sign and the parliaments to express the consent to become a party in the treaty through ratification or accession. In case of violation of an internal norm, the Vienna Convention on the law of treaties stipulates two conditions for which this violation be considered as a consent vice (therefore, a cause for treaty nullity):

- the violation should be objectively evident;
- the violation should concern a fundamental norm of the internal law.

**Stages in concluding an international treaty are:**

a) Negotiation. This takes place among the state representatives, specially commissioned for this purpose, through either the positions held in the state or by the mandate given by the full powers bestowed upon them.

According to Vienna Convention, the first category includes heads of states, of governments and the ministries of foreign affairs. The ambassadors and the permanent representatives are also empowered *de jure* to negotiate and adopt the text of a treaty, yet they need full powers for signing.

The full powers are the document issued by the competent authority in a state, by which one or more authorized people are appointed to represent the state for negotiating, adopting or signing a treaty, to express the consent to become a party to the treaty or to fulfill another act in regard to the treaty.

The submission and verification of the full powers take place mainly during the international conferences. Nowadays, the full powers are primarily assigned for signing.

In the bilateral agreement, the negotiations are concluded by agreeing upon the text; in a multilateral agreement, by adoption (by consent or majority, usually of 2/3 - Art 9 in the Vienna Convention).

Further on, Romania will be noticed of not having any role at all in many of the treaties that dealt with changes in the state territory and, implicitly, displacement of population.

b) The authentication of the text is done through the following:

- final signing = a solemn attestation of the fact that the negotiations are completed and that the text is the final form of the treaty, not being able to be unilaterally amended by either state (its signing incurs the obligation of the state to refrain from any acts contrary to the purpose and object of the treaty until the moment the state clearly expresses its intent of stopping of being a part);

- *ad referendum* signing = authentication of an interim nature, which depends on the later confirmation from the state, when the representative is authorized to negotiate but not to sign;

- initialling = the record of the initials of the negotiator's name, with the same effect as above;

- delayed signing.

c) The expression of the consent to become a party of the treaties is done as below:

- signing (when it expresses both authentication and also the consent);

- ratification (an internal parliament approval document, which involves the prior existence of a representative's signature);

- accession (internal document, usually of the parliament, through which the signatory states can become party of the treaty, irrespective of their attendance or non-attendance in the negotiations);

- approval (usually, a document of the government);

- acceptance (sometimes equivalent with the approval, other times with the accession);

- the change in the instruments of ratification, approval (for bilateral agreements);

- submission of the instruments of ratification, accession, acceptance (for multilateral agreements);

- notification of the ratification, approval, accession and acceptance.

Since Romania was not part in the negotiation of certain treaties directly related to it, it is obvious that it has not expressed its consent to become a part of that treaty.

The entrance into force of an international treaty takes place as in the treaty stipulations; for instance:

- on the exchange date of the ratification instruments (for bilateral conventions);

- on the submission date of a certain number of ratification and approval instruments;
- on the date of the most recent notice concerning the fulfillment of the legal internal procedures of entrance into force (also in a bilateral agreement).

A grace period from the dates above is sometimes given for the entrance into force of the treaty.

According to the 1969 Convention, the treaty is considered being entered into force on the signing date or on another date agreed on through the consent of the parties bound by that treaty, unless a entrance into force procedure or date is stipulated.

Reservations to treaties represent: *„A unilateral statement, irrespective of its manner of drafting or naming, made by a state when a treaty is signed, ratified, accepted, approved or accessed to, by which the legal effects of certain stipulations in the treaty are aimed to be excluded or amended in their application to the respective state ”* [Art. 2 d) in the Vienna Convention].

The reservations are used when a state that agrees with the most majority of the treaty stipulations is not satisfied with one or more clauses and, therefore, declines to be bound via those clauses. The reservations can be formulated solely for the multilateral treaties.

The conditions under which reservations can be formulated have varied in time:

A. In the classical international law, the reservations were not admitted:

- whether they were affecting the integrity of the substantive rules of the treaty;
- iff they were accepted by the other parties of the treaty.

In accordance with the Vienna Convention, the last rule applies to only the treaties with a small number of states. For the general multilateral treaties , the rightful state becomes party to the treaty versus all the state-parties that have not rejected its reservations.

B. The conditions established as per the Vienna Convention:

a) Procedural condition:

- to be expressed in writing and communicated to the contracting states and other states that are entitled to become parties to the treaty;
- can be formulated on the date of signing, ratification, approval or acceptance of accession. The reservations formulated upon signing need to be reconfirmed during the expression of consent to be bound by the treaty;
- the issue of reservation acceptance or rejection.

Should a general multilateral treaty expressly allows the formulation of reservations, the acceptance of such reservation by the other states is not needed, unless the treaty stipulates the necessity of its acceptance.

The lack of formulating objections for a period of 12 months since the notification about the reservation is equivalent with an acceptance.

The acceptance and rejection do not need a reconfirmation, but the withdrawal of the objection has to be made in writing.

b) Substantive condition:

- not to be expressly forbidden by the treaty;
- not to make reference to certain stipulations, from which the treaty expressly forbids making reservations;
- not to be compatible with the treaty object and purpose.

Following the formulation of reservations, more groups of legal relations can be established between the rightful state and the other state-parties, depending on the attitude of the latter:

a) between the rightful state and the state-parties that have accepted the reservations. Such relations are governed by the treaty and the stipulations of the articles upon which reservations have been made are applicable as having been amended by the meaning of the reservations.

b) between the rightful state and the state-parties that have formulated objections. The latter can:

- accept that the rest of the treaty stipulations, non-affected by the reservations, be applied between them and the rightful state;
- to reject altogether the application of the treaty between them and the rightful state.

Therefore, a ‚disruption‘ of the legal status generated by the multilateral treaty can occur.

During signing or consent expression, states can give statements to express a political and legal position towards certain treaty stipulations or trigger a certain construe.

The fulfillment of the obligations stipulated in the treaty involves taking the necessary measures in the sense of their application by the administrative or legal authorities. The issue is whether the treaties directly generate effects in the internal law or certain documents are required to have them introduced in the internal law.

To this purpose, there are various solutions that depend on the constitutional provisions of each country: promulgation, followed by the publication or issuance of special laws to declare the treaty as an internal law, etc.

Pursuant to Art 11 in the Constitution of Romania, the Romanian state undertakes in good faith to fulfill its obligations deriving from the treaties it is a party to. The treaties ratified by the Parliament belong to the internal law.

The states cannot invoke the internal legislation to justify the non-execution of a treaty

(Art. 27 in the Vienna Convention), irrespective of the manners of introduction into the internal legal order.

**As a rule, the treaties generate effects only to the parties** (the principle of the relative effect).

The Art. 34 in the Vienna Convention stipulates that , **A treaty does not create either obligations or rights for a Third State without its consent**'.

The phrase ,effects towards third parties" represents only rights and duties that can be derived from a certain treaty, towards third parties (and not advantages, disadvantages, interests, etc.).

The relativity of the effects of the treaty is expressed by the „pacta sunt servanda" principle. The principle of sovereign equality underlies the relative effect.

The conditions through which the states can acquire rights on the grounds of certain treaties they are not parties thereof (Art 36 in the Vienna Convention):

- a) if the parties to the treaty intend to accord a right to the third state or to a group of states to which it belongs, or to all states;
- b) if the third state assents thereto.

The par (2) in Art. 36, „the consent shall be presumed so long as the contrary is not indicated", which can be tacit.

**The condition through which obligations can derive for the states from treaties they are not parties thereto** (Art. 35 in the Vienna Convention):

- the parties to the treaty intend the provision to be the means of establishing such an obligation from a provision of a treaty;
- the third state expressly accepts that obligation in writing.

The fulfillment of such conditions is actually leading to a collateral agreement between the state-parties and the third state.

The doctrine also states that certain treaties, which generate objective legal status (opposable erga omnes rights and duties) make an exception from the relative status:

- through which territorial status is established;
- through which neutrality status is determined;
- through which a certain status for international communication channels is created;
- the multilateral treaties that help with establishing an international organization.

The nullity grounds of a treaty are:

- a) when the treaty contravenes to a norm of „*jus cogens*", in effect at the moment of its conclusion or to a norm of „*ius cogens*", occurred during its application (Art. 53 and 64 in the Vienna Convention);

b) when consent vices intervene:

- the violation of the internal law dispositions regarding the competence of concluding treaties; this violation needs to be manifest and concern a rule of fundamental importance of the internal law;

- error: to be of fact and not of law, has affected the essential basis of the consent, the state invoking it has contributed by its own conduct to the error (Art. 48 in the Vienna Convention);

- fraud (Art. 49);

- the fraudulent conduct of another state that was part in the negotiation usually leads to making an error;

- corruption of a representative of a state (Art. 50), when it is usually obvious and able to generate a considerable influence upon the representative's will;

- coercion exerted upon the representative (Art. 51) – it is about threats directing against the freedom, physical and mental integrity of the representative's person, career, family, etc.;

- coercion of a state (Art. 52) – by the threat of using force.

Two types of nullity can be defined:

a) relative nullity (that can be invoked only by the state whose consent has been vitiated and can be covered by its through confirmation – Art. 45): the violation of the stipulations in the internal law, error, fraud, representative's corruption;

b) absolute nullity (can be invoked by any state in the treaty, not only by the vitiated state or *ex officio* by an international court): the coercion against the representative or the state, violation of the „*jus cogens*“ norm.

Termination grounds of an international treaty:

a) By reason of the stipulations included in the treaty:

- validity;

- resolute condition;

- tacit reconduction (when validity ends, the treaty is extended for new periods identical to the initial one or usually shorter, unless either of the parties manifests intent to terminate it);

- denunciation (for multilateral treaties – retract); the most majority of the treaties stipulate the possibility of denunciation.

b) By the consent of all the state-parties;

c) Denunciation, when the treaty does not stipulate this possibility:

- as a rule, the conventional practice reckons that a right of denunciation does not exist, under such conditions;

- as an exception, denunciation takes place when:

- The intent of the parties to admit the possibility of denunciation or retract can be determined;

- the right of denunciation can be derived from the nature of the treaty.

d) The breach of the treaty by one of the parties – needs to be a material breach [Art. 60 par (3)];

e) The conclusion of a treaty with the same subject-matter between parties (Art. 59) – conditions:

- to appear from the later treaty or be thus established that the subject-matter should be governed by that treaty;
- the provisions of the later treaty are incompatible with those of the earlier one.

f) The total and permanent disappearance of the subject-matter in a treaty or of one of the parties leads to the nullity of the treaty;

g) The fundamental change of the circumstances (*rebus sic stantibus*) – when one of the parties considers that the new circumstances are able to lead to the termination of the treaty. That party needs to prove:

- that the changed circumstances have accounted for the essential ground of the parties's consent to be bound through the treaty;
- that the change has radically modified the nature of the duties.

Exceptions: the treaties establishing lines of demarcation and if the material change is the result of the breach by the invoking part of either a duty in the treaty or an international duty.

h) Breaking the diplomatic and consular relations – it is about treaties whose execution involves the existence of the diplomatic and consular relations;

i) The war – practice has confirmed:

- the bilateral economic and financial treaties terminate;
- the multilateral treaties are suspended among the belligerents and remain effective among non-belligerents and between belligerents and non-belligerents;
- the treaties considering the lines of demarcation and war procedures remain effective.

## II. International treaties that have defined the history of Romania around the Great Union on 1 December 1918

On 7/19 August 1858, the **Paris Peace Convention was concluded among the Great Power regarding the Romanian Principalities**. Art. 1 in this Convention stipulates that, "*The Principalities of Moldavia and Wallachia, hereinafter known as the United Principalities of Moldavia and Wallachia, remain under the suzerainty of HM Sultan*"<sup>3</sup>. In other words, prior to gaining independence, the Principalities were under the suzerainty of the Sultan following a decision taken by the Great Powers, namely Austria, France, England, Prussia, Russia and Sardinia and, of course, Turkey. When reported to this Convention, to the principles and norms of the treaties aforementioned, violation of numerous stipulations is visible.

It is important to mention the change made by the Constitution in 1866<sup>4</sup>, which stipulates in Article 1 that the name of the state is **Romania**, more exactly: "*The*

<sup>3</sup>See the text of Convention in C. Ionescu, *Dezvoltarea constituțională a României. Acte și documente 1741 – 1991*, Lumina Lex Publishing House, 1998, pag. 250

<sup>4</sup> The Constitution was decreed, promulgated and published in the Official Gazette on 1 July 1866.

*Kingdom of Romania with its counties on the right side of the Danube constitutes a single indivisible state*"<sup>5</sup>. The amendments aiming the Article 1 replace the term of Romanian United Principalities with Romania and validates the change in the form of government, where the title of Ruler turns to King. The Principality of Romania thus becomes Kingdom. The name of the state is Romania between 1866 and 1947.

"The Independence War of Romania" is the name used in the Romanian historiography for the participation of Romania to the Russian-Turkey war between 1877 and 1878. On 14/29 April 1877, the Assembly of Deputies adopted the Motion regarding the opening of hostility acts of Turkey against Romania and on 15/30 April 1877, the Romanian Senate adopted a Motion concerning the state of war between Turkey and Romania<sup>6</sup>. These Motions represent the entrance of Romania into the war front. Following this war, Romania gained its independence from the Ottoman Empire.

The imminence of having another war started between the Russians and the Ottomans made the Romanian government negotiate with the representatives of the Russian Empire in September 1876 about the requirements to be fulfilled during the transit of the Imperial Army on the Romanian territory on their way to the Danube.

On 4/16 April 1877, **Romania and the Russian Empire signed a convention in Bucharest** that allowed the Russian troops to cross the Romanian land on their way to the Balkans, on condition that they comply with the territorial integrity of Romania. The Convention was signed by the Russian consul Dimitri Stuart (with the approval of Tzar Alexander II) and by the Prime Minister at that time, Mihail Kogalniceanu.

**On 9/21 May 1877, the independence of Romania was proclaimed.** The next day, 10/22 May, the document turned into an act, following its signing by Prince Carol I.

**The peace treaty between the Russian Empire and the Ottoman Empire was signed in San Stefano on 3 March 1878.** In the wake of this treaty, the Principality of Bulgaria was created and the independence of Montenegro, Serbia, Romania was acknowledged. Romania as commanded to surrender the three counties in the south of Moldavia (Cahul, Ismail, Bolgrad), but received (according to Article 19) as a compensation the territory in the northern Dobruja, bordered by Rasova in the north and by Mangalia in the south.

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<sup>5</sup> In C. Ionescu, *Dezvoltarea constituțională a României. Acte și documente 1741 - 1991*, Lumina Lex Publishing House, 1998, pag. 383

<sup>6</sup> See the texts of Motions in C. Ionescu, *Dezvoltarea constituțională a României. Acte și documente 1741 - 1991*, Lumina Lex Publishing House, 1998, pag. 413, texts taken from George D. Nicolescu, *Parliament of Romania, 1866 - 1901*, Bucharest, 1902

The Great Powers (Great Britain, France, German Empire) were not content with the San Stefano Treaty, by which the Tsarist Empire had extended its influence in the Balkans and Caucasus and asked for a revision, which will be granted during the Berlin Congress in the Berlin Treaty (1878).

**The Independence of Romania was acknowledged by the Great Powers on 13 July 1878, in the Berlin Treaty** (13 July 1878). The Berlin Treaty was the international treaty that ended the Russian-Turkish war in 1877-1878. It was meant to revise the San Stefano peace stipulations and, thus, reduce the influence gained by the Russian Empire in the Balkans. This treaty signed at the Berlin Conference helped with the *de jure* acknowledgment of the independence of Romania, Serbia and Montenegro.

During the Berlin Peace Conference in 1878, it was decided for Russia to acknowledge the independence of Romania, to surrender the territories of Dobruja and the Danube Delta, including Constanta Port and the small Snake Island. In exchange, Russia was taking possession of the counties in the south of Basarabia (Cahul, Ismail, Bolgrad), which had joined Moldavia after the Crimea War thanks to the stipulations in the **Paris Treaty** in 1856<sup>7</sup>.

The independence of Romania was to be officially acknowledged by each European power after fulfilling the conditions stated by the Congress. Russia, Austro-Hungary and Turkey will accept the independence of Romania after the Berlin Congress and Italy in 1879; the other European powers will take longer, until 1880.

It is worthwhile mentioning that **Romania was admitted to join the European Commission of the Danube** only after the Berlin Treaty. Without any further details about the legal status of the Danube, we only remind that the prior regulations did not grant the Romanian Principalities any role in the Danube navigation system, despite being a sovereign state. According to the Peace Treaty concluded in Paris after the Crimea war, on 30 March 1856, the Art 16 stipulates that *„a commission, where France, Austria, England, Prussia, Russia, Sardinia and Turkey will be represented each by a delegate will be in charge of pointing out at and executing the necessary works...”*<sup>8</sup>. At first, the Principality of Moldavia only had an advisory role. As shown above, the Kingdom of Romania became a member with full powers of the Commission<sup>9</sup>, after the Independence War.

In 1913, King Carol I entered Romania into the second Balkan war, which ended with the defeat of Bulgaria. The **Bucharest Treaty in 1913** validates the status of Kingdom of Romania as a Balkan power and also brings a new province

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<sup>7</sup> See the articles regarding Romania in the Berlin Treaty in C. Ionescu, *Dezvoltarea constituțională a României. Acte și documente 1741 - 1991*, Lumina Lex Publishing House, 1998, pag. 426

<sup>8</sup> See the articles on Romania in the Peace Treaty concluded after the Crimea War, 30 March 1856, in C. Ionescu, *Dezvoltarea constituțională a României. Acte și documente 1741 - 1991*, Lumina Lex Publishing House, 1998, pag. 196

to the country, South Dobruja, known as Cadrilater, with the counties of Durostor and Caliacra.

On 21 July/3 August 1914, the Kingdom of Romania declares its neutrality, following the Crown Council in Sinaia, summoned by King Carol I.

On 4/17 August 1916, Romania signed the **Alliance Treaty**<sup>9</sup> with the Russian Empire, France, Great Britain and Italy. In accordance with the treaty, Romania gains rights upon all the territories in Austro-Hungarian Empire inhabited by Romanians, as seen in Article 4. Transylvania, Banat, Bukovina, Crisana and Maramures (Partium) were to become part of Romania after the First World War, should Romania enters the war. The planned line of demarcation was tracing a frontier of 20-40 km farther west compared to the current border between Hungary and Romania, reaching Tisza river in the south, thus including the whole Banat.

Romania keeps its commitments assumed in the Alliance Treaty in 1916 and communicate the Imperial and Royal Government of Austro-Hungary a War Declaration, starting on 14/27 August 1916, starting at 9 o'clock in the evening, a time starting the state of war of Romania with Austro-Hungarian Empire<sup>10</sup>.

After the war declaration, Romania went through dramatic moments and so the battle for defending Bucharest against the German-Austro-Hungarian offensive was lost on 23 November/6 December 1916 and the capital was occupied. The capital of Romania is temporarily moved to Iasi and the authorities and army withdrew in Moldavia.

On 26 November/9 December 1917, the **Truce of Focsani between Romania and the Central Powers** was signed.

On 27 March 1918, Basarabia proclaims its union with the Kingdom of Romania, after three months of independence from Russia.<sup>11</sup>

On 7 May 1918, the **Treaty of Bucharest** was signed, also known as the Buftea-Bucharest Peace. It was a peace treaty signed by Romania on 7 May 1918 with the German Empire and Austro-Hungarian Empire during the First World War. This act replaces the truce signed in Focsani on 26 November/9 December 1917. The preliminary peace treaty was signed on 20 February/5 March in Buftea, hence its name of Buftea- Bucharest Peace.

The preliminaries of the peace treaty were signed on 20 February/5 March 1918 in Buftea by the representative of Romania, Constantin Argetoianu and the counterparts from Germany, Austro-Hungary, Bulgaria and Turkey. These

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<sup>9</sup> See the text of the Alliance Treaty in C. Ionescu, *Dezvoltarea constituțională a României. Acte și documente 1741 - 1991*, Lumina Lex Publishing House, 1998, pag. 443

<sup>10</sup> See the text of the War Declaration on 14 August 1916 in C. Ionescu, *Dezvoltarea constituțională a României. Acte și documente 1741 - 1991*, Lumina Lex Publishing House, 1998, pag. 445

<sup>11</sup> See the Decree concerning the union of Basarabia with Romania on 27 March 1918 in C. Ionescu, *Dezvoltarea constituțională a României. Acte și documente 1741 - 1991*, Lumina Lex Publishing House, 1998, pag. 467

preliminaries signed in Buftea were changed into the final peace treaty signed on 24 April/7 May 1918, in Cotroceni Palace in Bucharest. The peace treaty was the tool by which harsh conditions were accepted, namely:

- Romania needs to retrocede South Dobruja (known as "Cadrilater") and to surrender a part of the North Dobruja (in the south of Rasova-Agigea line) to Bulgaria, which had already annexed "Cadrilater" in December 1916; the rest of Dobruja remained in the nominal property of Romania and was under the control of Germany and Bulgaria until a final later treaty;

- Romania was to surrender to Austro-Hungary the control over the passes in the Carpathian mountains;

- Romania was leasing all the petroleum explorations to Germany for 90 years, through two petroleum companies; the dockyards were going under the power of Germany;

- the right of Germany and Austro-Hungary to control the navigation on the Danube, etc.

The treaty was ratified by the Parliament of Romania (on 15/28 June 1918 by the Chamber of Deputies and on 21 June/4 July by the Senate) but it was never promulgated by the **King of Romania, Ferdinand I**. Its dispositions were effective for six months and when the Central Powers indicated a state of distress in October 1918, the agreements were annulled by Marghiloman government and Romania resumed its hostilities against these countries with support from the French army led by General Henri Mathias Berthelot. This action led to the Great Union in December 1918 where all the territories with a majority of Romanian inhabitants joined the land of Romania.

Romania declares war again to the Central Powers through the King Ferdinand's Proclamation to the soldiers, where he calls them back in combat so as to have the century-old dream come true: the Union of all Romanians on 28 October/10 November 1918<sup>12</sup>.

On 13 November 1918, the **Armistice to the Balkan Front** is signed between the French General Franchet d'Esperey, the head of the oriental army of the Entente powers and the Hungarian government. Military actions of a small magnitude continue in the south of Hungary for several days. The armistice sets the lines of demarcation between Hungary, Serbia and Romania, while Banat goes under Serbian governance, despite the Bucharest Convention in 1916. Crisana and Maramures, including Satu Mare, Oradea, Beius and Arad and the center of Transylvania as far as Mures river, are left under Hungarian administration. Hungary is compelled by the Entente Powers to allow the Romanian army enter the Transylvanian territories to the east of the line of demarcation along the Mures river.

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<sup>12</sup> See the text of Proclamation in C. Ionescu, *Dezvoltarea constituțională a României. Acte și documente 1741 - 1991*, Lumina Lex Publishing House, 1998, pag. 499

### III. The international treaties that have shaped the history of the modern Romania (1918 - 2018)

It is evident that the crucial event that impacted the history of Romania and represents the landmark in the shaping of Romania is the **Declaration of Alba Iulia on 1 December 1918**, when the union of Transylvania and Romania was accomplished. By means of the Decree for the Union of Transylvania and of the other territories in Hungary being inhabited by Romanians with the Kingdom of Romania<sup>13</sup>, under number 3631, King Ferdinand I also signs for the promulgation and validation of the Union of Basaraba, Bukovina and Transylvania with Romania. The Decree was published in the Official Gazette no. 212 on 13 December 1918.

The end of the First World War is defined by a series of general peace treaties:

1. Peace Treaty with Germany, signed in Versailles, on 28 June 1919;
2. Peace Treaty with Austria, signed at Saint Germain-en-Laye on 10 September 1919;
3. Peace Treaty with Bulgaria, signed at Neully-sur-Seine, on 27 November 1919;
4. Peace Treaty with Hungary, signed at Trianon, on 4 June 1920;
5. Peace Treaty signed with Turkey at Sevres, on 10 August 1920;
6. Peace Treaty with Turkey, signed at Lausanne, on 24 July 1923;
7. Pari Treaty, regarding the union of Basarabia, concluded between Romania and Great Britain, France, Italy and Japan, on 28 October 1920; etc

Three of the above carry a significant importance for Romania: Peace Treaty signed with Austria at Saint Germain-en-Laye on 10 September 1919 that acknowledged the union of Bukovina with Romania<sup>14</sup>; Peace Treaty with Bulgaria, signed at Neully-sur-Seine, on 27 November 1919 that acknowledged the Romania-Bulgaria frontier in 1914<sup>15</sup> and the Peace Treaty with Hungary, signed at Trianon, on 4 June 1920 that acknowledged the union of Transylvania, Banat, Crisana and Maramures with Romania<sup>16</sup>.

Between 15 and 28 June 1919, the Pact of the League of Nations was adopted during the Versailles Peace Conference. **Romania was a founding member of the League of Nations.** The Senate voted the Pact on 14 August 1920 and the Assembly of Deputies did the same on 25 August 1920. The law for ratification was promulgated by means of Decree no. 3611 bis on 30 August 1920, published in the Official Gazette no. 134 on 19 September 1920. It became effective on 14 September

<sup>13</sup> See the text of Decree in C. Ionescu, *Dezvoltarea constituțională a României. Acte și documente 1741 - 1991*, Lumina Lex Publishing House, 1998, pag. 506

<sup>14</sup> The treaty was ratified by means of Act on 26 September 1920

<sup>15</sup> The treaty was ratified by means of Act on 20 September 1920

<sup>16</sup> The treaty was ratified by means of Act on 21 September 1920

1920 when the Romanian Government submitted the ratification instruments in Paris.

Another important moment is 9 December 1919 when the Treaty between the **Allied and Associated Powers** is concluded (the United States of America, the British Empire, France, Italy and Japan) **on the one hand and Romania, on the other, regarding the national minorities**. The Treaty was published in the Official Gazette no. 140 on 26 September 1920. The treaty was ratified by the Senate on 30 July 1920 and by the Chamber of Deputies on 13 August 1920<sup>17</sup>.

After the First World War, Romania remained active and ratified the Briand-Kellogg Pact or **Paris Pact regarding the elimination of war as an instrument of national policy** adopted on 27 August 1928 and coming into force on 25 July 1929. The depositary is the Government of the United States of America, while Romania ratified the Treaty and its Annexes by means of Decree no. 333 on 6 February 1929, published in the Official Gazette no. 30 on 7 February 1929<sup>18</sup>.

After a relatively short period of time, a new war was looming on the horizon. On 23 August 1939, the Nazi Germany and the Soviet Union signed the **Ribbentrop-Molotov Pact**, whose secret protocol was stipulating the division of Poland and Romania between the two powers. In Romania, USSR was claiming the North Bukovina and Basarabia.

At the beginning of the Second World War, Romania was officially a neutral country.

In June 1940, as a consequence of **Ultimatum Notes given by the Soviet Union**<sup>19</sup>, Romania had to evacuate and surrender, without any fight, Basarabia and North Bukovina. Besides these territories, Hertsa zone was also annexed, despite of being part of neither Bukovina nor Basarabia, nor claimed by the USSR.

On 29 August 1940, a tragic episode for Romania took place. The ministers of foreign affairs of Romania and Hungary were summoned to Vienna on the same day, where German minister of foreign affairs Ribbentrop compelled compliance from the parties with the unconditioned preacceptance of the German-Italian arbitration, which will become **the second arbitration (Diktat) in Vienna**. In the morning of 30 August 1940, the Crown Council convened by King Carol II admitted the arbitration with a majority of votes (19 for, 10 against, 1 abstain), in exchange of having Germany and Italy guarantee the new lines of demarcation. The ministers of foreign affairs from Germany, Joachim von Ribbentrop, and from Italy, Galeazzo Ciano, communicated in separate notifications their decisions to the

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<sup>17</sup> For further details regarding the protection system of people in the national minorities established after WWI, see Cristian Jura, *Drepturile omului. Drepturile minorităților naționale*, CH Beck Publishing House, Bucharest, 2016

<sup>18</sup> See the text of the treaty in A. Năstase, *Documente fundamentale ale dreptului internațional și ale relațiilor internaționale*, vol 1b, Autonomous Administration, Official Gazette, Bucharest, 1997

<sup>19</sup> See the text of the Ultimatum Notes in C. Ionescu, *Dezvoltarea constituțională a României. Acte și documente 1741 – 1991*, Lumina Lex Publishing House, 1998, pag. 644

delegates from Romania and Hungary in Belvedere Palace in Vienna on 30 August 1940.

The text of the arbitrage in Vienna (30 August 1940)<sup>20</sup> is quoted below:

*'The frontier traced on the attached map shall be the final and definitive frontier between Roumania and Hungary. The precise delimitation of the frontier shall be carried out on the spot by a joint Roumanian-Hungarian Commission.'*

*The Roumanian territory which is to be ceded to Hungary shall be evacuated by the Roumanian troops within a period of fourteen days and handed over to Hungary in good order. The precise stages of the evacuation and occupation and the manner in which they shall proceed shall be determined forthwith by a Roumanian-Hungarian Commission. The Roumanian and Hungarian Governments shall see to it that the evacuation and occupation take place in a peaceable and orderly manner.*

*All Roumanian subjects who are to-day domiciled in the territory to be ceded to Hungary shall immediately acquire Hungarian citizenship. They are entitled within a period of six months to opt for Roumanian citizenship. Persons availing themselves of this right of option must leave Hungarian territory within a further period of one year and will be accepted by Roumania. They may take their movable property with them. They may furthermore liquidate their immovable property and take the proceeds with them. If it does not prove possible to liquidate the property they shall be compensated by Hungary. Hungary will deal with all matters appertaining to the transfer of optants in a generous and conciliatory manner.*

*Roumanian subjects of Hungarian race who are domiciled in territory which was ceded to Roumania by Hungary in 1919 and which now remains Roumanian have the right to opt for Hungarian nationality within six months. The principles laid down in paragraph 3 shall be applicable to persons who make use of this right of option.*

*The Hungarian Government formally undertakes that persons who have acquired Hungarian nationality as a result of this arbitral award but who are of Roumanian race shall be treated in exactly the same manner as other Hungarian subjects. The Roumanian Government gives the same under taking in respect of Roumanian subjects of Hungarian race who remain in Roumanian territory.*

*The settlement of other questions arising out of the change of sovereignty shall be achieved by direct negotiations between the Roumanian and Hungarian Governments.*

*In the event of any difficulties or doubts arising out of the putting into effect of this arbitral award the Roumanian and Hungarian Governments shall enter into direct negotiations. Should they fail to reach agreement in regard to any question, it shall be referred to the Reich Government and the Italian Government for a final decision.'*

The second meeting of the Crown Council during the night of 30-31 August approved the Diktat.

On 7 September 1940, the **Craiova Treaty** is signed between Romania and Bulgaria. In accordance with its stipulations, Romania ceded the southern part of

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<sup>20</sup>Text available at [https://ro.wikipedia.org/wiki/Dictatul\\_de\\_la\\_Viena/](https://ro.wikipedia.org/wiki/Dictatul_de_la_Viena/) / [http://legal.un.org/riaa/cases/vol\\_XXVIII/407-412.pdf](http://legal.un.org/riaa/cases/vol_XXVIII/407-412.pdf) (English version)

Dobruja (Cadrilater) and agreed on having a certain population exchange. This territory has already been surrendered by Bulgaria to Romania, following the Bucharest Peace in 1913.

On 22 June 1941, Ion Antonescu issued the **Order to the Romanian Army to cross the Prut River and free Basarabia from the Russian occupation**<sup>21</sup>. The Order is published in the Official Gazette no. 145 on 22 June 1941.

King Mihai radio broadcast the "**Proclamation to the nation**", by which he announced the return to a democratic regime, ending of the war with the United Nations and turning weapons against Germany on 23 August 1944<sup>22</sup>.

On 12 September 1944, **Romania signed the Armistice with the United Nations**, thus assuming the obligation to contribute to the anti-Hitler combat effort<sup>23</sup>. The 260 days of participation to the anti-Hitler war ended on 12 May 1945.

In this context, on 12 April 1944, the Soviet Government sent to the Romanian Government a **Note with the armistice conditions** between the two countries.

On 13 September 1944, a new Armistice Agreement was concluded between Romania and the Allied Powers: **„The Armistice Agreement between the Romanian Government and the Governments of the United Nations, about the free pass of the Soviet troops on the Romanian territory and making available all the Romanian constructions and installations for a limited period of time to the (Soviet) Supreme Allied Commander”**, signed in Moscow, on 12 September 1944.

The end of the WWII was marked by the United Nations Conference in San Francisco when the Charter of United Nations<sup>24</sup> was adopted on 26 June 1945, effective on 24 October 1945. **By means of the General Assembly Resolution no. 995 (X) on 14 December 1945, Romania was admitted as a member in the United Nations Organization.**

On 10 February 1947, the **„Peace Treaty between Romania and the Associated and Allied Powers”**, was concluded and signed in Paris. The Paris Peace Conference (29 July - 15 October 1946) was followed by the Peace Treaties signed on 10 February 1947, between the Allied and the Axis states, after the WWII. Separate treaties were signed between the Allies and each of the countries that had been siding with the Axis. Despite the fact that Romania and Hungary had been in an armed conflict, no peace treaty was signed between the two countries and the end of the state of war was mentioned in the treaties signed with the allies.

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<sup>21</sup> See the text of the Order in C. Ionescu, *Dezvoltarea constituțională a României. Acte și documente 1741 - 1991*, Lumina Lex Publishing House, 1998, pag. 672

<sup>22</sup> See the text of King Mihai's Proclamation to the nation in C. Ionescu, *Dezvoltarea constituțională a României. Acte și documente 1741 - 1991*, Lumina Lex Publishing House, 1998, pag. 638

<sup>23</sup> See the text of Armistice agreement in C. Ionescu, *Dezvoltarea constituțională a României. Acte și documente 1741 - 1991*, Lumina Lex Publishing House, 1998, pag. 692

Thanks to its military contribution on the side of Allies after 23 August 1944, Romania was returned to North Transylvania transferred by Hitler to Hungary in the Vienna Diktat, but it was losing Basarabia, North Bukovina and Hertsa zone in favor of the Soviet Union and South Dobruja (Cadrilater) in favor of Bulgaria.

At the end of the war, Romania concluded a series of extremely burdensome agreements:

- **„Convention on making available to the Soviet Army in Romania the barracks, accommodation, warehouses, aerodromes, training fields and communication means, between the Government of the Romanian Popular Republic and the Government of the United Soviet Socialist Republics”**, signed in Bucharest on 26 December 1948

- **„Convention on the tax-exempt import of the goods for the troops of the Soviet Army in Romania, between the Government of the Romanian Popular Republic and the Government of the United Soviet Socialist Republics”**, signed in Bucharest on 26 December 1948

- **„Temporary Convention on the rail transportation for the needs of the units of the Soviet Army in Romania, between the Government of the Romanian Popular Republic and the Government of the United Soviet Socialist Republics”**, signed in Bucharest on 26 December 1948

- **„Agreement between the Government of the Romanian Popular Republic and the Government of the United Soviet Socialist Republics concerning the legal status of the Soviet troops temporarily stationed on the territory of the Romanian Popular Republic”**, signed in Bucharest on 15 April 1957

- **„Agreement between the Minister of Armed Forces of the Romanian Popular Republic and the Minister of Defense of the United Soviet Socialist Republics concerning the withdrawal manner of the Soviet troops from Romania into the Soviet Union”**, signed in Moscow on 24 May 1958

An important moment is the signing of the **Final Act of Helsinki** during the Conference for Security and Cooperation in Europe on 1 August 1975<sup>24</sup>.

After 1989, Romania has joined the large family of the democracies and also a number of international organizations and signed and ratified the most majority of international agreements for the human rights.

The **Charter in Paris for a new Europe**, adopted during the high level Meeting of the Conference for Security and Cooperation in Europe in Paris (19 - 21 November 1990). The text was published in the Official Gazette of Romania no. 181 on 9 September 1991.

**Romania was admitted as a member of the European Council on 7 October 1993** as the 32nd member state. Romania acceded via Act no. 64 on 4 October 1993

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<sup>24</sup> The text in the Romanian language was published in the Official Gazette of the Socialist Republic of Romania no. 92 on 13 August 1975

published in the Official Gazette no. 238 on 4 October 1993. The Articles of Incorporation of the European Council was signed on 5 May 1949 by 10 founding states and became effective on 30 August 1949.

Another important step taken by Romania on its way to complying with the human rights is signing the **Convention for protection of human rights and fundamental freedoms** on 7 October 1993 and its ratification by means of the Act no. 30 on 18 May 1994, published in the Official Gazette no. 135 on 31 May 1994. The Convention for protection of human rights and fundamental freedoms (CEDO) was adopted in Rome, on 4 November 1950.

On 30 October 2001, the „**Agreement between Romania and the United States of America regarding the activities of United States forces located on the territory of Romania**” was signed in Washington, also known as SOFA Supplemental, which is an addition to the NATO SOFA agreement, in the USA - Romania bilateral relation.

Another essential step in the modernization of Romania is the moment when the Parliament of Romania adopted the Law of Romania’s accession to NATO during the solemn meeting of the Chamber of Deputies and the Senate, on 26 February 2004. On 1 March 2004, the Act no. **22/2004 of Romania’s accession to NATO** was ratified and published in the Official Gazette no. 185 on 3 March 2004.

On 6 December 2006, the „ **Agreement between Romania and the United States of America regarding the activities of United States forces located on the territory of Romania**” - the Agreement of access, signed in Bucharest, which stipulates the access of the United States forces to the facilities and areas being agreed, in full compliance with the Romanian legislation, for training, transit, support and related activities, refueling of aircraft, temporary maintenance of vehicles, vessels and aircraft, prepositioning of defense equipment, supplies and material, accommodation of personnel, communications, etc., comes to consolidate the path chosen by Romania.

On 25 April 2005, during an official ceremony at Neumunster Abbey in Luxembourg, Traian Basescu, Romanian president at that time, signed the **Treaty of Accession to the European Union**. The full name of this treaty is Treaty between the Kingdom of Belgium, the Czech Republic, Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Republic of Bulgaria and the Republic of Romania to the European Union. The Accession Treaty was ratified

by the Romanian Parliament by means of Act no. 157 on 24 May 2005, published in the Official Gazette no. 465 on 1 June 2005. In practice, Romania has become a European Union Member State since 1 January 2007.

#### IV. Conclusions

It is rather difficult to cover more than 100 years of history in a short study that is not supposed to exceed 20 pages. But what I have attempted to do, hopefully successful, was to include that century in several international treaties that have radically shaped the history of modern Romania and becoming of Romania between the Paris Peace Conference in 1858 when the United Principalities of Moldavia and Wallachia remained under the ‚suzerainty of HM Sultan‘ until 1 January 2007 when Romania joined the community of the European Union Member States. It is worth mentioning for the reader that my background is not historian but legal expert and this is one of the reasons why I have chosen to conduct this interdisciplinary study and introduce the history of Romania through the lenses of the international treaties.

The path for Romania has been long and challenging, a time marked by territorial loss, land gains, significant contributions to the war efforts and also by burdensome compensations paid to other countries.

But all this period is defined by a common element, fundamental for the existence of Romania. To be more exact, it is the constant desire to become a single state, common and indivisible, a country of all Romanians. The price that we have paid for this objective was high, a price not only measured in money but also in blood. Against all the past and present vicissitudes, the longing of the Romanian nation for Union has finally come true.

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