



ORIGINAL PAPER

The Impossible Parliamentary Government: Cabinet Formation and Dismissal in Interwar Romania

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Abstract

We talk nowadays increasingly more about the “democratic traditions of the Romanian people”. Who knows these traditions? Even a quick foray into the Romanian institutional history shows that they do not exist. The interwar period was neither a golden age of the Romanian democracy, nor its inferno. Romania never reached a real parliamentary or representative government but it largely kept up its appearances. In terms of political democracy, Romania's situation was worse than today, but not the worst in those circumstances. That is what we try to prove here, reviewing the Romanian constitutional texts as well as the Romanian political practices. Our motto is: “A knowledge of these things guards as, at any rate, from the illusion, for illusion it must be termed, that modern constitutional freedom has been established by an astounding method of retrogressive progress” (Dicey, 1889: 17).

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Since the Romanian Constitution contains, even in its first article, a reference to the “democratic traditions of the Romanian people”, we should revisit of the only pre-1989 period that can be labeled as “democratic” to see how was it “democratic”. Moreover, because “democracy” is a vague and abstract concept, we focus here on the part of its fundamental conditions in any monarchical regime: dependence of Parliament. The others (universal suffrage, electoral freedom, full legislative power to the representatives) require a separate discussion.

Origins: the letter of the Constitution, the Western model and the Romanian practice

The fundamental question is: who governs? Is it the king, as deduced from Montesquieu’s influential *De l’esprit des lois*, or is it a Cabinet of ministers, as suggested by Benjamin Constant. According to his draft Constitution, the monarch was supposed to be a fourth power, “neutral, intermediary, without any obvious interest to disturb the equilibrium, but, on the contrary, all the interest effort to maintain it”, the “Royal power” (Constant, 1872: 178). The king officially appointed the Ministers, but it was only based on the proposal of the parliamentary majority. This practice imposed in Great Britain after the Reform Act of 1832 (Finer, 1999: 1593), without being written somewhere. Even if he had many formal powers (Bagehot, 1873: 31-33), the head of state has chosen not to exercise them. He ceased to be “the real chief of the practical Executive” (Bagehot, 1873: 45), yielding the place to the President/Prime Minister, supported by the Parliament. The Cabinet transformed from a Crown council in a very powerful “committee of the legislative assembly” (Bagehot, 1873: 80). However, no matter how powerful, “ministers resign office when they have ceased to command the confidence of the House of Commons”. Even this basic rule was a “Constitutional Convention”, part “constitutional morality”, and therefore the courts could not enforce it (Dicey, 1889: 26). This is probably the reason why the “British model” was not very successful in other countries. Walter Bagehot appeared skeptical even about the possibility of its functioning in the French parliamentary regime (and, more generally, about the idea of “parliamentary republic”) (Bagehot, 1873: 45-46). We have to remember always Dicey’s warning: “some polities, and among them the English constitution, have not been created at one stroke and, far from being the result of legislation, in the ordinary sense of that term, takes the fruits of mid-market up contests in the Courts on behalf of the rights of individuals”. The British system was closer to what Dicey called „a sort of spontaneous growth”, unlike most other systems, which, in the XIXth century, could be described as follows: “they made what they are by human voluntary agency” (Dicey, 1889: 183). It was therefore to be expectable that things might not match.

How were things in Romania? “The Government” often referred to in the Constitution of 1866 seems to be a synonym of “executive power” which was entrusted to the “Prince/King” who exercised it according to the Constitution, that is to say, even if not expressly provided, through the ministers whom he appointed and dismissed (article 93). This obligation resulted from condition that any royal act needed the “countersignature of a Minister through this even becomes responsible for this act”. The text said nothing about any collegiate body or its Chairman (the Prime Minister). It will be barely mentioned in a bill (1881), allowing to the “President of the Council of Ministries” to be Minister without portfolio (Ghițulescu, 2010a). None of these is surprising. The situation was similar all over the continent: “in almost all monarchical countries, sovereigns have the same governmental powers. The right to appoint senior

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civil servants, on top of which stand the ministers, it is almost always granted” (Bard, Robiquet, 1876: 322). The constitutions in force in Europe in 1866 did not provide for the existence of any Cabinet or Council of Ministers. They will begin to do it gradually, during the next decades (Serbia, Ottoman Empire-1869-1876-1879, Bulgaria etc.) (Demombynes, 1881). It was evident, in those circumstances, that we cannot speak about Cabinet formation based on a parliamentary majority or about Parliament’s possibility to dismiss the Cabinet.

However, the idea that “Ministry” must result in Parliament existed in Romania. Here is how Ion Ghica motivated his resignation in 1866: “this Ministry was formed after the dissolution. Then came this honorable Assembly, recently elected, that has not yet given to the Government any Ministry. Therefore, I thought necessary to follow the parliamentary custom, i.e. to recommend to His Majesty another Ministry, because I was sure the King will be able to judge, to know how to get a Minister who has the confidence and sympathy that Assembly” (Nicolescu, 1903: 23). In 1867, in that Chamber, Kogalniceanu argued “the Prince is entitled and unbounded to choose his ministers, and when his ministers are starting to administer, then comes the right of the Chambers to criticize their acts”. In 1876, shortly before the beginning of the “great liberal governance”, G. Brătianu defined and argued the representative regime in its pure, English form: “What is the representative regime? A constitutional regime is the one in which the country is called for the elections, people choose the persons he agree and they constitute the National Representation; those people form, by their ideas, parties in the legislature; those parties and groups, composed of different shades, form the majority who discuss all the public affairs. For that, the majority choose a delegation to administrate the country, and that delegation is the country’s Cabinet” (Nicolescu, 1903: 253). What followed was constitutional, after the basic law from 1866, but not representative. A political party formed, but outside the Parliament and not necessarily based on ideas. It received the “delegation” from the monarch and only after that, the country was called for the elections and gave a majority to the Cabinet. In June 1881, during the brief Government of Dimitrie Brătianu, we found an interesting discussion between liberal senators of the majority with regard to their role in the appointment of the new Cabinet. Some of them argued that the monarch must ask their opinion. Other claimed that they don’ have the right to “bind the hands of the crown”. The debate started again in 1884, when the liberal N. Stoiljan argued: “It is the King who chooses the ministers. By law, the right to choose ministers is boundless. However, he takes them from those who have the confidence of the majority of the House. In fact, the Chamber elects the government”. Even the Prime Minister I.C. Brătianu declared that: “you are the delegates of the nation, and we are your delegates” (Drăganu, 1991: 253). Nevertheless, the parliamentary support should not exist from the very beginning, for the same speaker added: “If a cabinet, after two or three dissolutions, after the country voted against it, it stays in power, it is unconstitutional” (Carp, 2000: 359). In 1911, when, following the withdrawal of Ionel Brătianu, the King appointed Carp, conservatives argued that “He has this incontestable right and he can appoint who he want”, the situation fitting “into the true constitutional doctrine “. The famous legalist C. G. Dissescu, *takist* senator at the time, thought that the King was obliged to appoint the one “indicated by the public spirit as representing the public opinion”. Instead, Brătianu sincerely accepted: “I believe that the arrival of the Conservative Party is constitutional” (Tătărescu, 2004: 123-125).

In Romania from 1866 until 1938, the dissolution followed by new elections was the main method of providing parliamentary majorities to the cabinets appointed by the

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king. Of course, the supporters of the dualistic parliamentarianism saw the right of dissolution (existing in all the monarchical constitutions in the second half of the XIXth century) as an instrument of balancing the relations between the executive and the legislative and of peaceful settlement of disputes by returning to the people (Bard, Robiquet, 1876: 328-329). The problem was that, in Romania, the dissolution was too frequent and the elections were not free. Perhaps George Tătărescu best described the practice, in 1912: “all cabinets, with rare exceptions, were personal, as all came to power after an event not obvious to the legal country, but thanks to a royal decree of appointment. Even if this decree was later confirmed by a general election – and we know what these elections – further confirmation may not alter the original nature of their coming to power” (Tătărescu, 2004: 121). It would be a mistake to treat too harsh the practices of the era. It is hard to believe that in those social, economic and cultural circumstances things could have gone differently, keeping the minimal democratic appearances. Maiorescu was, once again, right: “We believe that Crown’s preponderance in appointing parties and people in the cabinet is the result of the voters’ weakness and until we manage to make them more independent, we must thank an agreement, either subsequently, between the Crown and the Parliament” (Maiorescu, 2002: 276-277). Lahovary saw things similarly: “in short, parliamentary politics is premature Romania. It is a luxury barely afforded by better moral, intellectual and economic equipped nations. The nations still unformed expose to serious by adopting it too early. They even risk sometimes their future” (Lahovary, 1897: 19). Beyond the political attacks, we can say that Romanians were lucky with their first king: “The country can take pride that it has on the throne a vigorous and shrewd King, who can dominate the inextricable situations resulted sometimes from the practice of a deeply fallacious system” (Lahovary, 1897: 12).

Things were just as entangled regarding the political liability of the cabinet. Constitutions of 1866 and 1923 did not provide this possibility. Ministers were indeed responsible (also) before the National Representation, but only legally. The Parliament could impeach each of them, but it could not dismiss the Cabinet. Only the King could do it. Many authors consider today that the political responsibility developed by conventions/customs. Tudor Drăganu argues, for example, that “despite the fact that in the Constitution there was no reference regarding the *political* responsibility of the ministers, it was still possible that this rule, which had taken root under the Paris Convention, continue to affirm under the influence of the 1866 Constitution, as a constitutional practice; for its overall structure favored such a development” (Drăganu, 1991: 210). Radu Carp also concluded that the “ministerial political responsibility took progressively constitutional custom character” (Carp, 2003: 174). The same author found several cases in which the vote of censure did not lead to the withdrawal of the government, but to the dissolution of the assemblies: 1868 1869 1871 and 1891. Ioan Stanomir is on the same line: “beyond the specific cabinet formation and the predictable manner of creating majorities, the 1866 constitutional regime offered the institutional mechanism of the ministerial responsibility, as a corrective that allowed Chambers to exercise significant influence over the cabinet, including the withdrawal of the confidence as a vote of censure” (Stanomir, 2005: 75). In a previous paper, I also argued that we could not talk about a custom, but two about “competing customs” (Ghitulescu, 2011, 160). Now, after a review of the ministerial comings and goings I think the true custom was that of forcing the resignation of cabinet by extra-parliamentary methods. Here is what I rely on: (1) the cases of resignation following a vote of censure are concentrated in the early years after, when the regime was not yet consolidated; (2) the four votes of censure

followed by dissolutions; (3) even if there were waves in the Parliament, the only clear case of departure after a vote of censure is the late and ephemeral cabinet of Take Ionescu (January 1922), under many circumstances which deserves a separate discussion.

Developments were different in the states that served as models. A Belgian legalist appreciated about his country: “the legal responsibility of ministers to Parliament and not the King, his inability to keep them as expression of opinion through elections or after a no confidence vote on a important matter, these are the characteristics of the parliamentary regime [...]. The difference is not in the text, but in the application, in the national public life. It is a customary regime; it is in the spirit of the Constitution; the letter does not say anything about it” (Errera, 1909: 208). In France, during the Third Republic customary, the motion of censure imposed by custom as a “genuine means of control”. Let’s remember only that from 1871 to 1940 here functioned no more than 87 cabinets!

The Constitution of 1923

In Romania, the Cabinet had no basis in the written constitution until 1923, when, with no other details, art. 92 provided that “the Government exercises executive power in the name of the King, as established by the Constitution” and art. 93 that “Ministers compose the Council of Ministers, chaired with the title of President of the Council of Ministers by the one who was charged by the King to form the government.” Overall, it was said that “as regards the powers of the king, the Constitution repeated the text of the fundamental law of 1866” (Scurtu, Bulei, 1990: 168-169). This is largely true due to the fact that: “the executive power is entrusted to the King, who exercises it as established by the Constitution” (art. 39), but the mere consecration of the cabinet marks a timid evolution towards parliamentarianism.

There was no reference to the parliament’s role in the cabinet formation or dismissal process. From this point of view, Romania is a bizarre case. The states created after the World War I adopted constitutions, and many older ones were revised. It was found that the new constitutions were very similar, because of both similar sociopolitical conditions and the role of the theorists, called “constitution professors”. They brought a “rationalization of power” and a “legalization of the politics” (Mirkin-Guetzevitch, 1950: 606-607). Among other things, they adopted a “systematized, dogmatized, streamlined version” of the customary French style parliamentarianism, namely: they inserted the “legal obligation of the ministry, to withdraw once being subject of a of vote mistrust” (Mirkin-Guetzevitch, 1950: 610). Romania took exception, although the European trend was known. Constantin G. Dissescu, the professor who played the coach of the 1923 Constitution, was very short on this subject: “this responsibility of ministers may be political, and exercised as interpellations that can bring changes of government ... I will not go in its details” (Dissescu, 1922: 45). Mattei Dogan made a statistical research on parliament’s control over the Cabinet and its conclusions fits in Constantin Argetoianu’ phrase: “I don’t know in all our parliamentary past an interpellation to be overthrown government” (Dogan, 1946: 107). It worth noting that studies and preliminary draft studies prepared by the National Liberal Party’s Circle of Studies provided that “ministers are jointly responsible for the general policy of the government and the Council of Ministers decided acts” (Dissescu, 1922: 50). This provision was not maintained in the final Constitution.

Romanians could not develop a constitutional custom to fill the constitutional silence. “The parliamentary government” failed to materialize. Even the existing frail form that existed decayed. The King continued to appoint ministers as before. There was, in

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fact, than the consecration of a practice as old as the monarchy. The monarch charged a politician to form the cabinet and, based on its proposals, appointed the other ministers (Ghițulescu, 2010b). There were always two decrees: the first one “received” the resignation of the old cabinet and named the new president (countersigned usually the outgoing president); the second named the other ministers (countersigned by the new president). President’s constitutional role was not highlighted; there was no reference to its proposal in the appointment decrees, as in the other decrees, that usually began with phrases like “seeing the report presented to us ...” or “on the report ...”. Officially, the appointments were nothing but Crown’s will.

This was the general interpretation among legalists. G. Alexianu, for example, believed that the Constitution “preserved this power to the King, because only thus he is able to lead the country, to judge which the currents of opinion are and to give preference to the most powerful or according to the country's interests. When a current, which is in power, has become dangerous for the country, or the King believes that the situation requires a change, he has the right to dismiss ministers, asking them resign” (Alexianu: 353). In turn, Paul Negulescu wrote: “the King who is delegate by the nation to exercise executive power must delegate himself Ministers to exercise that power”, noting that “we cannot say that in our constitutional system the King is only a representative figure. On the contrary, his powers are considerable” (Negulescu, 1927: 429). However, according to Negulescu, ministers could be appointed only “if supported by the parliamentary majority” (Negulescu, 1927: 430). More moderate, Alexianu noted that “although the King is not bound to choose from the parliamentary majority, yet practical, and to the government to fulfill his work, he is forced to call on the parliamentary majority to appoint representatives” (Alexianu: 365-366). That was true, according to the Western European experiences. Things were different for us...

Ferdinand

In 1914, Ferdinand inherited from his uncle a liberal Cabinet (I.I.C. Brătianu). In 1916, he maintained and expanded it, despite the requests from several parties. It will go until January 1918, when the King called the General Alexandru Averescu to sign a separate peace. Things have not gone as wanted after a month, he demanded his resignation and, apparently at the suggestion of Brătianu (Mamina, 2000: 321), he named Alexander Marghiloman. Then, in the autumn, he brought Brătianu again. After his withdrawal, in the fall of 1919, things got complicated. The King was now seeking to form a Cabinet to organize the first elections by universal suffrage and after many discussions, he appointed General Artur Văitoianu (Duca, 1981: 188-189). The election brought a surprise: no party majority. Ferdinand, following the rules of the parliamentary game, has entrusted a coalition government, “Parliamentary Bloc”, headed by Alexander Vaida-Voevod. As I.G. Duca Duca remembered, “the characteristic feature of King’s personality was the sincere democracy. King Ferdinand was naturally democrat” (Duca, 1981: 120). However, the young and fragile Romanian democracy was at risk to fall into chaos. Following a Brătianu-Averescu arrangement (Mamina, 2000: 325), the latter replaced Vaida-Voevod in March 1920. The case is illustrative of the way in which changes were made throughout the period 1866-1938. Although it was evidently a dismissal (the Prime Minister was abroad, he did not sign any resignation) (Iorga, 1931: 193), Ferdinand kept up appearances of resignation. He dissolved the parliament Averescu can get a majority. In December 1921, following a crisis caused by the minister of foreign affairs, Take Ionescu (again Brătianu’s complicity), Ferdinand entrusted him with the Cabinet, but a

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month later, after receiving a vote of censure, he refused to provide a chance for elections and called again Brătianu. It is certain that the King granted all the support to the Cabinet during the “great governance” (1922-1926), allowing the adoption of all measures it wanted, including the adoption of a new Constitution, strongly contested by the opposition. Even after his retirement, the liberal leader continued to play a decisive role (it does not matter how!), in the appointment and dismissal of the cabinets. Averescu’s Returning (March 1926) and departure (June 1927) and short Barbu Știrbei government (June 1927) are generally considered “bratienist maneuvers”. With his well-known sarcasm, Constantin Argetoianu accused the liberals that “no longer content to just govern, even from the opposition – but they want to reign, usurping the supreme prerogative of the Crown, i.e. the right to choose the ministers” (Argetoianu, 1996: 76). It does not matter, from the Constitutional perspective, why Ferdinand always listened Brătianu. The fact is he did it. Officially, Ferdinand always acted just like Carol I.

Charles II

After 1930 all the old practices were emphasized. From the beginning, the purpose of the new King was to form a Cabinet “above the parties”. He had many attempts (General Constantin Prezan - June 1930, Nicolae Titulescu - April 1931, June 1932, Marshal Alexandru Averescu - 1934) (Chistol, 2007: 354-357) and only a partial success: the Nicolae Iorga Cabinet (1931-1932). It was only a partial success, because it had political support (including the National Liberal Party) and it did not last too long. Otherwise, Charles appointed and dismissed Prime Ministers just as his predecessors and he directly involved in the Cabinet formation, imposing his men. There were many discussions, during the '30s, about how to form cabinet. Some politicians (Iuliu Maniu, Dinu Brătianu, etc.) claimed that parliamentary support was necessary. Others (Gh. Mironescu, Nicolae Iorga, etc.) said that, under the Constitution, the appointment of ministers was King’s exclusive prerogative. Grigore Iunian said, in 1933: “The king or head of state also has some rights. It has a first right: he appoints the prime minister. His right, does it end here? No! The head of state in all constitutional regimes similar to that of ours can express some appetite in terms of how the composition of the cabinet”. A huge scandal broke out after the assassination of IG Duca, when Carol appointed Gheorghe Tătărescu, who was not the head of the liberal party. The majority asked for the nomination of its leader, Dinu Brătianu. The King did not care. The Romanian parliamentary government” entered its final phase. Tătărescu made all the King’s games, defying the Parliament more than ever. It was obvious that Charles only waited for an opportunity (crisis) to give the final blow. He found it after the 1937 elections, when nobody managed to win the majority. After an ephemeral Goga-Cuza cabinet, in 1938, he gave a coup and conceded a new Constitution, which clearly stated that “the ministers have political responsibility only to the King” (art. 65).

An assessment test in context

The Interwar period was not a “golden age of the Romanian democracy”. However, it was nor the darkest time and place, as may be inferred from the words above. For a proper assessment, the context is essential. In the early '20s, Europe was living an “apparent victory for democracy”. In a few years, its “fragile nature” had to become evident (Berstein, Milza, 1998: 39). In Spain, Portugal, the Baltic countries, Poland authoritarian / military regimes were quickly established and the “Balkan monarchies (Romania, Bulgaria, Yugoslavia) become radical and only kept up the appearance of

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pluralism” (Berstein, Milza, 1998: 40). After the adoption of the Vidovdan Constitution. in 1921, the Kingdom of Serbs, Croats and Slovenes has known for a while “the benefits of the parliamentary government”. The King did not involve in politics (Crampton, 2002: 160). In a country with a complicated regional-ethnic background, the parliamentary game created a serious governmental instability and a parliamentary chaos. To fill “the growing political gap”, in 1929, the King gave a coup. The proclamation of Alexander of Yugoslavia, we do not know how sincere, is relevant to the perception of the political situation in the Eastern European states and to the manner in which the leaders agreed to a deal with: “parliamentarism, the political means entrenched in the tradition of My Father, whom I have not forgotten, has remained my ideal too. However, blinded political passions have started abusing it so much, that it now represents a hindrance to any fruitful activity in the country... Instead of strengthening the spirit of national and state unity, parliamentarism – in its current form – starts leading to spiritual chaos and national disunity. My holy duty is to preserve State and National unity by all means. And I will resolutely carry out this duty to the very end” (Petrovic, 2004: 36). In Bulgaria and Greece, the democracy lasted (with some interruptions) officially until the mid-30s. From the West, the establishment of the Balkan authoritarian regimes was seen as a “return to the nineteenth century, the era of the nation's rule was in the hands of the monarch and his close advisors” (Carpentier, Lebrun, 1998: 184). It seems that the “fall in pre-modern age” in every crisis, that Sorin Alexandrescu considered a “Romanian paradox” (Alexandrescu, 1998: 95) was at least a regional paradox. Indeed, in a certain perspective, it can be said that the Romanian regime has resisted better than its neighbors have. Here, the “democratic regime – fragile and partly fictional – resisted the longest time” (Dogan, 1999: 164). By comparison, one can even say that “the scheme established by Charles II [until 1937, n. MG] appears as the best possible in the circumstances of the time” (Dogan, 1999: 165-166). However, it was not worse.

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