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The Romanian Agrarian Reform Following World War I – a tool for building the nation-state**

Abstract

After the First World War, Romania's territory increased, and it inherited a complex social, economic and legal environment which differed from that of the predecessor states. The Romanian state's response to these challenges remained unchanged, this being the political goal of building a homogeneous nation-state. It was an element of this goal that the State implemented a radical agrarian reform through various land reform laws with partial effect. This agrarian reform had genuine social challenges at its core however from the moment of its inception, to that of its implementation, it was imbued with Romanian nationalism. The reform achieved its national objectives, but its social results are questionable. The actions of the Romanian state thus created domestic as well as international disputes. This paper summarizes the constitutional basis and the lessons that this process hides.
Keywords: constitution, nationalism, nation-state, agrarian reform.

1. Introductory remarks

In the complex relationship between reality and facts, legal constructions of reality give rise to legal institutions in which facts have legal relevance and effect when the legislator's choice of values – social, political or otherwise – actually results in law and is applied as such.[1] The legislator's choice of values and its position in the hierarchy of sources of law is of fundamental importance for social relations in all areas of law.

Such a question of value choice arose after World War I, when, as a result of the increase in territory and population following Romania's victory in the War, the social relations of the previously homogeneous nation-state changed decisively. The territories acquired by the Romanian state, previously have never been under a single government, and the different social conditions of regions with different levels of economic development made the Romanian state the home of particularistic rights.[2] These circumstances presupposed, by default, an integration policy on the part of Romania that could successfully resolve the differences inherited from the predecessor states. Despite all these circumstances, Romania left intact its unitary nation-state foundations, briefly

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[1] Szabó 2005, 225., 240–242., 272–274.

[2] Eliescu 1936, 167–169.

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outlined below, and from then on the goal of a homogeneous Greater Romania was pursued within the new state borders.

One of the most significant elements of the nation-state program and constitutional value choice in all branches of law was the agrarian reform implemented in the post-World War I period. The contradiction between the declared legal policy goal of the substantive land reform and the realized state policy goal highlights the distortions of the constitutional state resulting from the constitutional value choice. While the declared aim of the agrarian reform was to make social relations more just, the actual aim was to cumber the property rights of national and religious minorities as a tool for building the nation-state.

2. The main elements of the constitutional choice of values and the substantive legislative environment

2.1. Constitutional and social foundations of Romania until the First World War

Without going into a detailed social sciences-based analysis focusing on nationalism, as an initial observation it can be stated that in the case of Romania, the centralized nation-state is the decisive constitutional starting point. The interpretation of the nation-state has remained essentially unchanged since the Romanian Constitution of 1866, and consequently Romanian legislation has not only been (and still is) subject to its decisive limits,[3] but has also been (and still is) subordinated to it.

The Romanian national awakening of the 18th and 19th centuries as a result of modern nationalism, soon worked out the irredentist nation-state program of 1838,[4] which aimed at uniting all Romanians in one state. This goal became more and more consistent starting with 1848[5] and became the primary state policy objective. A decisive element in the achievement of this state-political goal was the process of the unification of the two principalities of Wallachia and Moldova into a single state, the final stage of which was the election of Alexandru Ioan Cuza as Prince of Moldova in Iași between 5 and 17 January 1859 and as Prince of Wallachia in Bucharest between 24 January and 5 February 1859. The United Principalities of Moldavia and Wallachia[6] was established by way of a personal union and then a real union, which in 1862 took up the name Romania.

The newly established Romanian state modernized and unified its legal system at an accelerated pace, essentially by transposing French and Italian models.[7] Modernization was in many cases formal and, as a result, it suffered serious distortions.[8] Before the new state had achieved full independence, it promulgated its first Constitution on 12 July 1866,[9] which was based on the Belgian Constitution of 7 February 1831.[10] In

[3] Murzea and Matefi, 2015, 243.
[4] Bíró 2002, 22.
[5] Moldován 2011, 21–24.; Murzea & Matefi 2015, 134–142.
[6] Murzea & Matefi, 2015, 150–152.
[7] Murzea & Matefi, 2015, 143–179.
[8] Horváth 1999, 109–110.
[9] The Romanian Constitution of 1866 (*Constituția României din 1866*).
[10] Murzea & Matefi, 2015, 92.

line with the social realities of the time, Article 1 of the Romanian Constitution of 1866 established the unitary and indivisible state,[11] provisions which have constitutional significance to this day. Romania, which gained its independence following the Treaty of Berlin in 1878,[12] first indirectly, than officially starting from 1913, declared its irredentist goal of unification of all Romanians in a single state.[13] At the heart of Romanian irredentism lay the thesis that all Romanians should be united in a homogeneous nation-state, in the modernized Kingdom of Romania,[14] based on the legal fiction that the lands of the Wallachia, Moldavia and Transylvania were in fact Romanian states.[15]

The Constitution of 1866 formally described the state organization of a modern constitutional monarchy,[16] and accordingly included the rights of the Romanians on the basis of equality of rights and individual rights.[17] The Constitution of 1866 did not define the Romanians as a political community, a fact which was a direct consequence of the mono-ethnic state. The nation-state's choice of values was in line with the social reality, but it should be stressed that exercising rights as a consequence of citizenship was also understood as being linked to the quality of being a Romanian, which was understood as having moral obligations towards the Romanian nation.[18] The elusive content of these moral obligations already at that time foreshadowed the subsequent difficulties, problems of interpretation and distortions arising from this choice of values.

There was a wide gap between the modern legal environment and reality. During this period, Romania was facing serious economic and social crises, which could also be traced back to the formal, but not the substantive, application of constitutionalism. Irredentism, and later the war, proved to be the perfect political tools for covering up the causes of these crises and to postpone the solutions.[19]

The most serious social crisis in Romania during this period was clearly caused by the unresolved agrarian question. Two-thirds of the country's population were farmers, but the risks of agricultural production, the disproportionate and inefficient structure of land ownership and the unsustainable economic structure caused a series of social disasters.[20]

The socially disruptive circumstances culminated in an armed rebellion in 1907, which highlighted the untenable situation of the agrarian masses, who had sunk into poverty, and which also gave way to rampant anti-Semitism and nationalism.[21] The political elite put down the rebellion, but did not eliminate its causes. Romania did not

[11] Alexianu 1926, 118–119.
[12] Teodorescu 1929, 105.
[13] Murzea & Matefi 2015, 134–142.; Moldován 2011, 21–24.
[14] L. Balogh 2020, 9–10.
[15] Boia 1999, 14–28.
[16] Völgyesi 2003, 367–368.
[17] Dissescu 1915, 430., 440–614.
[18] Dissescu 1915, 619., 622–623.
[19] Durandin 1998, 173–200.
[20] Durandin 1998, 174–175, 178–181.
[21] Durandin 1998, 181–183.

take any real steps to resolve the agrarian question, apart from a few sham measures,[22] but continued to pursue the state's primary goal of irredentism.

At the outbreak of World War I, the Romanian state goal of partial or total assertion constituted a tangible possibility, through the prism of the first success which occurred a year earlier in the Second Balkan War. The Romanian public mood was thus already proclaiming the hope of a new Romanian era.[23] The new Romanian era, the goal of the irredentist state, was to be achieved in stages with the collapse of the Central Powers in the autumn of 1918 and the peace treaties ending the War which sanctioned this result.[24]

The events of autumn 1918 created, in addition to the Romanian irredentist state goal, a multi-ethnic Romania with different economic, social and legal situations. Romania, based on the nation-state ideal and irredentism, successfully used the agents of nationalism to achieve its state goal by the end of 1918, but the change in the homogeneous nation-state structure of the country in principle put its leaders in front of a constitutional choice of values.

2.2. The impact of World War I on the Romanian constitutional order

Romania actually did not respond to this situation with a new choice of values. The Romanian state and its political elite, learning from the disintegration of Austria-Hungary,[25] consistently refrained from changing the fundamental position of the unitary nation-state, which thus remained, despite the changed social reality.

However, unlike Romania, the Allied and Associated Powers recognized the challenges of a state that had become a multi-ethnic state and the basic elements of the response to this challenge were laid down in the Treaty of Paris for the Protection of signed with Romania on 9 December 1919 Minorities (hereinafter referred to as the Paris Treaty for the Protection of Minorities) as part of the Paris Peace Treaty.[26] Romania vehemently opposed the conclusion of the treaty, which it considered to be a serious violation of the equality and sovereignty of states.[27] Romania stressed that the obligations contained in the treaty had already been granted as substantive rights to its minorities without any specific commitment, and that its conclusion was therefore superfluous.[28] These arguments were not accepted by the Allied and Associated Powers, which effectively issued an ultimatum to the Romanian government.[29] Despite the ultimatum nature of the Paris Treaty for the Protection of Minorities, the Romanian state lacked the

[22] Durandin 1998, 183–184.
[23] Dissescu 1915, 293.
[24] Teodorescu 1929, 102.
[25] Brătianu 1922, 27–28.
[26] Ratified through Law no. 3699. – Lege Nr. 3699. prin care guvernul este autorizat a ratifica şi a face să se execute tratatul de pace împreună cu anexele lui, încheiat de Puterile Aliate şi Asociate cu Austria, în Saint Germain, la 10 septembrie 1919, şi Tratatul asupra minorităţilor semnat la Paris la 9 decembrie 1919.
[27] Sofronie 1936, 30-38.
[28] Gaftoescu 1939, 134–137.; Nagy 1944, 22.
[29] Tilea 1926, 210–213.

genuine will to accept the provisions of the treaty and to actually guarantee the rights arising from them.[30] In the absence of a genuine legislative will and intention, the subsequent drafting and interpretation of legislation led to results contrary to the essence of the Paris minority protection provisions.

The Paris Treaty for the Protection of Minorities provided for provisions and obligations of particular constitutional importance.[31] As both a constitutional guarantee and a legislative obligation, Romania undertook to recognize the provisions of the Paris Treaty as fundamental law and undertook not to enact any law, decree or official measure contrary to the provisions of the Treaty, nor to allow such a state act to remain in force.[32] Thus, Article 2 of the Paris Treaty for the Protection of Minorities enshrined the protection of life and liberty for all inhabitants of the country without distinction as to birth, nationality, language, race or religion, and Articles 3 to 8 regulated the corresponding citizenship issues together with the protection of property. Articles 8-10 ensured equality before the law in terms of civil and political rights, economic and cultural rights and also in terms of educational rights. Article 12 specified the substantive obligations of Romania, which had joined the system of organization for the protection of minorities set up within the framework of the League of Nations.

In terms of the internal origins of the legislative choice of values, only the provisions of the Resolution of Alba Iulia (hereinafter: Resolution of Alba Iulia)[33] contained elements that could have represented an integrationist approach to the new Romanian state framework. However, the unchanging idea of a unitary nation-state, the goal of a homogeneous Greater Romanian state, encouraged the Romanian constitutional assembly to ignore the Resolution of Alba Iulia. Without going into a detailed analysis of the Resolution of Alba Iulia, the subject matter of this paper being the unification with the Kingdom of Romania of Transylvania and the counties belonging to Hungary inhabited by Romanians, which is contained in Point I of the Resolution, Point III of the Resolution must also be highlighted.[34]

Point III included the recognition of full national freedom for all nationalities, in the matters of education, administration and justice in the mother tongue. The items on equal rights, freedom of religion, freedom of thought, freedom of the press, freedom of assembly and the right of association[35] highlight the substantive shortcomings of the Romanian constitutional order. In Point III, the land reform was also mentioned, as part of the aim to abolish large estates and feudal tenures. However, as will be explained herein, this objective, which was pursued with the political aims of the nation state, resulted primarily in the expropriation of land owned by Hungarians and the transfer of these lands to Romanians.

[30] L. Balogh 2020, 56.

[31] L. Balogh 2020, 52–57.; Nagy 1944. 20–25.

[32] Gaftoescu 1939, 115–116, Teodorescu 1929, 62., 66.

[33] Resolution of the Romanian National Assembly in Alba Iulia on the unification of the Romanian-inhabited parts of Hungary and Romania (Alba Iulia, 1 December 1918) in Gecsényi, L. & Máthé, G. (eds.) 2008, 399–401.

[34] Murzea & Matefi 2015, 230–231.

[35] Teodorescu, 1929, 64.

2.3. The link between the Constitution and Land Reform Acts of 1923 and the position of the nation-state

The First World War contributed to the accomplishment of the Romanian national and state goals, one of the consequences of which was the adoption of the Constitution of the Kingdom of Romania in 1923.[36]

The creation of the 1923 Constitution was justified both by the increase in territory of the State and by the economic and social changes[37] that had taken place since 1866, as well as by the amendments to the previous Constitution made by decree, which were incompatible with the rules of the Constitution.[38] During the process of making the constitution, both academics and politicians[39] put forward important ideas and proposals, acknowledging the serious shortcomings of the Constitution of 1866 and its contents,[40] and calling for the new constitution of this new state to become the basis of a truly effective constitutionalism.[41]

Although some authors gave priority to the Resolution of Alba Iulia and the principles contained therein,[42] to effective decentralization and to the specificities of the regions,[43] the majority position was based on the initial concept of a unitary nation-state.[44] In note of this, the constitution-making process did not change the choice of values of the nation-state, and openly rejected the provisions of the Paris Treaty for the Protection of Minorities and their incorporation into the constitution.[45] Accordingly, not only has the effective implementation of the Paris Treaty for the Protection of Minorities been called into question,[46] but some of its provisions have also been tacitly repealed.[47] During the constitution-making process, the view was accepted that, contrary to the clear wording of the treaty, it could not be incorporated into the constitution, as it would constitute a violation of Romania's sovereignty.[48] In the view of the Romanian political establishment, no international treaty could override the Romanian constitution or lead to international control of its internal affairs,[49] nor could the rules of international law constitute a criterion for assessing the unconstitutionality of draft laws.[50] All these legislative principles placed the Paris Treaty for the Protection of Minorities at the level of an ordinary law, below the constitution in the hierarchy of legal sources. Romania has

[36] The Romanian Constitution of 1923 (*Constituţia României din 1923*)
[37] Durandin 1998, 224–225.; Murzea & Matefi 2015, 236–238.
[38] Nagy 1944, 15.
[39] Ionescu 2019, 742–744.
[40] Durandin 1998, 224–225.
[41] Nagy 1944, 25.
[42] Boilă 1922, 383.
[43] Grigorovici 1922, 70–71.
[44] Gusti 1922, 2.
[45] Nagy 1944, 49–50.
[46] L. Balogh 2020, 57.
[47] Nagy 1944, 74., 77–78.
[48] Nagy 1944, 51.
[49] György 2006, 8–9.
[50] Vasiliu 1936, 316.

resolved the conflict between international law and domestic law in favor of domestic law at the level of political and legislative decision-making, as well as at the judicial level.[51]

Accordingly, Article 1 of the Constitution of 1923 was still based on the unitary and indivisible state, but now also on the nation-state.[52] Romania, as an example of the impatient nationalism of the young nation states,[53] had always pursued a centralizing policy in order to establish a genuine nation-state. As a result of this attitude in Romanian politics, the state did not become a true democracy during this period, and its centralizing and homogenizing state objectives resulted in a break with centuries-old local relations. All of this, while justifiable from the point of view of the original content of nationalism, was a factor that prevented real social integration, and ultimately led to the disintegration of the state in the space of two decades.

The nation-state foundation was clarified – and the formal fulfilment of the equality of rights in Article 5 of the 1923 Constitution was nuanced – by the Romanian constitutional legal understanding that the members of a nation are individuals,[54] the totality of which as a nation results in a kind of spiritual and mental community.[55] Therefore the conclusion to be drawn from Romanian constitutional thought is that only those who profess this spiritual unity can be members of the nation as a community. Consequently, in the absence of individual affirmation, awareness and identification with Romanian spiritual belonging, the exclusion and subordination of individuals who do not profess it may acquire constitutional legitimacy.

On the above bases, despite the establishment of equal rights for citizens, there is an antagonistic relationship between the international obligation to protect minorities and the nation-state objective,[56] which the Romanian state imagined to resolve by ignoring international obligations. The declared equality of citizens' rights has been seriously distorted in the drafting of lower-level legislation and in the implementation of such legislation.[57] Accordingly, in many cases, both the legislature, the central government and the local administration have acted in a manner that is openly unconstitutional. The agricultural reform, which reflects a genuine social problem, is a striking example of this political and legal situation.

The Constitution of 1923 regulated in Article 131 the previous partial land reform and expropriation laws, which were not only considered to be part of the Constitution, but also recognized as part of it, in contrast with international obligations.[58] It should be pointed out that the constitutional recognition of the Paris Treaty for the Protection of Minorities was denied by the drafter partly because the subject matter of the Treaty was not considered to be constitutionally compatible, beyond the concept of sovereignty, on the basis of the equal rights clause, thus denying the constitutionality of any partial legislation deriving from these rights. Nevertheless, the Constitution of 1923 included, as

[51] Nagy 1944, 54–56.
[52] Brătianu 1922, 28.; Ionescu 2019, 745.; Murzea & Matefi 2015, 239.; Teodorescu 1929, 25.
[53] Lukacs 2012, 37.; Grigorovici 1922, 73.
[54] Budișteanu 1928, 13.; Teodorescu 1929, 49–50.
[55] Alexianu 1926, 10.; Dissescu 1915, 619.
[56] Boia 2016, 45–46.
[57] Nagy 1944, 65–69.
[58] Alexianu 1926, 168–169.

mentioned above, all the relevant articles of the Law of 17 July 1921 on land reform in Oltenia, Muntenia, Moldavia and Dobrogea, i.e. the Old Kingdom,[59] the Law of 13 March 1920 on land reform in Bessarabia,[60] the Law of 30 July 1921 on land reform in Transylvania, Banat, Karelia and Maramureș[61] and the Law of 30 July 1921 on land reform in Bukovina.[62] On the above, it is also worth noting that the Romanian constitutional assembly considered the need for firewood and timber for buildings of the inhabitants of the Old Kingdom, Bessarabia and Bukovina, under Article 132, to be of constitutional importance, and that it also adopted expropriation measures for this purpose.[63]

3. The land reform in service of building the nation-state

3.1. Concerning land reform laws generally

The origins of the land reform in Romania, as described above, can be traced back to the agrarian question that had not been resolved in the Old Kingdom, to the revolts that broke out in 1888 and 1907 on the basis of the agrarian question,[64] and to the land tenure systems of the predecessor states, in the light of the above-mentioned Point III of the Resolution of Alba Iulia.

The social tensions arising from the agrarian question were resolved by the Romanian state after the First World War by means of the partial legislation cited above. By its very nature, this partial legislation was a breach of the equality of rights and protection of property of citizens under international obligations, the radical nature, anti-minority impact and purpose of which are well known.[65]

A particular aspect of the issue was also the decades-long[66] lack of resolution of the question of informal citizenship guaranteed in Articles 3-7 of the Paris Treaty for the Protection of Minorities.[67] The 1924 Citizenship Act,[68] which was drafted after the entry into force of the 1923 Constitution, essentially ignored the provisions of the Paris Treaty for the Protection of Minorities.[69] Contrary to the provisions of the Treaty, the Act linked the acquisition of citizenship to the concept of residency in the absence of opting, by setting 1 December 1918 as the date of annexation of the territories to Romania.[70] Both the designation of the date and the concept of residence resulted in narrower legal

[59] Lege din 17 iulie 1921 pentru reforma agrară din Oltenia, Muntenia, Moldova şi Dobrogea (din vechiul regat).
[60] Decretul nr. 1036/1920 de reformă agrară pentru Basarabia.
[61] Legea nr. 3610/1921 pentru Reforma agrară din Transilvania, Banat, Crişana şi Maramureş.
[62] Legea nr. 3608/1921 pentru reforma agrară din Bucovina.
[63] Alexianu 1926, 459–460.; Nagy 1944, 163.
[64] Bíró 2002, 43–45.
[65] Matheovits 1929, 35–41.; Durandin 1998, 237.
[66] Nagy 1944, 79–87.
[67] Ganczer 2013, 201–205.; Negulescu 1925, 98.
[68] Lege privitoare la dobândirea şi pierderea naţionalităţii române.
[69] Ganczer 2013, 205–206., 212–213.
[70] Nagy 1944, 77–79.

concepts and conditions than those of the international treaty of residence, which made the acquisition of Romanian citizenship partly impossible and partly left the determination of citizenship status to the discretion of the administrative authorities.[71] Given that, according to Article 18 of the 1923 Constitution, only Romanian citizens could acquire and own land in Romania under any title, the citizenship issue, which had dragged on for decades, provided a legal basis for the expropriation of property belonging to non-Romanian citizens. Restrictions on the acquisition of certain properties by foreigners are in principle legitimate and widely recognized, yet it is clear from the case at hand that the substantive legislation and its implementation were directed against persons whose citizenship status was not resolved.[72]

The land reform laws adopted as a result of this partial legislation have led to varying degrees of agrarian reform in different parts of the territory of Romania. Expropriations were the essence and the basis of the land reform. Among these laws, a comparison between the laws in the regions of Transylvania, Banat, Crișana and Maramureș[73] on one side and the Old Kingdom laws on the other side is justified, because their subject matter, purpose and implementation[74] clearly point to aspects of homogeneous nation-state building.[75]

In the case of the territories annexed from the Kingdom of Hungary, the aim stated in the law applicable to these was to increase and supplement village farms and communal pastures and forests, to promote national industry, to facilitate the living conditions of workers and public officials in towns, mining and spa centers, and to serve the public economic, cultural, social and educational interests. The law implemented in the Old Kingdom law was only intended to increase the area of village farms, to create communal pastures and to serve economic and cultural purposes of public interest.[76]

The Land Reform Act in the Old Kingdom capped the expropriation at 2 million hectares and only expropriated the property of those who owned at least 100 hectares of real estate. In contrast, no such limit was applied to the former Hungarian territories,[77] and the property of absentee owners was also expropriated,[78] in clear violation of the obligation to protect property under Article 3 of the Paris Treaty for the Protection of Minorities. The land reform in the former Hungarian territories – contrary to the aim stated in the law – practically meant the confiscation of Hungarian[79] and, to a lesser extent, Saxon private property, as well as church property and property put to the common use of local communities.[80] There were further differences in the size of the land to be expropriated in the case of land owned by natural persons, leaving significantly less land in the former Hungarian territories in the hands of the original owners.

[71] Bedő 1926, 423–428.
[72] Bonyhai & Valdmann 2020, 30.; Nagy 1944, 151.; Matheovits 1929, 42–44.
[73] Traditional regions and former parts of the Kingdom of Hungary.
[74] Matheovits i.m. 21–29.; Mikó 1941, 28–32.
[75] Boilă 1922, 385.
[76] Nagy 1944, 151–152.
[77] Benkő 2020, 27.
[78] Nagy 1944, 152–154.
[79] Bonyhai & Valdmann 2020, 27.; Jakabffy 1923, 572–575.
[80] Pál 1923, 4–15.; Bonyhai & Valdmann 2020, 29.; Nagy 1944, 153–156.

A further unjustified distinction was made in the legislation as regards the compensation paid for expropriation. The risk of post-war financial ruin was applied to expropriations in the former Hungarian territories, which were not paid immediately and unconditionally, and thus effectively constituted a confiscation of property.[81]

As a result of the above laws, which were made constitutionally significant, the expropriations weakened the property foundations of the minority communities and thus constituted a barrier to exercising educational and cultural rights by the members of these communities, especially the Hungarian one.[82]

The aspects concerning the German community should also be mentioned as a particular element of the above process and individual legislation. Despite its good relations with the state administration, the German minority could not avoid the legal dissolution[83] of the Saxon Universitas, the Saxon community's fundamental institution going back to medieval times, and the seizure of ¾ of its remaining assets not affected by the land reform,[84] thus making its centuries-old institutions financially unviable. The Orthodox Church later received the above-mentioned assets, while the Evangelical Church of Saxony was entitled to ¼ of the distributed property.[85]

3.2. The Romanian land reform before the League of Nations

For centuries, philosophical, political and legal thought has been preoccupied with the establishment of a universal organization that could be a depository and forum for cooperation between states, serving international peace and security. Following the First World War, the initiative was made a reality by the creation of the League of Nations, an organization which, at the initiative of the United States of America,[86] provided a primarily political and not a legal framework for the settlement of disputes between its members.[87] One element of these issues was the establishment of an international legal institution for the protection of minorities, based on the central role of the League of Nations, which in the case of Romania was enshrined in Article 12 of the Paris Treaty for the Protection of Minorities. The provisions provide for a double protection, on the one hand, permanent control by the League of Nations and, on the other hand, the immutability of the obligations recognized as fundamental law without the consent of the Council of the League of Nations.[88] Without analyzing the content of the laws for the protection of minorities before the League of Nations, it can be stated that, with few exceptions, it has not fulfilled this role. The reasons for this, apart from the Romanian

[81] Gyárfás 1925, 637–638.; Bonyhai & Valdmann 2020, 28.; Nagy 1944, 156.; Mikó 1941, 37.
[82] Nagy 1944, 101–106., 117–119., 151–158., 160–162.
[83] Lege pentru desfiinţarea comunităţii de avere denumită Universitatea săsească şi a celor şapte juzi, împărţirea patrimoniului ei şi înfiinţarea Aşezământului Cultural Mihai Viteazul.
[84] Papp 1939, 43.
[85] Bíró 2002, 280.
[86] Szalayné Sándor 2003, 62.
[87] Teghze 1930, 357–358.
[88] Búza 1930, 142–143.

state's refusal of legal action, can be traced back to the Council of the League of Nations' attitude of favoring political solutions.[89]

Taking advantage of the minority protection system set up after the First World War, the Hungarian government made submissions to the League of Nations[90] on the Romanian land reform, which was considered to be of constitutional importance. Of these the submission of 15 March 1923 was finally submitted to the League of Nations.[91] At the core of the petition were elements of the Romanian legislation, under which the agricultural land of absentees could be expropriated in their entirety, except for areas of less than 50 acres.[92] The Paris Treaty for the Protection of Minorities underlined that in the case of opting for citizenship, the persons opting could retain ownership of the property. Nevertheless, the agrarian reform resulted in the expropriation of property owned by absentee owners. In accordance with Romanian law, only those were considered absentees, who were absent for a certain period of time,[93] which was essentially the period of the Romanian military occupation. During this period, a significant Hungarian population fled the former Hungarian territories. The Hungarian side recorded that, although the institution of expropriation was accepted as a legitimate means of depriving people of their ownership of land, however the amount of compensation being barely 1% of the real value, amounted in practice to confiscation of property in this case.[94] The definition of absentees, the predominantly Hungarian character of the expropriated properties, and Article 3 of the Paris Treaty for the Protection of Minorities clearly made the matter an issue of minority protection. Another aspect of the issue was added by the quoted Article 18 of the 1923 Constitution, according to which Romanian citizens could acquire and own land in Romania, while those opting for other citizenship were only entitled to the value of the properties they used to have. In this context, Romania argued that the issue of land reform had been a matter of Romanian law prior to the First World War and that it could in no way be directed against minorities as part of the constitutional fulfilment of the unification of the law.[95] According to the Romanian position, the Hungarian position would give quasi-privilege to Hungarian property owners, thus violating the principle of equal treatment. Romania explained that other nationalities have left the country and that the property rights of the optants, although guaranteed by international treaties, are subject to state restrictions and the amount of compensation is adequate, paid in state securities, and therefore no violation of rights can be established.[96] The Japanese rapporteur in the case, Adatci Mineitciro, proposed a procedure before the Permanent International Court, which the Romanian side rejected on socio-political grounds.[97] The parties then held

[89] Mikó 1941, 125.
[90] Durandin 1998, 237.
[91] Matheovits 1929, 53–55.
[92] Willer 1923, 606–609.; Búza 1930, 329–330.
[93] Matheovits 1929, 54–55.
[94] Búza 1930, 330–331.; Matheovits 1929, 68–70.; Mikó,1941, 37.
[95] Matheovits 1929, 18–19.
[96] Búza 1930, 331.
[97] Matheovits 1929, 55–58.

unsuccessful direct negotiations in Brussels[98] and the case was again referred to the Council of the League of Nations.[99] The essence of Hungary's argument was that, on legal grounds, obligations undertaken under international treaties cannot be overridden by the rules of domestic law. Hungary pointed out that the Romanian legal formulation of the absent persons constituted a serious offense, since until the Treaty of Trianon the territories belonged *de iure* to Hungary, and therefore the scope of Romanian law could not have been extended to this territory during this period. Hungary maintained that, although expropriation was a legitimate legal instrument, due to the amount of compensation in the present case, this expropriation actually constituted a confiscation of property.[100] The case was brought before the Hungarian-Romanian Mixed Arbitration Court in Paris by 348 plaintiffs, but the Court was unable to rule on the merits, mainly for reasons attributable to the conduct of the Romanian party.[101] After the failure of the court proceedings, the matter was again brought before the League of Nations, where eminent international lawyers of the time handed down their opinions.[102] In the end, despite direct negotiations and diplomatic exchanges of notes, the parties failed to reach a final agreement.[103]

Among the cases that have been settled on the merits, the case of the Hungarian settlers in Banat and Transylvania is noteworthy.[104] After 1904, the Hungarian government established settler communities in Transylvania and Banat in areas owned by the Hungarian Treasury, where settlers paid a purchase price for the properties by means of 50-year instalments following the payment of the first instalment. The settlers acquired ownership of the properties by registering the instalments in the land register. However the majority of these registrations did not take place until the spring of 1919.[105] As a result of the peace treaties, the territories concerned were transferred to Romania, and the land reform made it possible to expropriate the properties concerned. Another aspect of the case was that Romanian law considered null and void all official acts affecting the property of the Hungarian State after 1 December 1918, irrespective of the date of the underlying transaction, and consequently also the registrations made in the spring of 1919.[106] Based on this, the Romanian courts annulled the settlers' property rights and expropriated the property of owners registered before 1919. In response to the complaint concerning this matter, the Romanian government argued that the settlements were part of the Hungarian state's policy of *magyarization* and that no Romanian national had access to land in that area.[107] The Romanian position was that expropriation aims at an equal distribution of land, which could not be achieved by applying the general maximum expropriation rate, and therefore its infringement was

[98] Matheovits 1929, 58–68.
[99] Búza 1930, 331–333.
[100] Búza 1930, 333–335.
[101] Matheovits 1929, 71–104., 246–267.
[102] Matheovits 1929, 104–167.
[103] Matheovits 1929, 168–209.
[104] Asztalos 1931, 242–245.; Sulyok 1922, 20–24.
[105] Búza 1930, 284–285.
[106] Mikó 1941, 35.
[107] Búza 1930, 285.

justified. The Romanian side stressed that the purpose of its procedure was to resolve and settle the uncertainties that had arisen at the moment the territories changed sovereignty, and that the Romanian State's actions should be considered as internal and that the complaint should not be subject to the procedure of the League of Nations.[108] Romania later added to this argument that the settlers had not fulfilled the conditions for acquiring ownership.[109] The supplemented position appeared to be truthful on the facts, but the conditions would in principle have been met within fifty years, and the argument was therefore flawed and premature. In addition, the argument of neutrality minority-wise did not stand, since the Romanian delegation itself attached documents which proved that the settlers belonged predominantly to the Hungarian nationality, thus refuting the argument of *magyarization*. Nevertheless, the Romanian government, while maintaining its arguments, offered a total of 700,000 gold francs in compensation for the peaceful settlement of the case.[110] The Brazilian rapporteur in the case, Afrânio Mello-Franco, stated that although there were concerns about the validity of the land reform legislation and the interpretation of the settler contracts, the amount offered could be suitable for settling the case and recommended acceptance of the Romanian offer.[111] The procedure was concluded in the above manner, not in a legal but in a political way, due to the lack of client standing of the applicants, without having heard their views.[112] A set of rules for the distribution of the compensation were drawn up by the Romanian delegation and the Brazilian rapporteur, and the Romanian government had to report on its implementation.[113] A particularly severe provision regarding the payments was the deduction from the amount of compensation of the settlers' debt to the Hungarian State,[114] so that the amount agreed could be paid out at a reduced rate.

With regard to the expropriations carried out by the land reform, the confiscation of the property of the descendants of the former 1st Szekler Border Defence Infantry Regiment, the so-called 'private property of Csík', was particularly damaging and was not dealt with in any substantial way.[115] The anti-minority purpose of the confiscation is demonstrated by the fact that the property of the Romanian Nasaud II Border Regiment and the Romanian-Banatian XIII Border Regiment of Caransebes, which had essentially the same legal basis, were exempted from expropriation, even though their legal nature, purposes and functions were identical to those of the 'private property of Csík'.[116] In 1869, following the Austro-Hungarian Compromise of 1867, the King returned the properties of the previously confiscated 1st and 2nd Székely Border Defence Regiments to the communities of the counties of Csík and Háromszék,[117] respectively, in perpetuity and indivisibly, as private property. The property of the 'private property of Csík' was

[108] Búza 1930, 285–286.
[109] Búza 1930, 286–287.
[110] Sulyok 1930, 229–230.; Mikó 1941, 117.
[111] Balogh 1928, 270.
[112] Búza 1930, 287–288.
[113] Búza 1930, 288–289.
[114] Jakabffy & Páll, 1939, 211–212.
[115] Bíró 2002, 272–278.; Mikó 1941, 118–121.
[116] Kocsis 2006, 128–130.; Bíró 2002, 29–33.; 273.
[117] Today the territories are known as Harghita and Covasna counties.

62,539 acres of mostly pasture and forest land, but also included several high-value properties in the city of Csíkszereda (Miercurea Ciuc), residential properties, school buildings, theatre, barracks, model farm, orphanage, vacation houses, which property affected about fifteen thousand Szekler families.[118] Despite the protests, the actual expropriation started in the autumn of 1922, during which the authorities did not respect the rules of the land reform concerning the expropriation limit. In the course of the procedure, pastures and forests, as well as inland properties, were also expropriated at an extremely low compensation price, despite the exemptions provided by the law.[119] The expropriation decisions were annulled in the course of an administrative review of the appeals by the Agricultural Committee (in Romanian: *Comitetul Agrar*). The annulment did not result in the *restitutio in integrum* of the 'private property of Csík'. In the course of the review, the Romanian State found that the restitution of 1869 had only established a beneficial interest in the property. Accordingly, the property could not be subject to expropriation as *de facto* Hungarian State property, since it was subject to the succession of the Romanian State.[120] The argument of the Romanian State was not supported by any land register entry or state property inventory, yet the above reasoning resulted in the official confiscation of the 'private property of Csík'. In particular, the measure of expropriation violated Articles 12, 15 and 17 of the 1923 Constitution, in addition to the provisions of the Paris Treaty for the Protection of Minorities. It unconstitutionally excluded the right of access to the courts, the prohibition of confiscation of property and the basic conditions for expropriation. The question of property ownership was determined by an administrative authority instead of the courts, using a legal argument that should have been the responsibility of the judiciary. As a consequence of the argumentation of the public authority, the Romanian State was not obliged to pay compensation. The issue of the 'private property of Csík' was also a priority in domestic politics, and its unresolved nature led to the proceedings before the League of Nations. The complaint lodged on 25 June 1929 was later joined by several other complainants.[121] In this case too, the League of Nations opted for political conciliation rather than a legal solution and called on the Romanian State to return 18.5 % of the land, 1.5 % of the value of the property and to pay the pensions of the employees of the 'private property of Csík', a decision which was not implemented by the Romanian State.[122] According to the provisions of the law governing the details, the Romanian State would have made restitution only if the Board of Directors of the 'private property of Csík' had definitively waived its other claims, a condition which the beneficiary did not accept. For this reason, no solution was ultimately found.[123] Following the Second Vienna Award, the Hungarian State did not take similar action in the case of the Nasaud public property, despite concerns in this respect.[124]

[118] Mikó 1941, 35.
[119] Kocsis 2006, 130–133.
[120] Balogh 1930, 223–225.; Bíró 2002, 273.; Kocsis 2006, 134–135.; Mikó 1941, 34–35.
[121] Bíró 2002, 273–276.
[122] Bíró 2002, 276–277.; Mikó 1941, 308.
[123] Bíró 2002, 277–278.; Kocsis 2006, 141.
[124] Bethlen 1989, 88.

With regard to the cases that were brought before the League of Nations and were not dismissed, the complaint of 14 May 1930 concerning the pastures in and around the village of Csíkkarcfalva (in Romanian: *Cârța*) was resolved by the purchase of the land by the Romanian State,[125] as happened in the case of the complaint of 25 August 1934[126] concerning the forests and pastures of Zentelke (in Romanian: *Zam*) and Kalotaszentkirály (in Romanian: *Sâncraiu*).[127] On 28 July 1936, the National Hungarian Party filed a complaint concerning the seizure of the lands of the *Csángó* settlers of Deva,[128] which also led to some financial compensation.[129]

4. Closing remarks

The land reform in Romania, in addition to the international attention it has attracted, has resulted in numerous violations of individual rights. The Romanian element has always had an advantage in the expropriation and subsequent distribution of land. This is evidenced, among other things, by the extremely severe case of what is referred to as 'the crime of Haró'. In this case, the authorities refused to hand over the expropriated land to poor *Csángó* farmers, despite a final decision, sabotaged the land repossession procedure for years, and then, after the failure of an attempt to repossess the land, which claimed human lives, refused not only to investigate the case but also to exercise the right of amnesty.[130]

The land reform in Romania has clearly resulted in a break with the previous, centuries-old, property relations, characterized by ownership on the part of minorities, which, in addition to easing the tensions within Romanian society, aimed to make the economic situation of minorities more difficult, if not impossible.[131] The harmful provisions of the above described legislation were complemented by the economic nationalism that prevailed throughout the period,[132] and by the system of tax legislation that discriminated against minorities,[133] including property tax, which treated minorities as second-class citizens.[134] The easing of social tensions however was not successful, but it also made integration impossible. The new land property structure created as a result of the land reform did not solve the social crisis either,[135] and the agrarian issue remains a priority in the domestic policies of Romania, hit by economic and social crises.

[125] Mikó 1941, 304., 308.
[126] Mikó 1941, 186., 305., 308.
[127] Bíró 2002, 282–283.; György 2006, 209.; Mikó 1941, 305.
[128] Bíró 2002, 282.; György 2006, 209.; Mikó 1941, 306.
[129] Mikó 1941, 252.
[130] Meskó 1927, 318-324.
[131] Bárdi 2013, 213.
[132] Debreczeny 1937, 142–144.; Halász 1937, 146.; Bíró,2002, 267–268., 295–298.
[133] Bíró 2002, 284–285.; Nagy 1944, 200–207.
[134] György 2002, 160–162.
[135] Bonyhai & Valdmann 2020, 27., 29–30.

Finally, it should be pointed out that Robert William Seton-Watson himself, a fierce opponent of historical Hungary, described the land reform in Romania in an open letter as having ruined not only the Hungarian landowners but also, through the churches, the entire Hungarian intellectual class, thus creating the appearance of national revenge.[136]

[136] Mikó 1941, 37–38.

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