
THE FUNDAMENTAL VALUES OF SOCIETY IN LIGHT OF THE PROVISIONS OF THE CONSTITUTION OF ROMANIA

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INTRODUCTION

Fundamental values are essential for the stability and functioning of society and, in this sense, the Constitution of Romania, as a fundamental law, plays a central role in defining and protecting these values, ensuring the legal framework necessary for a just and equitable society.

The Constitution reflects the nation's democratic ideals and through its provisions establishes fundamental rights and freedoms, protects human dignity and promotes equality and mutual respect. Like this, the Constitution serves as the foundation for the functioning of a modern and democratic state.

A. The fundamental values provided for in the Romanian Constitution

A.1. Human dignity

Recognized as a supreme value, dignity represents the right of every person to be treated with respect and fairness, so that it constitutes the basis of fundamental human rights, as stated in the Preamble of the Universal Declaration of Human Rights: "...recognition of the inherent dignity of all members of the family human rights and their equal and inalienable rights constitute the foundation of freedom, justice and peace in the world".¹

¹ <https://fra.europa.eu/ro/eu-charter/article/1-demnitatea-umana> [accessed at 24.11.2024].

In this sense, art. 1 paragraph (3) of the Constitution stipulates that "Romania is a state of law, democratic² and social, in which human dignity, the rights and freedoms of citizens (...) represent supreme values and are guaranteed".

A.2. Equality

Equality in rights is a fundamental principle of law, provided by law, doctrinally analyzed and jurisprudentially confirmed.

According to art. 16 para. (1) of the Romanian Constitution "Citizens are equal before the law and public authorities, without privileges and without discrimination". It follows, therefore, that equality is a complex constitutional principle, which is explained by reference to difference and discrimination, and implies the provision of equal opportunities to all citizens.

The meaning of the constitutional provision according to which citizens are equal before the law and public authorities, without privileges and without discrimination, implies that the law must provide equal opportunities to all citizens.

The fact that no one is above the law, enshrined in paragraph 2 of the same article, explains the intention of the legislator is to create a state of law in which the law is the one that governs and must be equal for all.

As it is formulated in the Constitution, the general principle of equality has in mind a formal legal equality and not an equality of conditions, which does not mean that equality before the law and public authorities requires the application of the same legal regime to all citizens, but must be take into account their natural or socio-professional situation.

Consequently, equal legal treatment must be applied to equal situations, and different legal treatment to different situations.

² M.-I. Grigore-Rădulescu, *Teoria generală a dreptului*, Ediția a IV-a, revăzută și adăugită, Ed. Universul Juridic, București, 2024, p. 73.

A.3. Freedom

Analyzed as a general principle of law, alongside equality, freedom is one, but it can take on several forms of manifestation, to which correspond various rights provided in the Constitution, such as freedom of opinion, freedom of expression, religious freedom.

Freedom refers to the ability of individuals to act without constraints and, from this perspective, freedoms can be general or individual³, but closely related to each other and flowing from each other. Thus, freedom of thought is closely related to freedom of expression, freedom of speech, freedom to write and publish.⁴

As for the achievement of social freedom, the role of law consists in removing obstacles and potential discriminations that appear in the way of ensuring equal opportunities for manifestation and progress for all subjects of law.

B. The rule of law

Enshrined in Article 1 paragraph (3) of the Constitution, the rule of law constitutes the foundation of the separation of powers in the state and the observance of laws by all.⁵ Established in the Report on the Rule of Law by the Venice Commission, the criteria of the rule of law are:⁶

1. Legality, which implies the existence of a procedure for adopting legal texts that is transparent, responsible, and democratic;
2. Legal security;
3. Prohibition of arbitrariness;
4. Access to justice before independent and impartial jurisdictions;
5. Respect for human rights; and
6. Non-discrimination and equality before the law.

³ <https://www.juridice.ro/699529/conceptul-de-principiu-juridic.html> [accessed at 24.11.2024].

⁴ *Ibidem*.

⁵ M.-. Grigore-Rădulescu, *op. cit.*, p. 63.

⁶ <https://www.juridice.ro/essentials/6117/criteriile-de-definire-a-statului-de-drept-vs-statul-de-drept-in-ue-si-in-statele-membre-evolutiile-statului-de-drept-statul-constitutional-contemporan> [accessed at 24.11.2024].

In contemporary society, the rule of law represents both an ideal and a global aspiration, being regarded as the foundation of national political and legal systems, as well as of international relations, since it is supported by individuals, governments, and organizations around the world.

C. Fundamental Values: The Discrepancy Between Law and Reality

There are issues such as corruption, social inequalities, and political polarization, which impact the implementation of constitutional principles. Legal practice often shows that there are significant discrepancies between legal provisions and social reality.

Through the International Covenant on Civil and Political Rights, as well as the International Covenant on Economic, Social, and Cultural Rights, fundamental human rights have reached the peak of their legitimacy and have formed the global legal foundation for the states of the world, aiming to ensure the incorporation of fundamental values into domestic legal regulations.⁷ However, in many countries, the fundamental rights collectively agreed upon are not respected, with some signatory states blatantly violating human rights.

D. The Impact of Fundamental Values on Society

These values contribute to maintaining democracy, social stability, and mutual respect. Globally, they promote peaceful relations between states and support Romania's integration into the Union and international⁸ space.

The emergence of the bourgeoisie in the 19th century led to the formulation of fundamental values, which became widely established by the mid-20th century and evolved into evaluation standards for states and societies.

⁷ C.F. Popescu, M-I. Grigore-Rădulescu, *Protecția juridică a drepturilor omului*, Ed. Universul Juridic, București, 2014, p. 16.

Popescu C.F., Grigore-Rădulescu M-I., *Protecția juridică a drepturilor omului*, Ed. Universul Juridic, București, 2014.

⁸ <https://www.juridice.ro/699529/conceptul-de-principiu-juridic.html>; (accessed at 24.11.2024).

At the level of the European Union, the fundamental values that underpin society are also recognized, namely respect for human dignity, freedom, democracy, equality, the rule of law, and respect for human rights, including the rights of minorities.

These values, embraced and shared by all European Union member states, guarantee a society where pluralism, tolerance, justice, solidarity, non-discrimination, and equality prevail. They are enshrined in Article 2 of the Treaty on European Union.

CONCLUSIONS

The fundamental values established by the Constitution of Romania are essential for a democratic and just society, and their protection must remain a priority for the nation's future. At the same time, the national vision of fundamental values must be integrated into a European and international perspective, in the context of globalization, with its opportunities and risks.

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