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# Religious Freedom in the Romanian People's Republic at the Beginning of the Establishment of the Totalitarian Communist Regime. A Legal and Canonical Approach

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## Abstract

The present research attempts to identify the relationship between the legal stipulation of religious freedom and its active guarantee at the beginning of the communist regime in Romania. Although the subject could be considered of a strictly historical value, the re-questioning of the year 1948 may be beneficial for the pandemic context of 2020-2021 and the State-Church relationship in Romania, given the rapidity of the restrictive measures taken both in 1948 and in 2020-2021 regarding religious freedom. Although the contexts are different, one is socio-political, post-war, and the other is epidemiological, the restrictive measures were in both systems legally based, thus obtaining a protective legal umbrella, both constitutional and normative. Regarding the fatidical year of 1948, I will attempt to emphasize how the new followers of the communist legal vision tried to substantiate the State's interferences in religious fares. Unfortunately, among them were not only second-hand jurists, pseudo-academic products of The Communist Party, but even some illustrious theologians of the Romanian Orthodox Church.

## Keywords

religious freedom, Communist Regime, Orthodox Church, Constitution, State-Church relationship

## Preliminary remarks

The importance of re-questioning the year 1948 regarding the legal texts promulgated by the Romanian communist regime for the regulation of religious denominations is not only a subject for the history of Romanian Law but, as Iuliu Crăcană stated in one of his studies: “In addition to the need of knowing the communist justice as part of the Romanian History, we also identify the need of knowing these reflexes and conditionings to support their removal”<sup>1</sup>. These reflexes of the State regarding religious freedom have existed for half a century in Romania, and their disappearance cannot happen overnight. In times of crisis, the State can reiterate these reflexes to the detriment of religious freedom.

The following analysis will be based on the legal sources promulgated by the State through its mechanisms of power in 1948 and on Archival sources, which show, especially at the beginning of 1948, a context of an artificial plurality for the expression of religious freedom and a possible guarantee of religious freedom, a vision that will change quickly, especially after mid-1948<sup>2</sup>.

The following research starts from the general formula of Gustav Radbruch<sup>3</sup>, who considered that legal positivism was responsible for the

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<sup>1</sup> Iuliu CRĂCANĂ, “Drept și Justiție în România comunistă [Law and Justice in Communist Romania]”, in: *Caietele CNSAS*, Year IV, no. 2 (6)/2010, p. 125.

<sup>2</sup> See for example: Adrian Nicolae PETCU, “Activitatea Departamentului Cultelor în atenția Securității (1970-1989) [The activity of the Department of Cults under the scrutiny of Securitate Service (1970-1989)]”, in: *Caietele CNSAS*, Year II, no. 2 (4)/2009, p. 69.

<sup>3</sup> Gustav Radbruch was one of the most important German theorists of Criminal Law. He formulated in 1946 a thesis that would influence the philosophy of law, especially regarding the relationship between legal positivism and the concept of justice. His thesis argued that a judge can decide, under certain circumstances and under certain conditions, even against the law, when he is faced with a conflict between positive law and justice. Gustav, “Der Konflikt zwischen der Gerechtigkeit und der Rechtssicherheit dürfte dahin zu lösen sein, daß das positive, durch Satzung und Macht gesicherte Recht auch dann den Vorrang hat, wenn es inhaltlich ungerecht und unzweckmäßig ist, es sei denn, daß der Widerspruch des positiven Gesetzes zur Gerechtigkeit ein so unerträgliches Maß erreicht, daß das Gesetz als «unrichtiges Recht» der Gerechtigkeit zu weichen hat”. Gustav RADBRUCH, “Gesetzliches Unrecht und Übergesetzliches Recht”, *Süddeutsche Juristen-Zeitung*, vol. 1, no. 5 (1946), pp. 105-108 (here p. 107). For an academic perspective regarding Gustav Radbruch’s formula see Stanley L. PAULSON, “On the Background and Significance of Gustav

horrible crimes of the Nazi totalitarian regime, emphasizing a serious conflict between justice and the reliability of law in the German legal system, according to which crimes could be considered, from a strictly positive perspective, lawful and legitimate. His formula was used for the war crimes of the Nazis, but also for the East German soldiers ordered to protect the Berlin Wall at any cost<sup>4</sup>. At the beginning of the communist regime in Romania, as we will try to emphasize, certain legal and later canonical mechanisms were created to repress the clergymen, elaborated in such a way that these acts of repression were, from a strictly positivist perspective, legal, canonical and even legitimate. The main mechanisms were: the subjection of justice to communist political doctrine<sup>5</sup>, the change

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Radbruch's Post-War Papers", in: *Oxford Journal of Legal Studies*, 26, 1, (2006), pp. 17-40; HORST DREIER, "Die Radbruchsche Formel - Erkenntnis oder Bekenntnis?" in: HEINZ MAYER, *Staatsrecht in Theorie und Praxis. Festschrift Robert Walter zum 60. Geburtstag*, Manz, Vienna, 1991, pp. 117-135; CHRISTOPH M. SCHEUREN-BRANDES, *Der Weg von nationalsozialistischen Rechtslehren zur Radbruchschen Formel: Untersuchungen zur Geschichte der Idee vom "Unrichtigen Recht"*, Schöningh, Paderborn; Wien [u.a.], 2006; JOACHIM RENZIKOWSKI, "Die Radbruchsche Formel – Hintergründe und Wirkungsgeschichte", in: WALTER PAULY (ed.) *Rechts- und Staatsphilosophie des Relativismus: Pluralismus, Demokratie und Rechtsgeltung bei Gustav Radbruch (Staatsverständnisse)*, Nomos, Baden-Baden, 2011, p. 223; ARTHUR KAUFMANN, "Gustav Radbruch und die Radbruchsche Formel", in: *Rechtshistorisches Journal* 19 (2000), pp. 604-611; MARTIN BOROWSKI, STANLEY L. PAULSON, *Die Natur des Rechts bei Gustav Radbruch*, Mohr Siebeck, Tübingen, 2015.

<sup>4</sup> HORST DREIER, "Gustav Radbruch und die Mauerschützen", in: *Juristen Zeitung* 52, 9 (1997), pp. 421-434.

<sup>5</sup> For the subjection of the Romanian legal system to communist political doctrine see IULIU CRĂCANĂ, "Drept și Justiție în România comunistă [Law and Justice in Communist Romania]", *Caietele CNSAS*, Year IV, no. 2 (6)/2010, pp. 117-130. In this first study, Iuliu Crăcană demonstrates the insufficiency and superficiality with which the history of Romanian Law during the communist period is treated in today's academic research and university courses. The study is continued with a second and a third part: IULIU CRĂCANĂ, "Drept și Justiție în România comunistă (II) [Law and Justice in Communist Romania II]", *Caietele CNSAS*, Year IV, no. 1-2 (7-8)/2011, pp. 57-70; IULIU CRĂCANĂ, "Drept și Justiție în România comunistă (III). Un conflict între două instituții represive: Securitatea și Procuratura; Anii '50 - epurările avocaților [Law and Justice in Communist Romania III. A conflict between two repressive institutions: the Securitate Service and the Prosecutor's Office. The 50s - the purges of lawyers]", in: *Caietele CNSAS*, Year VI, no. 1-2 (11-12)/2013, pp. 185-204; FLORIAN BANU, "Instrumentalizarea Justiției de către regimul comunist (1945-1958) [The instrumentalization of justice by the communist regime (1945-1958)]", in: *Caietele CNSAS*, Year II, no. 2(4), (2009), pp. 121-145.

of the Constitution and fundamental laws<sup>6</sup>, the attraction for cooperation and collaboration of clergymen with by the communist regime and secrete services<sup>7</sup>, the conformity of canon law with state law and its interests, the amendment of disciplinary regulations in accordance with the new canonical vision, and the removal of certain “elements”, as they were called by the State, that did not correspond to its vision. During the communist period, the established regime tried, by forcing the Romanian Orthodox Church and the other religious denominations, to find valid legal and canonical mechanisms in order to exclude those who were not following the political interests of the Party<sup>8</sup>. The new legislation of the communist regime<sup>9</sup>, through its massive interference in the field of organizing the life of religious denominations<sup>10</sup>, tried to control as much as possible the entire ecclesiastical structure. Also, the Romanian Orthodox Church, by adapting

<sup>6</sup> For the difference between the previous state legislation affecting religious denominations in 1928 and the communist legislation see George ENACHE, “Legea pentru regimul general al cultelor din 1928 și Decretul 177 din 4 august 1948. Privire comparativă [Law on the General Regime of Religious Cults of 1928 and Decree 177 of August 4, 1948. Comparative view]”, in: *Analele Universității Dunărea de Jos din Galați. Seria Istorie* 12 (2013), pp. 107-149.

<sup>7</sup> For the mechanisms used by the Romanian Secret Service, called “Siguranța” before 1948 for the oppression of clergymen see George ENACHE, “Strategii de infiltrare și atragere la colaborare a cultelor religioase elaborate de autoritățile procomuniste din România în perioada 1945-1947, cu o privire specială asupra cazului Bisericii Ortodoxe Române [Strategies for infiltration and collaboration of religious denominations developed by the pro-communist authorities in Romania during 1945-1947, with a special look at the case of the Romanian Orthodox Church]”, in: *Caietele CNSAS*, Year I, no. 1 (2008), pp. 53-92.

<sup>8</sup> See for example: Titică PREDESCU, “Justiția comunistă ca mijloc de represiune [Communist justice as a means of repression]”, in: *Experimentul Pitești–Reeducarea prin tortură: Opresiunea culturii tradiționale române din timpul dictaturii comuniste*, Editura Fundației Culturale “Memoria”, 2006.

<sup>9</sup> See, for example, Decree 177/1948, but also Decree 178/1948 which is unfortunately not addressed in the current literature. For a laudatory analysis of Decree 177/1948 see Liviu STAN, *Legea cultelor [Law for Religious Cults]*, Tipografia Institutului Biblic și de Misiune Ortodoxă, Bucharest, 1950. For the general context see Sebastian DUMITRU CĂRSTEA, “Aspecte ale vieții monahale ortodoxe ardeleni în timpul perioadei comuniste [Aspects of Transylvanian Orthodox monastic life during the communist period]”, in: *Revista Teologică*, XVII 3 (2007), pp. 406-430.

<sup>10</sup> Alexandru MORARU, “Biserica românească sub dictatura comunistă [The Romanian Church under the communist dictatorship]”, in: *Studia Universitatis Babeș-Bolyai-Theologia Orthodoxa* 46.1-2 (2001), pp. 31-40.

its canonical and statutory legislation to the legislation of the communist regime, gave legitimacy and canonicity to these acts of state interference<sup>11</sup>.

## I. Religious freedom in Romania between 1945 and 1947

The first phase in which the communists intervened directly in the structure of the Romanian legal system was between 1945 and 1947<sup>12</sup>. This period before 1948 was one during which the Communist Party of Romania seized the state power and purged the legal apparatus from undesirable members, through various counterfeit lawsuits, and attempted to reconfigure the entire legal system. As we will see, the communist press and media had a special role in this popular psychosis that supported the actions of the Party. As a result of Law No. 341/1947, undesirable magistrates were, one by one, dismissed from the system<sup>13</sup>. A massive change in the national legislation was being prepared for the future period of total seizure of state power by the communists.

Despite this, the relationship that the communists displayed towards religious denominations in Romania in this period was one of guaranteeing religious freedom, financial support from the state for religious activities, and cooperation with religious entities. All this had only an electoral and propagandistic purpose<sup>14</sup>. The communists knew that by expressing this

<sup>11</sup> See for example this idea developed in the book published by: Pr. Prof. Dr. Mihai VALICĂ și Prof. Univ. Dr. Pavel CHIRILĂ, *Prigoana cea dinăuntru. Încercările dreptilor în Biserica lor [The inner persecution. Trials of the righteous in their own Church]*, Christiana, 2011. Even though a lot of cases described in the book are exaggerated and decontextualized, certain inner persecution of the Church existed in the communist period, due to the impossibility of the Church to withstand the communist pressure.

<sup>12</sup> Researchers consider the period 1945-1948 as an incipient period for the communists' interference in the Romanian Legal System. This period stood out through the trials of 1945, by the takeover of legislative power by the communists through the pseudo-elections of 1946, and by Law no. 341/1946 for the judicial organization. See for this topic: Iuliu CRĂCANĂ, "Drept și Justiție în România comunistă (I) [Law and Justice in Communist Romania. I.]", p. 126; Florian BANU, "Instrumentalizarea Justiției de către regimul comunist (1945-1958) [The instrumentalization of justice by the communist regime (1945-1958)]", pp. 123-127.

<sup>13</sup> Florian BANU, "Instrumentalizarea Justiției de către regimul comunist (1945-1958) [The instrumentalization of justice by the communist regime (1945-1958)]", p. 128.

<sup>14</sup> George-Eugen ENACHE, Adrian-Nicolae PETCU, Ionuț-Alexandru TUDORIE, Paul BRUSANOWSKI, "Biserica Ortodoxă Română în anii regimului comunist. Observații

cooperative relationship with the Church, the clergy would be attracted by the new political ideology.

However, the first law that affected religious denominations in Romania, was Law No. 217/1945 regarding the “purification of public administration”, published in the Official Gazette of Romania on March 30, 1945<sup>15</sup>. According to it, a purge of clergymen who were part of the public administration followed, a decision that was subsequently improved by re-establishing certain clergymen at the end of October 1945<sup>16</sup>, due to the participation of the prime minister Petru Groza to the Congress of Democrat Priest. Petru Groza was a key figure for the State-Church relationship during those years.

In 1947, two laws were promulgated that had major repercussions on the clergymen of the religious denominations in Romania<sup>17</sup>. The first law, promulgated by King Mihai I and adopted by the Assembly of Deputies on May 29, 1947, was Law no. 166/1947, called “the Law for the retirement of the clergymen of all religious denominations”, and it imposed the mandatory retirement at the age of 70 for the clergymen of the two historical Romanian churches, the Romanian Orthodox Church and the Greek-Catholic Church<sup>18</sup>. Article 3 of this law provided *ex officio* retirement of diocesan vicars, referent counsellors, of the director of the Holy Synod of the Romanian Orthodox Church, of *canonci*, diocesan secretaries, auditors,

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pe marginea capitolului dedicat cultelor din raportul final al comisiei prezidențiale pentru analiza dictaturii comuniste din România [The Romanian Orthodox Church during the communist regime. Observations on the chapter dedicated to religious cults from the final report of the presidential commission for the analysis of the communist dictatorship in Romania], in: *Studii Teologice* 2/2009, p. 30. For this period see as well: Paul NEGRUȚ, *Biserica și Statul. O interogație asupra modelului “simfoniei” bizantine* [Church and State. An interrogation of the Model of Byzantine Symphony], Editura Institutului Biblic “Emanuel”, Oradea, 2000, pp. 105-111. Starting with page 111, Paul Negruțiu’s vision is limited to the reiteration of Patriarch Justinian’s collaborative clichés with the Communist regime.

<sup>15</sup> Florin GEORGESCU, “Epurările politice în administrația publică locală în România anului 1945. Cazuri particulare [Political purges in the local public administration in Romania in 1945. Particular cases]”, in: *Memoria Antiquitatis, Acta Musei Petrodavensis*, XXVII (2011), pp. 111-119.

<sup>16</sup> The list was published in the Official Gazette of Romania: *Monitorul Oficial*, Year CXIII, Part I A, no. 243, Wednesday, 24 October 1948, p. 9362.

<sup>17</sup> *Monitorul Oficial*, Year XCV, Part I, no. 121, Friday, 30 May 1947, pp. 4324-4325.

<sup>18</sup> Art. 1. The priests and deacons of the two Romanian churches will be *ex officio* retired at the age of 70.

and canonarchs at the age of 60, with the possibility of extending their activity between 2 and 5 years based on the diocesan proposal and with the approval of the Ministry of Cults. After their retirement, all of them were to remain honorary clergymen. Article 4 provided as well mandatory retirement for clergymen who “due to physical or other disabilities” could no longer serve in the divine worship. This article was supplemented by article 7 which provided the retirement of the bishops of the Romanian Orthodox Church “due to physical or other disabilities”, at the request of the Ministry of Cults and following the approval of the Commission for Retirement<sup>19</sup>. *Ex officio* retirement of bishops was imposed, according to Article 8 of this Law, in the case, when some dioceses were abolished by a special law. The law provided that the retirement of clergymen should be done at the age of 57, or after 35 years of Church service or in case of illness. Only the Patriarch of the Romanian Orthodox Church was exempted from the provisions of this law, although this exception was not included in the initial draft of the Law<sup>20</sup>. On September 10, 1947, the decrees for

<sup>19</sup> The special commission was composed of a delegate of the Ministry of Cults, a delegate magistrate of the Ministry of Justice, and a delegate of the Holy Synod. The Commission took decisions by a majority of votes.

<sup>20</sup> It is interesting to mention here Dudu Velicu, a close collaborator of the Communist regime, who says: “Priests Liviu Stan and Spiridon Căndea intervene and replace the words “except” with “and”. As such, Patriarch Nicodim was to be retired, with the intention that Metropolitan Nicolae Bălan to be appointed in his place. The decree was signed. The patriarch is alarmed. Bishops Emilian Antal and Justinian Marina are notified and, in order to remove Metropolitan N. Bălan from the occupation of the Patriarch’s Chair, they intervene in the Presidency and return to the first form of the decree, which excluded the Patriarch from retirement”. Dudu VELICU, *Însemnări zilnice*, vol. 1, Bucharest, 2004, p. 177. And: “The Department of Cults drafted a law which provided that hierarchs will be retired, *ex officio*, at the age of 70, “except for the Patriarch”. Priests Liviu Stan and Spiridon Căndea, in connivance with the priest I. Vască, the General Secretary of the Ministry of Cults, intervene and replace the words of the law “except” by “and” the Patriarch. So, Patriarch Nicodim was to be retired, and his place was to be taken by Metropolitan Nicolae Bălan of Transylvania. The patriarch was alarmed. The bishops Emilian Antal and Justinian Marina are notified and - in order not to succeed in the attempt aimed at bringing Metropolitan Nicolae Bălan to the Patriarch’s chair - they intervene at the Presidency of the Council of Ministers. Bishop Justinian Marina also presented himself to King Mihai I, to whom he explained the need to sign a new decree, which would not retire Patriarch Nicodim so that Metropolitan Nicolae Bălan would not take his place. (In reality, he assigned the chair for himself)”. Dudu VELICU, *Însemnări zilnice*, vol. 1, Bucharest, 2004, p. 179.

the mandatory retirement of some Orthodox bishops were published in the Official Gazette, of which: Nifon Criveanu<sup>21</sup>, former Archbishop of the Archdiocese of Craiova and Metropolitan of the Metropolitan see of Oltenia, that was abolished by Law No. 305/1945, Cosma Petrovici<sup>22</sup>, Bishop of the Lower Danube Diocese, Lucian Triteanu<sup>23</sup>, Bishop of the Diocese of Roman. On June 15, 1948, the retirement decree of Bishop Policarp Morușca was published<sup>24</sup>.

In a report addressed by the Minister of Cults, Stanciu Stoian, to the Central Committee of the Romanian Communist Party, we can see what were the repercussions of these laws regarding the forced retirement of clergymen:

“In the summer of 1947, with the general measures taken to reduce the number of civil servants for budget savings, some measures were taken by the Ministry of Cults. By the decision of May 1947, 612 priests, 500 church singers, and 4.468 vacancies were compressed from the Orthodox Church, and through the one in May, 141 priests, 431 singers, and 219 vacancies, a total of 6.461 positions, which represents about 23% of the number of previously held positions. The percentage of compressions was completed with other staff and positions. These measures

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<sup>21</sup> Decree No. 1.730/ 1947 in: *Monitorul Oficial*, Year XCV, Part I, no. 121, Wednesday, September 10, 1947, p. 8191.

<sup>22</sup> Decree No. 1.834/ 1947 in: *Monitorul Oficial*, Year XCV, Part I, no. 121, Wednesday, September 10, 1947, p. 8191.

<sup>23</sup> Decree No. 1.835/ 1947 in: *Monitorul Oficial*, Year XCV, Part I, No. 121, Wednesday, September 10, 1947, p. 8191.

<sup>24</sup> “Ministry of Cults. Presidium of the Grand National Assembly of the Romanian People’s Republic. On the report of the Secretary of State to the Department of Cults, no. 21741 of 1948; Having the approval No. 1 of 1948 of the Special Commission for the Retirement of the Bishops of the Romanian Orthodox Church; Based on Article 7 of Law No. 166 of 1947, for the retirement of members of the clergy of all religious denominations, published in the Official Gazette No. 121 of May 30, 1947, decrees: Article 1. His Holiness Bishop Policarp Morușca, the holder of the chair of the Romanian Orthodox Missionary Diocese of America and the Western States, shall retire ex officio, from the position he holds, on the date of publication in the Official Gazette of this decree. Article II The Minister Secretary of State of the Department of Cults is in charge of carrying out the provisions of this decree. Given in Bucharest, on June 14, 1948. C.I. Parhon, Marin Florea Ionescu, Stanciu Stoian, Minister of Cults”, in: *Monitorul Oficial al României*, Part 1, 116, no. 136, June 15, 1948, pp. 5129.



obviously aimed to take their application into account from a political point of view<sup>25</sup>.

After that, Law No. 167/1947 was promulgated to amend articles 2, 9, and 12 of the Law for the organization of the Romanian Orthodox Church from 1925<sup>26</sup>. By modifying Article 2 of the Law of 1925 the State changed the title of the Metropolitan see of Moldavia and Suceava, in the Metropolitan see of Moldavia, and it established a new Metropolitan see of Suceava instead of Metropolitan see of Bucovina, which included the Diocese of Suceava and Radăuți and the Diocese of Maramureș with the following legal provision: “all the attributions of the current Metropolitan see of Bucovina will be exercised in the future by the Metropolitan see of Suceava”. Through this Law, the State reconfigured the administrative-organizational structure of the Romanian Orthodox Church and started an entire process of interference in the modification of the organizational structure of the Church.

By amending Article 9 of the Law of 1925, the legal text provided the replacement of members of local deliberative ecclesial assemblies, the introduction of a representative of the local bishop, a layperson as representative of the Ministry of Cults, and a representative of the Diocesan Assembly for the Commission that compiled the list of members of the Diocesan Assembly for the National Church Congress. Members were eligible only after approval by the Ministry of Cults. The National

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<sup>25</sup> For the Romanian text see “În vara anului 1947, odată cu măsurile generale luate pentru realizarea de comprimări de funcționari în vederea economiilor bugetare, s-au luat unele măsuri de acest fel și de către Ministerul Cultelor. S-au comprimat din biserica ortodoxă, prin decizia din Mai 1947, un număr de 612 preoți, 500 cântăreți și 4.468 posturi vacante, iar prin cea din Mai, 141 preoți, 431 cântăreți și 219 posturi vacante. În total 6.461 posturi, ceea ce reprezintă cam 23% din numărul locurilor avute anterior. Procentul comprimărilor a fost completat cu alt personal și posturi. Aceste măsuri, evident țineau ca aplicarea lor să țină seama și de punctul de vedere politic”. *National Historical Central Archives* (Arhivele Naționale Istorice Centrale), Arhiva C.C. al P.C.R *Colecție*, no. 103 Unit. de Păstr. No. 1416 Year 944, Cabinet Ghiorghiu – Dej, Cotă Nouă 31/1948 (RI) *Situația cultelor din România, poziția lor politică internă și externă și situația cultelor noi, asociațiilor noi de pe cuprinsul R.P.R. 1948* [The situation of the Religious Cults in Romania, their internal and foreign political position and the situation of the new Religious Cults, the new associations in the Romanian People's Republic], f. 12.

<sup>26</sup> *Monitorul Oficial*, Year XCV, Part I, no. 121, Friday, 30 mai 1947, pp. 4325-4326.

Church Congress was to be convened only with the common agreement of the Ministry of Cults. The Diocesan Assemblies and the National Church Congress that were not constituted according to Law 167/1947 were null from a legal perspective. Through this legal text, the Communist Party ensured the legality of introducing party members into church deliberative assemblies.

Article 12 of the Law of 1925 was amended by the fact that the election of bishops, with the particular exception of the patriarch, was conducted by the Electoral College composed of members of the National Church Congress and those of the Diocesan Assembly of the vacant Diocese. Among them were included, if they were men and Orthodox, the following: the president and vice-president of the Council of Ministers, Minister secretaries and undersecretaries of state, the president of the Assembly of Deputies, the President of the Romanian Academy, the first president of the High Court of Cassation, the Rectors of Romanian Universities, deans of Faculties of Theology, the rectors of the Theological Academies. The confirmation of the candidates and bishops was made by royal decree at the proposal of the Minister of Cults and with royal investiture. This Law also contained the following provision: "If the elected person has not been confirmed within 10 days, the election shall be deemed annulled, and a new election shall be held". As can be seen, this interference of the State in the organization of deliberative ecclesial assemblies and the election of bishops, really endangered the autonomy of the Church from the State.

However, the communist officials and even Orthodox theologians did not speak of State interference into ecclesial affairs and the undermining of Church autonomy but expressed the fact that the new government was a guarantor of religious freedoms. The same legal cliché was reiterated later by the State and by theologians after the full establishment of the communist regime.

## **II. Religious freedom at the beginning of 1948**

As can be seen from the official Archives of the Central Committee of the Romanian Communist Party, the communists wanted to create the image that the new people's democracy cannot be considered intolerant regarding freedom of conscience and religion, but is the promoter of fundamental

freedoms, which the previous regimes could not provide it to the ordinary people, but only to the privileged ones, to the bourgeoisie, as they tried to emphasize.

This idea was also propagated in the international context. For example, the Archives of the Central Committee of the Romanian Communist Party keep correspondence between Petru Groza and Dr. Jean Nussbaum, the general secretary of the International Association for the Defence of Religious Freedom, who requested in May 1948 the revisit of Romania to observe the current situation regarding the manifestation of religious freedom. In his letter of May 4, 1948, Jean Nussbaum stated to Petru Groza:

“Last summer I had the opportunity to talk to countless personalities from France, Switzerland, Italy, England, and the United States about our discussions. I especially had a long conversation with Mrs. Roosevelt, who was happy to learn that Your Majesty is a staunch defender of religious freedom. In fact, we have made known everywhere the very real freedom of religion that all Romanians currently enjoy. I recounted how I visited eight churches of different denominations on a Sunday, and how all the pastors and priests told me that they had no obstacle to preaching the gospel”<sup>27</sup>.

However, this polished image of respect for religious freedom was only a propagandistic screen for the new religious policies that the Communist Party would prepare for the coming years. The real religious policies were about to emerge based on intolerance, abuse, torture, and even crimes.

<sup>27</sup> For the Romanian text see “Încă în vara trecută am avut ocazia să vorbesc cu nenumărate personalități din Franța, Elveția, Italia, Anglia și Statele-Unite, despre discuțiile noastre. Am avut mai ales o conversație îndelungată cu Doamna Roosvelt, care a fost fericită să afle că Domnia Voastră sunteți un cald apărător al libertății religioase. De altfel, am făcut cunoscută peste tot libertatea cultelor foarte reală de care se bucură în prezent, toți românii. Am povestit cum am vizitat într-o zi de Duminică opt biserici de confesiuni diferite și cum toți pastorii și preoții mi-au afirmat că nu întâmpină nici un obstacol în predicarea Evangheliei”. *National Historical Central Archives* (Arhivele Naționale Istorice Centrale), C.C. P.C.R., *Collection* no. 103, Unit. No. 1403, *Consiliul de Miniștri, Cabinetul Petru Groza, Cotă Nouă 21/1948, Scrisorile Secretarului General al Asociației Internaționale pentru Apărarea Libertății Religioase, Jean Nausshaum în legătură cu venirea sa un R.P.R.* [Letters from Jean Nausshaum, the Secretary General of the International Association for the Defense of Religious Freedom, regarding his arrival in R.P.R.], 1948, f. 7r.

Also, at the beginning of 1948, the Minister of Cults, Stanciu Stoian<sup>28</sup>, sent a report to the Central Committee of the Romanian Communist Party<sup>29</sup>, a report to be developed during 1948<sup>30</sup>, which emphasized that:

“Until August 23, 1944, the general regime of religious cults was, as is well known, a regime of handcuffing consciences, using the dominant church and the Greek Catholic national Church for reactionary purposes, as well as creating diversions that distort the people’s attention from their true goals of the struggle for freedom and a better life. Along with noisy and intolerant chauvinism, the religious tolerance acquires the most diverse and inhuman forms, from *numerus clausus* or *numerus valachicus*, to the mistreatment of peaceful citizens, their detention and even killing”<sup>31</sup>.

The report emphasized how the communist regime led to the suppression of the privileges of some religious cults, imposed by the Law for

<sup>28</sup> Daniela CIOBANU-IONIȚĂ, “Ministrul Cultelor Stanciu Stoian și activitatea sa în relația cu Biserica Ortodoxă Română (1947-1951) [Minister of Cults Stanciu Stoian and his activity in relation to the Romanian Orthodox Church (1947-1951)]”, in: *Archiva Moldaviae*, IX/2017, pp. 399-426.

<sup>29</sup> *National Historical Central Archives (ANIC)*, Arhiva C.C. al P.C.R. *Colecție*, no. 103 Unit. de Păstr. No. 1416 Year 944 CABINET GHIORGHIU – DEJ Cotă Nouă 31/1948 (RI) *Situația cultelor din România, poziția lor politică internă și externă și situația cultelor noi, asociațiilor noi de pe cuprinsul R.P.R.*, [The situation of the Religious Cults in Romania, their internal and foreign political position and the situation of the new Religious Cults, the new associations in the Romanian People’s Republic], 1948.

<sup>30</sup> *National Historical Central Archives (ANIC)*, Fond C.C. P.C.R., Secția Administrativ-Politică, File no. 50 / 1948, f. 1. No. 638/1947.

<sup>31</sup> “Until August 23, 1944, the general regime of religious cults was, as is well known, a regime of handcuffing consciences, using the dominant church and the Greek Catholic national Church for reactionary purposes, as well as creating diversions that distort the people’s attention from their true goals of the struggle for freedom and a better life. Along with noisy and intolerant chauvinism, the religious tolerance acquires the most diverse and inhuman forms, from *numerus clausus* or *numerus valachicus*, to the mistreatment of peaceful citizens, their detention, and even killing”. *National Historical Central Archives (ANIC)*, C.C. P.C.R. *Colecție*, no. 103, Unit. No. 1416, Year 944, Cabinet Ghiorghiu – Dej, Cotă Nouă 31/1948 (RI) *Situația cultelor din România, poziția lor politică internă și externă și situația cultelor noi, asociațiilor noi de pe cuprinsul R.P.R.* 1948, f. 1r.

the religious freedom of 1928, and the legal recognition of other religious denominations and religious associations<sup>32</sup>. These achievements were also accompanied by communist political attitudes of the prominent communist leaders towards religious freedom:

“The bloc (of democratic parties), said comrade Gheorghiu Dej, will ensure the free development of the churches and will support the Church to fulfil its mission in the life of the State”. “We did not attack religion and we do not attack it,” said Comrade Vasile Luca at the Congress of the Hungarian People’s Union in

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<sup>32</sup> “A) New religious cults allowed: - The Baptist Christian Cult in Romania, recognized by Decree-Law No. 553/1944. The Statute for the organization of the Baptist Christian Cult in Romania was published in the Official Gazette No. 68 of March 21, 1947. The 7th Day Adventist Christian Cult in Romania, recognized by Decree-Law No. 407/1946, published in the Official Gazette No. 126 of June 3, 1946. The status of the organization of the 7th day Adventist Christian Cult was published in the Official Gazette No. 45 of February 22, 1946. The Lipovan Orthodox Old-Rite Church (the Lipovan cult), recognized by Decree-Law No. 728/1946, published in the Official Gazette No. 212 of September 13, 1946. The Statute for the organization of The Lipovan Orthodox Old-Rite Church (Lipovan Cult) was published in the Official Gazette No. 107 of May 13, 1947. The Cult of Christians after the gospel in Romania, recognized by Decree-Law No. 883/1946, published in the Official Gazette No. 261 of November 9, 1946, together with the statute for its organization. b) New religious associations allowed: The religious association of traditionalist Christians, provisionally recognized as a religious association with Decision 26639/1946, published in the Official Gazette 126 of June 3, 1946. The religious association of traditionalist Orthodox Christians in the East, recognized as religious association with decision 30630 of June 3, 1946, published in Official Gazette, No. 126 of June 6, 1947. The religious association “Christians baptized with the Holy Spirit” or the so-called Pentecostal Apostolic Church in Romania, provisionally recognized by Decision 39.256/1946, published in the Official Gazette, No. 152 of August 8, 1946. The statute of the internal organization of the religious association “The Apostolic Church of God called Pentecostal Church in Romania” was published in the Official Gazette No. 221 of September 24, 1946. The religious association “The Apostolic Church of God called Pentecostals”, provisionally recognized as a religious association by Decision 64.803/1946, published in the Official Gazette No. 3 of January 3, 1947. The religious association of Seventh-Day Adventists in Romania - the Reformation Movement - provisionally recognized as a religious association by decision 12257/1947, published in the Official Gazette No. 53 on March 5, 1947”. *The situation of the Religious Cults in Romania, their internal and foreign political position and the situation of the new Religious Cults, the new associations in the Romanian People's Republic, 1948, ff. 3r-3v.*

December 1947. We respect any religion and any religious cult. We support freedom of faith and we have achieved it like no other country except the Soviet Union”<sup>33</sup>.

The year 1948 would register the most legislative changes regarding religious freedom, from constitutional stipulations to the need to change statutes and regulations of religious denominations based on the new communist legislation.

On March 2, Law no. 62/1948 was published in the Official Gazette of Romania for the modification of some provisions of Law No. 54/1928, for the general regime of religious denominations<sup>34</sup>. These provisions were to amend the former law of religious freedom by the following: all religious assets and goods must be registered in an inventory and the inventories must be sent for the control of the Ministry of Cults, religious denominations recognized by the State must provide religious services at public events, the confirmation of the leader of religious cults is to be made by the Presidium of the Romanian People’s Republic after the approval of the Ministry of Cults and they must take an oath of allegiance to the state<sup>35</sup>, revenue management of religious denominations is to be put under the surveillance and control of the Ministry of Cults, the religious cults must review their statutes within 3 months and their leaders have to renew their oath of allegiance to the state within 30 days.

<sup>33</sup> “Blocul (partidelor democratice), a spus tov. Gheorghiu Dej va asigura libera dezvoltare a bisericilor și va susține Biserica să-și împlinească misiunea ce-i revine în viața statului”. “Noi n-am atacat religia și nu o atacăm, a spus tov. Vasile Luca la Congresul Uniunii Populare Maghiare din Decembrie 1947. Respectăm orice religie și orice cult. Susține libertatea de credință și am realizat-o ca în nicio altă țară, cu excepția Uniunii Sovietice”. *The situation of the Religious Cults in Romania, their internal and foreign political position and the situation of the new Religious Cults, the new associations in the Romanian People’s Republic*, 1948, f. 3v.

<sup>34</sup> *Monitorul Oficial*, Year CXVI, Part I, no. 51, Tuesday, March 2, 1948, p. 1902

<sup>35</sup> The official oath was as follows: “Before God, I swear to be faithful to the people and to defend the Romanian People’s Republic, against enemies from outside and inside. I swear that I will respect and I will make my subordinates respect the laws of the Romanian People’s Republic. I swear that I will not take any action that could harm the public order or the integrity of the Romanian People’s Republic. So may God help me.” The oath for the clergy was as follows: “Before God, I swear to be faithful to the people and to defend the Romanian People’s Republic against enemies from outside and inside. I swear to respect the laws of the Romanian People’s Republic and to keep the professional secrecy. So may God help me.”

On April 2, 1948, Law no. 87/1948 was published in Official Gazette for the rationalization of university theological education<sup>36</sup>. This law provided for the merging of the Faculty of Theology in Suceava with that in Bucharest. The communist regime started its plan to reduce theological institutions for academic education.

### **III. Legislative changes regarding religious freedom in 1948**

On April 13, 1948, the Constitution of the Romanian People's Republic<sup>37</sup> entered into force, voted with absolute unanimity<sup>38</sup>. According to Article 27 of the Constitution, freedom of conscience and religious freedom were guaranteed by the State. This article states:

“Article 27. Freedom of conscience and religious freedom shall be guaranteed by the State. Religious cults are free to organize and can function freely if their ritual and practice are not contrary to the Constitution, public security, or public morals. No denomination, congregation, or religious community may create or maintain general education institutions, but only special schools for the training of worship personnel under State control. The Romanian Orthodox Church is autocephalous and

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<sup>36</sup> *Monitorul Oficial*, Year CXVI, Part I, no. 78, Friday, April 2, 1948, pp. 2926-2927.

<sup>37</sup> On December 30, 1947, by Law no. 363 The Romanian State was constituted as the Romanian People's Republic, the law being promulgated by Decree no. 2299 of December 30, 1947. The Romanian Constitution of 1923 was repealed. On April 13, 1948, the new Constitution of the Romanian People's Republic was voted unanimously by the Great National Assembly and promulgated by Decree no. 729 of the same day. The Constitution of the Romanian People's Republic was composed of 105 articles, grouped in 10 titles.

<sup>38</sup> The text of the Romanian Communist Constitution was published in: *Monitorul Oficial*, no. 87 bis/13 apr. 1948, Titlul I. “Articolul 27. Libertatea conștiinței și libertatea religioasă sunt garantate de Stat. Cultele religioase sunt libere să se organizeze și pot funcționa liber dacă ritualul și practica lor nu sunt contrarii Constituției, securității publice sau bunelor moravuri. Nici o confesiune, congregație sau comunitate religioasă nu poate deschide sau întreține instituții de învățământ general, ci numai școli speciale pentru pregătirea personalului cultului sub controlul Statului. Biserica ortodoxa-română este autocefala și unitară în organizarea sa. Modul de organizare și funcționare a cultelor religioase va fi reglementat prin lege”.

unitary in its organization. The organization and functioning of religious denominations will be regulated by law”.

In general, the same rights, with few exceptions, are guaranteed by the other previous Constitutions, the Constitution of the Romanian People’s Republic of 1948 not being the first to impose, however, certain restrictions of religious freedom.

The 1923 Constitution stated the following:

“Article 22. Freedom of conscience is absolute. The state guarantees all religious cults both freedom and protection, insofar as their exercise is without prejudice to public order, morals, and the laws of organization of the State. The Orthodox Christian Church and the Greek Catholic Church are Romanian churches. The Romanian Orthodox Church being the religion of the vast majority of Romanians is the dominant church in the Romanian State, and the Greek-Catholic one takes precedence over other religious cults. The Romanian Orthodox Church is and remains independent of any foreign diocese, but retains its unity with the Eastern Universal Church in terms of dogmas. Throughout the kingdom of Romania, the Orthodox Christian Church will have a unitary organization with the participation of all its constituent elements, clergy, and laity. A special law will establish the fundamental principles of this unitary organization, as well as how the Church will regulate, lead and administer, through its own bodies and under the control of the State, its religious, cultural, foundational, and epitropic matters. The spiritual and canonical issues of the Romanian Orthodox Church will be governed by a single central synodal authority. The metropolitans and bishops of the Romanian Orthodox Church will be elected according to a single special law. The relations between the different cults and the State will be established by law”.

In the Romanian Constitution of 1938, freedom of conscience is regulated as follows:



“Art. 19. - Freedom of conscience is absolute. The State guarantees to all religious cults both freedom and protection, insofar as their exercise does not prejudice public order, good morals, and State Security. The Orthodox Christian Church and the Greek Catholic Church are Romanian churches. As the Orthodox Christian religion is the religion of the vast majority of Romanians, the Orthodox Church is the dominant church in the Roman State, and the Greek Catholic Church has precedence over other denominations. The Romanian Orthodox Church is and remains independent of any foreign diocese, but maintaining its unity, in terms of dogmas, with the Eastern Universal Church. The spiritual and canonical issues of the Roman Orthodox Church belong to a single central synodal authority. The relations between the different cults and the State are in the field of special laws”.

Let us analyse the similarities and differences regarding the texts of these three Constitutions. First of all, compared to the two previous texts, the Communist Constitution stipulates the guarantee of freedom of conscience and freedom of religion as well. One of the sources of this concept can be considered the Russian Communist Constitution.

The concept of “freedom of conscience” was incorporated in the first Constitution of 1918, Article 2, Chapter 5, section 13, among other fundamental rights: “13. For the purpose of securing to the worker’s real freedom of conscience, the church is to be separated from the state and the school from the church, and the right of religious and anti-religious propaganda is accorded to every citizen”. The first Constitution of the U.S.S.R from 1924 did not contain any section devoted to fundamental rights and duties of citizens but resumed the previous legislative provisions. The former Constitutions did not use the concept of “freedom of religion”. The U.S.S.R. Constitution of 1936 stipulated in Article 124 that: “In order to ensure to citizens’ freedom of conscience, the church in the U.S.S.R. is separated from the state and the school from the church. Freedom of religious worship and freedom of antireligious propaganda is recognized for all citizens”. This Constitution used both the concept of “freedom of

conscience”<sup>39</sup> and “freedom of religious worship”<sup>40</sup>. Despite this, the two concepts were considered identical<sup>41</sup>.

If in the text of the Romanian Constitutions of 1923 and 1938 freedom and protection are guaranteed *insofar* the religious life of the cults does not affect public order, morals, and the laws of the organization of the State, or, as stated in the Constitution of 1938, “State Security”, the provision in the Communist Constitution represents a condition for the constitutional guarantee for religious cult *if*<sup>42</sup> their ritual and practice are not contrary to the Constitution, public security, or public morals. Even though this last provision could be considered more restrictive, compared with the previous Constitutions the result was identical. When a religious cult was in contradiction with public order (1928, 1938), public security (1948), laws of the organization of the State, and good morals, then the life of a religious cult was no longer constitutionally guaranteed.

<sup>39</sup> For the context see D.Y. TUMANOV, “Конституционное Регулирование Свободы Совести В Советском Государстве (The Constitutional Regulation of the Freedom of Worship in the Soviet State)”, in: *Вестник Пермского Университета Юридические науки Выпуск*, 4 (14, 2011), pp. 15-19.

<sup>40</sup> Albert BOITER, “Law and Religion in the Soviet Union”, in: *The American Journal of Comparative Law*, Winter, 1987, Vol. 35, No. 1 (Winter, 1987), p. 116.

<sup>41</sup> D.Y. TUMANOV, “Конституционное Регулирование Свободы Совести В Советском Государстве (The Constitutional Regulation of the Freedom of Worship in the Soviet State)”, pp. 16-17.

<sup>42</sup> Several scholars emphasize the importance of the conjunction “if” in the text of the Constitution or the Law regarding Religious Cults of 1948. Paul Aelenei stated in his study: Paul AELENEI, “Legislația cultelor în perioada comunistă”, in: *Universul Strategic, Revista universitară de Studii Strategice Interdisciplinare și de Securitate*, 24, No. 4 (2015), p. 142, that: “The word «if» highlighted the need for increased control by the State, to ensure that the respective institution of worship, through its ritual and practice, is not primarily contrary to the Constitution. This provision was not accidental at all. The Constitution was the basis of the new Communist State, which promoted atheism and which, as an ideology, was diametrically opposed to religious doctrines”. However, a closer comparison with previous constitutions, and even the post-communist one, will emphasize that the same provision is imposed on for the delimitation of religious freedom through public security and morals, or, as we can find in article 22 of the Constitution of 1923: “insofar their exercise does not affect public order, morals, and the laws of the organization of the State.” George ENACHE, “Legea pentru regimul general al cultelor din 1928 și Decretul 177 din 4 august 1948. Privire comparativă [Law on the General Regime of Religious Cults of 1928 and Decree 177 of August 4, 1948. Comparative view]”, in: *Analele Universității Dunărea de Jos din Galați. Seria Istorie* 12 (2013), p. 110.

The Constitution of 1948 excludes the provision from the previous Constitutions regarding the Romanian Orthodox Church and the Greek Catholic Church and stipulates only the fact that the Romanian Orthodox Church is autocephalous and unitary in its organization<sup>43</sup>. The exclusion of the Greek-Catholic Church prepared the total abolition of this church.

As can be seen from the texts of previous constitutions, the Communist Constitution does not impose greater control of the state than, for example, the 1923 Constitution. The need for legislative regulation of all church life was imposed by the 1923 Constitution in all areas: unitary organization, leadership, administration under state control of religious of foundational and epitropic matters, relations between cults, including the election of metropolitans and bishops of the Romanian Orthodox Church that had to be regulated by a special law of the State.

The major difference between the texts of the constitutions of 1923, 1938 and the Communist Constitution of 1948 is given by the prohibition of religious education in public schools under the communist regime, this being allowed only in special educational institutions for the training of clergymen, under the close supervision of the Communist State. Therefore, Decree 175/1948 would impose the total secularization of public education since its first article: "Public education constitutes, in the Romanian People's Republic, an equal right for all citizens of the Romanian People's Republic, regardless of sex, nationality, race or religion. It is organized exclusively by the State based on structural unity and is based on democratic, popular, and realistic-scientific bases. Public education is secular"<sup>44</sup>.

<sup>43</sup> The provision is also found in the previous Romanian Constitutions as: "The Romanian Orthodox Church is and remains independent of any foreign Church, but maintaining its unity with the Ecumenical Church of the East regarding dogmas". "Noua Constituție și Biserica. Biserica Ortodoxă Română este autocefală și unitară în organizarea sa [The new Constitution and the Church. The Romanian Orthodox Church is autocephalous and unitary in its organization]", in: *Biserica Ortodoxă Română*, Year LXVI (1948), no. 3-4 (March-April), pp. 205-208; "Proiectul de constituție al R. P. România [The draft project for the Constitution of the People's Republic of Romania]", in: *Biserica Ortodoxă Română*, Year LXX (1952), no. 6-8 (June-August), pp. 390-399; "Noua Constituție a R. P. România [The New Constitution of R.P.R.]", in: *Biserica Ortodoxă Română*, Year LXX (1952), no. 9-10 (September-October), pp. 514-516.

<sup>44</sup> For a detailed analysis of this decree and of the new reforms imposed on Romanian education, see Adrian GORUN, Horațiu T. GORUN, *O perspectivă istorico-sociologică asupra legislației din învățământul românesc: de la Marea Unire la Decretul no. 175/2 August 1948 [A historical-sociological perspective on the legislation regarding Romanian education: from the Great Union to Decree no. 175, August 2, 1948]*,

The same separation between school and church can be found in the Communist Constitutions of the U.S.S.R., as we emphasized above.

The same decree required the total restructuring of faculties and institutions of higher education<sup>45</sup>, including those belonging to religious cults, and the abolition of denominational schools and their transformation into state schools<sup>46</sup>. Any opposition to the abolition of denominational schools was punishable by 5 to 10 years of forced labour and confiscation of all property<sup>47</sup>. As a result of the secularization of public education, the Communist State took another step, namely the confiscation of all movable and immovable property belonging to educational institutions of religious denominations. Thus, Article 17 of the Decree 176/1948 stated:

“For the proper organization and functioning of State public education and the expansion and democratization of education, all movable and immovable property belonging to churches, congregations, religious communities, private associations, with or without profit, and persons, individuals or juridical entities, and have served the functioning of past educational institutions, according to article 35 of the Law on State public education, become the property of the State, being assigned to the Ministry of Public Education, which will use them for the needs of education”.

The official Communist newspaper “Scântea” from August 3, 1948, headlined the great achievement of the Ministry of Public Education: “The law for education reform. The entire education in the Romanian People’s

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Pro Universitaria, Bucharest, 2014 and Adrian GORUN, Horațiu T. GORUN, *Regimul comunist din România și legiferările din educație [The communist regime in Romania and the legislation regarding education]*, Pro Universitaria, Bucharest, 2014, pp. 13-20.

<sup>45</sup> Article 33 stated: “The current faculties and schools for higher education will be restructured, according to this law. Accordingly, unnecessary departments may be abolished, others may be streamlined as needed, or new chairs may be created”.

<sup>46</sup> Article 35 stated: “All denominational or private schools of any kind will become state schools”.

<sup>47</sup> Article 37 stated: “Those who, regardless of the means, will frustrate or will try to thwart the fulfillment of article 35 of the present law, will be punished with 5-10 years of forced labor and confiscation of the entire property.”

Republic passes into the hands of the State”<sup>48</sup>. The Minister of Education, Gheorghe Vasilichi, put this new progressive law under the umbrella of communist achievements for all sons of the motherland who will be able to access free education, denouncing, each time, the concept of bourgeois-landlord education and emphasizing that the Communist Party guarantees the right to education for all citizens. This text was followed by the draft of the Minister of Justice, Avram Bunaciu<sup>49</sup>, on movable and immovable property confiscated by the State from the schools belonging to religious denominations and forcibly nationalized by the State. This act of barbarism was presented in terms of the right to education and the exclusive powers of the state concerning education: “to serve the expansion and democratization of state education”. The text of the law was followed by an extensive list in two issues of the *Scântea* newspaper of the forced nationalized properties and supporting articles for this “great achievement”<sup>50</sup>.

On May 17, 1948, Decision no. 17,302 from April 28, 1948, was published in the Official Gazette of Romania regarding the appointment of parish priests on the entire territory of the Romanian People's Republic as managers in charge of preserving the public goods that were in their possession. This law provided that religious personnel be subject to the law of public accounting and the law of public patrimony.

On July 17, 1948, the Communist Party issued Decree no. 151, published in the Official Gazette on July 19, 1948<sup>51</sup>, for the unilateral

<sup>48</sup> Gh. VASILICHI, “Legea pentru reforma învățământului. Întregul învățământ în R.P.R. trece în mâna Statului [Law for education reform. The entire education in the R.P.R. passes into the hands of the State]”, in: *Scântea*, 17, no. 1187, August 3, 1948, p. 1.

<sup>49</sup> A. BUNACIU, “Bunurile care trec în patrimoniul Ministerului Învățământului Public. Expunere pe motive [The goods that pass into the patrimony of the Ministry of Public Education. An exposition of principles or reasons]”, in: *Scântea*, 17, no. 1187, 3 august 1948, p. 3.

<sup>50</sup> Mihail ROLLER, “Noua structură a învățământului public [The new structure of Public Education]” in: *Scântea*, 17, no. 1188, 4 august 1948, p. 1 și 4.

<sup>51</sup> *Monitorul Oficial*, Year CXVI, Part I A, no. 164, Monday, July 19, 1948, p. 5964. Decree 151 provided: “Single Article: The concordat concluded between Romania and the Holy See on May 10, 1927, as well as the subsequent agreements and conventions, intervened in the application of that Concordat, shall be repealed on the date of publication of this law. At the same time, the application of the concordat, subsequent agreements, and conventions shall cease. The law of June 12, 1929, for the ratification of the Concordat as well as the laws for the ratification of subsequent conventions or agreements are repealed”.

cancellation of the Concordat between Romania and the Vatican signed on May 10, 1927, and ratified by the Law of June 12, 1929. This decision of the Communist Party was issued four days after the decree of the Congregation of the Holy Office published by Pope Pius XII for the condemnation of communism and its promoters, followed by the decree of excommunication of communist Catholic Christians<sup>52</sup>. The Communist

<sup>52</sup> On July 15, 1948, a decree condemning the promoters of communism was published in the official periodical *L'Osservatore Romano*. For the general context, see David SCHULTENOVER, *50 Years On: Probing the Riches of Vatican II*, Liturgical Press, 2015, p. XLVIII. One year later, on July 1, 1949, it was published in the *Acta Apostolicae Sedis* (Decretum, July 1, 1949, *Acta Apostolicae Sedis*, 1949, p. 334). After its approval by Pope Pius XII on June 30, 1949, the decree was published in the form of a *dubium*, questions and answers, in which the following questions appeared: “1. utrum licitum sit partibus communistarum nomen dare vel eisdem favorem praestare; (Is it allowed to join the Communist Party or offer support?) 2. utrum licitum sit edere, propagare vel legere libros, periodica, diaria vel folia, quae doctrinae vel actioni communistarum patrocinantur, vel in eis scribere (Is it allowed to spread or read books, writings, newspapers or sheets containing the doctrine or actions of the communists or to write in them?); 3. utrum christifideles, qui actus de quibus in nn. 1 et 2 scienter et libere posuerint, ad Sacramenta admitti noscant (Can Christians, who have done those of points 1 and 2 on their own initiative and will be accepted at the Holy Sacraments?); 4. utrum christifideles, qui communistarum doctrinam materialisticam et antichristianam profitentur, et in primis qui eam defendunt vel propagant, ipso facto, tamquam apostatae a fide catholica, incurrant in excommunicationem speciali modo Sedi Apostolicae reservatam. (Are Christians who support the materialist and antichrist doctrine of the Communists, and especially those who defend and spread it by their deeds, subjected to the excommunication of apostates from the Catholic faith, specially reserved for the Apostolic See?). The answers to these questions were: “Ad 1. Negative: communismus enim est materialisticus et antichristianus; communistarum autem duces, etsi verbis quandoque profitentur se Religionem non oppugnare, re tamen, sive doctrina sive actione, Deo veraeque Religioni et Ecclesiae Christi sese infensos esse ostendunt; Ad 2. Negative: prohibentur enim ipso iure (cfr. can. 1399 C.I.C.); Ad 3. Negative, secundum ordinaria principia de Sacramentis de-negandis iis qui non sunt dispositi; Ad 4. Affirmative.” Peter HÜNERMANN, *Kompendium der Glaubensbekenntnisse und kirchlichen Lehrentscheidungen. Enchiridion symbolorum definitionum et declarationum de rebus fidei et morum: Verbessert, erweitert, ins Deutsche übertragen und unter Mitarbeit von Helmut Hoping herausgegeben von Peter Hünermann*, Verlag Herder GmbH, 2017, pp. 1006–1007. For the context of the Catholic Church’s condemnation of communism, see G. ALBERIGO, “La condanna della collaborazione dei cattolici con i partiti comunisti (1949)”, in: *Concilium*, 11, 7 (1975), pp. 145-158; Peter C. KENT, *The Lonely Cold War of Pope Pius XII: The Roman Catholic Church and the Division of Europe, 1943-1950*, McGill-Queen’s University Press, Montreal, 2002, pp. 242–243. Anche E.A. CARRILLO, “The Italian

decree was based on Article 44, points 2 and 13, and Article 45 of the Romanian Constitution and on the decision of the Council of Ministers no. 1099 of July 17, 1948.

On July 20, 1948, the official newspaper of communist propaganda "Scântea" headlined on its front page: "The cancellation of the Concordat with the Vatican – a measure to defend the interests of the people". In the following issues of the newspaper, an entire campaign of slander of the Vatican and the Pope followed. The pope was portrayed with an American flag in his tiara, kneeling and kissing Secretary Marshall's hand<sup>53</sup>. Such images later became commonplace in portraying the papacy<sup>54</sup>.

One of the most important legal texts for the freedom of religion in the Communist period is Decree 177/1948 or the Law for Religious Cults. Decree 177/1948, adopted on August 4, 1948, is the fundamental legislative text for understanding the relationship between the State and Cults during the communist period, and even after that. Although it was issued by a communist authority, it was in force for more than 16 years after the fall of communism, being repealed only in 2006 by Law 489/2006 which regulated the new general regime of cults<sup>55</sup>.

For the interpretation of the Law of Cults of 1948, we have to take into account its comparison with the previous legislation, namely with Law 54 of April 22, 1928<sup>56</sup> and its amendments<sup>57</sup>, but also with the entire

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Catholic Church and Communism", in: *The Catholic Historical Review*, 77 (1991), pp. 644-657; A. RICCARDI, "La scomunica ai comunisti del luglio 1949", in: *Il Parlamento italiano 1861-1988*, XV, Milano, 1991, pp. 20-22.

<sup>53</sup> For the US perspective on the Freedom of Religion in Romania see the CIA report on 1948: *Freedom of Religion in Romania*, 1948, C.I.A Archive, CIA-RDP83-00415R003800080002-9, March 1, 1950, <https://www.cia.gov/readingroom/docs/CIA-RDP83-00415R003800080002-9.pdf>

<sup>54</sup> Paul NISTOR, "Shaping the Image of the Enemy in the Political Cartoons During the Cold War", in: *Transylvanian Review*, vol. xix, Supplement NO. 5:2 (2010), pp. 285-298.

<sup>55</sup> Regarding Law 489/2006 see Radu CARP, "The Autonomy of Religions from the State. The Normative Framework", in: *Studia Politica. Romanian Political Science Review* 10, no. 2 (2010), pp. 349-357; Cătălina MITITELU, "The Autonomy of Religious Denominations in Romania", in: *Ecumeny and Law* 4 (2016), pp. 275-296; N. DURĂ, "The Law no. 489/2006 on Religious Freedom and General Regime of Religious Cults in Romania", in: *Dionysiana Review*, 2 (2008), pp. 37-54.

<sup>56</sup> This Law was approved by Royal Decree No. 1093 of April 12, 1928, and published in *Monitorul Oficial*, No. 89, April 22, 1928.

<sup>57</sup> George ENACHE, "Legea pentru regimul general al cultelor din 1928 și Decretul 177

state legislation of 1948-1949, as well as with the church legislation that represented the implementation of this law<sup>58</sup>.

A comparison between Law 54 of April 22, 1928, and Decree 177/1948 will show us that there are many similarities, some even textual, between the two texts, although the promoters of the Communist Law for religious freedom considered that it is completely different from the previous law of the “bourgeois” and “exploitative” state and represents the sum of the “democratization” of the relationship between the state and religious cults. On the other hand, Decree 177/1948 will impose certain legal provisions that will represent the foundation for the complete control of the State over religious cults.

The similarities between the two laws are very obvious<sup>59</sup>. The first article of the Law of Cults of 1948, as well as the one of the Law of Cults of 1928, reiterates the constitutional guarantee of the freedom of conscience and religion. In addition to religious belief, Article 3 of the 1948 Law introduces unbelief as well. A very important legal provision is Article 5 of the Law on 1948: “Art. 5. No one may be compelled, by administrative measures of the State, to contribute to the expenses of a cult or to submit to the decisions of the religious courts”.

The newspaper “Scânteia” of August 5, 1948, publishes a comprehensive presentation of the Law on the general regime of cults in Romania<sup>60</sup>.

On August 4 Decree No. 178 was published in the Official Gazette. It was entitled “Decree for the organization of the Ministry of Cults”<sup>61</sup>.

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din 4 august 1948. Privire comparativă [Law on the General Regime of Religious Cults of 1928 and Decree 177 of August 4, 1948. Comparative view]”, in: *Analele Universității Dunărea de Jos din Galați. Seria Istorie* 12 (2013), pp. 107-149.

<sup>58</sup> For the difference between the previous state legislation affecting religious denominations in 1928 and the communist legislation see George ENACHE, “Legea pentru regimul general al cultelor din 1928 și Decretul 177 din 4 august 1948. Privire comparativă [Law on the General Regime of Religious Cults of 1928 and Decree 177 of August 4, 1948. Comparative view]”, pp. 107-149.

<sup>59</sup> For example, Article 2 of the Law of 1948 is almost identical with Article 2 of the Law of 1928, on preventing the free exercise of a Religious Cult; paragraph 2 of Article 3 of the Law of 1948 represents a direct takeover of Article 3 of Law of 1928; Article 4 of the Law of 1948 represents a takeover of the first paragraph of Article 5 of the Law of 1928.

<sup>60</sup> *Scânteia*, 17, no. 1189, August 5, 1948, p. 1 and 5.

<sup>61</sup> Decree 178/1948, in: *Monitorul Oficial*, (Part I A), no. 178, August 4, 1948, pp. 6396-6399.



This decree was nothing more than the application of the constitutional provisions and the Law of Religious Cults to the actual situation of the new regime of popular democracy. Although written under the guise of freedom of conscience and religious freedom, Decree 178/1948 offered so many levers of abuse to the Ministry of Cults that it can be considered the decree for “supervision and control” of religious cults, words with which even Article 1 of the decree begins<sup>62</sup>.

Decrees 177/1948 and 178/1948 directly affected the organization of Religious Cults in Romania and their religious freedom. According to Article 56, of Decree 177/1948<sup>63</sup>, for the recognition of religious cults, the Romanian Orthodox Church, like the other Churches and religious denominations, had to submit within three months the Statute for its organization and functioning to the Ministry of Cults, in order to be approved by decree of the Presidium of the Grand National Assembly. The only exception was the Catholic Church<sup>64</sup>. Accordingly, Patriarch Justinian

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<sup>62</sup> Art. 1: “The Ministry of Cults is the public service through which the State exercises its right of supervision and control in order to guarantee the use and exercise of freedom of conscience and religious freedom”. For the general context and further developments, see Adrian Nicolae PETCU, “Activitatea Departamentului Cultelor în atenția Securității [The activity of the Department of Cults under the scrutiny of Securitate Service (1970-1989)]”, pp. 70-73.

<sup>63</sup> Articolul 56. “Toate cultele religioase sînt datoare a-și înainta statutul lor de organizare, pus în concordanță cu prevederile legii de față, în termen de 3 luni de la data publicării prezentei legi, Ministerul Cultelor, în vederea aprobării lor. Aprobarea statutelor se face prin decret al Prezidiului Marii Adunări Naționale, la propunerea Ministrului Cultelor”.

<sup>64</sup> On October 27, 1948, The Catholic Church submitted its Statute for examination and approval by the Ministry of Cults. It contained 46 articles, including the Greek and Armenian rites. In January 1949, the Ministry of Cults requested the amendment of 42 articles of the draft statute. On February 24, 1949, Archbishop Aron Marton refused the changes. On May 29, 1949, Archbishop Aron Marton and Bishop Anton Durcovici, three canonici, and 132 priests were retroactively removed from the public budget from February 1, 1949, for anti-democratic attitude. “By a decision of the Ministry of Cults, the following personnel of the Roman Catholic Church was removed from the budget from February 1, 1949, for anti-democratic attitude: Marton Aron, Bishop of Alba Iulia, Durcovici Anton, bishop of Iași, Șandor Emeric, canonic of Alba Iulia, Makalic Victor, canonic of Alba Iulia, Schubert Iosif, canonic of Iași, Adorjan Carol, head of the department of Alba Iulia, Horn Andrei, head of the department Bucharest, as well as a number of 130 priests and administrative officials of the Roman Catholic Church”. “Slujitori ai Bisericii romano-catolice din R.P.R. scoși de la buget în urma atitudinii antidemocratice [Servants of the Roman Catholic Church in the R.P.R.

convened the Synod of the Romanian Orthodox Church for October 18-19, 1948. The Holy Synod sent two addresses to the Ministry of Cults, Address No. 1,880 of October 27, 1948, and Address no. 350 of February 14, 1949. The first draft of the Statute was rejected by the communists in October, and the Statute was resubmitted at the beginning of 1949. Based on the last address, on February 23, 1949, the Statute of the Church was published in the Official Gazette with the approval of the Presidium of the Grand National Assembly, according to decree 233/1949.

The academic studies published in the years following the entry into force of the Statute for organization and functioning of the Romanian Orthodox Church praised the relationship between freedom of religion and the autonomy of the Orthodox Church<sup>65</sup>. In reality, the communist legislation imposed on the Romanian Orthodox Church a legislative chain that would hang around the neck of the Church for half a century.

Even though Orthodox theologians praised the fact that the Communist State guaranteed the autonomy of the Church<sup>66</sup>, this autonomy was

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excluded from the budget due to their anti-democratic attitude]”, in: *Scântea*, 18, no. 1438, May 29, 1949, p. 1.

<sup>65</sup> See for example: LIVIU STAN, “Statutul Bisericii Ortodoxe Române [Statute of the Romanian Orthodox Church]”, in: *Studii Teologice*, 7-8 (1949), pp. 638-661; Gh. Soare, “Însemnări asupra noului statut de organizare [Notes on the New Statute for the Organization]”, in: *Glasul Bisericii*, 5-6 (1949), p. 51; “Statutul pentru organizarea și funcționarea Bisericii Ortodoxe Române [The Statute for the organization and functioning of the Romanian Orthodox Church]”, in: *Telegraful Român*, 18-19 (1949); “Legea și Statutele cultelor religioase [Law and Statutes of Religious Cults]”, in: *Mitropolia Moldovei și Sucevei*, 10-12 (1948); Iorgu IVAN, “Statutele de organizare a cultelor religioase din R.P.R. [The statutes of organization of religious cults in the R.P.R.]”, in: *Studii Teologice*, 3-4/1952, pp. 216-240; E. NEDELESCU, “Regimul de democrație populară și libertățile religioase [The regime of popular democracy and religious freedoms]”, in: *Mitropolia Olteniei* 7-8/1954.

<sup>66</sup> See for example Liviu Stan’s praises for the Statute of organization related to the general regime of Religious Cults in the R.P.R.: LIVIU STAN, “The Statute of the Romanian Orthodox Church”, in: *Studii Teologice*, II (1949) 7-8, pp. 638-661: “The political regime of our state of popular democracy has consistently and democratically ensured complete autonomy of the religious sector of public life, guaranteeing in a real and not only formal way, the autonomy of all Religious Cults and therefore also of the Romanian Orthodox Church, which only in this regime enjoys a full autonomy, i.e. freedom and independence, in the organization and management of its religious life”. The article was republished in: LIVIU STAN, *Biserica și Dreptul. Ortodoxia Românească [The Church and the Law. Romanian Orthodoxy]*, Editura Andreiana, Sibiu, 2015, pp. 104.

extremely limited, and by no means a prerogative of the sovereignty of the State that maintained the autonomy of religious cults, as prominent theologians tried to emphasize<sup>67</sup>.

The first Article of the Statute<sup>68</sup> of 1949 represents the transposition of Article 41 of Decree 177/1948, which limited the jurisdiction of religious denominations only to the territory of the Romanian People's Republic<sup>69</sup>. Through this, the Romanian Orthodox Church found itself deprived of its jurisdiction over dioceses and parishes abroad. Article 6 of the Statute allowed religious assistance, church organization, and pastorship for Orthodox Romanians abroad only with the approval of the Government.

Article 4 of the Statute transposed the provisions of Article 27 of the Constitution and of Articles 29, 30, 32, 42, 44 of Decree 177/1948 and Article 1 of Decree 178/1948, providing the control of the State through the Ministry of Cults.

Article 5 of the Statute represents the reconfiguration of the dioceses according to the provision of Article 22 of Decree 177 and according to Decree no. 243 for limiting the number of dioceses (dioceses, superintendencies) of religious denominations<sup>70</sup>, which limited the number of the dioceses of the Romanian Orthodox Church to 17, although in the final version of the Statute only 12 dioceses remained according to Decree 134 of February 4, 1949, and Decree no. 244 for the dissolution of the Romanian Orthodox Metropolitanate of Suceava (Archdiocese of Suceava and Radauți) and the establishment of the Archdiocese of Suceava and Maramureș<sup>71</sup>. This reconfiguration was based on the report of the Minister

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<sup>67</sup> In connection with the issue of autonomy, we must also specify that the control exercised by the State over the Romanian Orthodox Church (Article 4), as over all Religious Cults, in fact, does not impair in any way the autonomy of our Church, as this control extends only to other aspects of church activity, which are subject to control by the State, because, by their character, they do not belong to the proper and distinct nature of the Church, but to those which serve only as auxiliaries of the activity of the Church for the fulfillment of its mission, such as economic goods, etc. Liviu STAN, "The Statute of the Romanian Orthodox Church", pp. 108-109.

<sup>68</sup> Art. 1: "The Romanian Orthodox Church includes all believers of the Orthodox Christian religion from the Romanian People's Republic".

<sup>69</sup> Article 41: "The jurisdiction of religious denominations cannot extend beyond the territory of the Romanian People's Republic, nor will religious denominations abroad be able to exercise jurisdiction over believers within the Romanian State".

<sup>70</sup> *Monitorul Oficial*, Year CXVI, no. 217, Saturday, September 18, 1948, p. 7679.

<sup>71</sup> *Monitorul Oficial*, Year CXVI, no. 217, Saturday, September 18, 1948, p. 7679.

of Cults no. 3,126 of February 4, 1949, and the address of the Holy Synod no. 156 of January 26, 1949.

Article 7 of the Statute regarding the change of diocesan titles required the confirmation by a decree of the Presidium of the Grand National Assembly of the Romanian People's Republic, given at the proposal of the Ministry of Cults, the provision being imposed by the transposition of Article 22, paragraph 3 of the Decree 177/1948.

Article 10, letter "d" of the Statute<sup>72</sup> conferred on the Romanian Orthodox Church a right of approval on the laws of the State regarding the Romanian Orthodox Church, a provision not covered by the laws in force in the Communist Regime. This canonical prerogative was never applied in the Communist period<sup>73</sup>.

Articles 12 and 13 of the Statute imposed the decision of the Ministry of Cults for the meetings of the Holy Synod of the Romanian Orthodox Church.

According to Article 130 of the Statute, the bishops, metropolitans, and the patriarch are elected by the Electoral College composed of members of the National Church Congress and those of the Diocesan Assembly of the vacant Diocese. The President of the Council of Ministers, the Minister of Cults or their delegates, a delegate of the Grand National Assembly, as they would be men and Orthodox and the rectors of the Theological Institutes of university degree were members of the Electoral College. According to Article 131 of the Statute, the confirmation was made by the Presidium of the Grand National Assembly, given by the Government, at the proposal of the Ministry of Cults. According to Article 191 of the Statute, all the appointments to any church office had to be communicated to the Ministry of Cults.

In September 1948, the Communist regime issued two more decrees, Decree No. 243 regarding the number of dioceses (dioceses, superintendencies) of religious cults<sup>74</sup>, and Decree no. 243 for the dissolution of the Romanian Orthodox Metropolitan see of Suceava (Archdiocese of Suceava and Radauți) and the establishment of the Archdiocese of Suceava

<sup>72</sup> "d) To give its opinion on the draft laws regarding the Romanian Orthodox Church".

<sup>73</sup> Ionuț CORDUNEANU, *Biserica și Statul. Două Studii [Church and State. Two Studies]*, Evloghia, Bucharest, 2006, pp. 51, 63-64.

<sup>74</sup> *Monitorul Oficial*, Year CXVI, no. 217, Saturday, September 18, 1948, p. 7679.

and Maramureş<sup>75</sup>. By Decree No, 302 all private health institutions were nationalized<sup>76</sup>.

One of the most important legislative text of 1948 regarding religious freedom was Decree 358 of December 1, 1948. By virtue of the decree, all property belonging to the Greek Catholic Church was transferred to the State, except for parish property, which was transferred to the Orthodox Church in accordance with Decree no. 177/1948. By this decree, after a long process of dissolution carried out by the Communist State after the model of the Greek Catholic Church of Ukraine, the Greek Catholic Church ceased to exist<sup>77</sup>.

## Conclusion

Despite the fact that the relationship that the communists displayed towards religious denominations in Romania at from 1945 to 1948 was one of guaranteeing religious freedom, financial support from the state for religious activities, and the cooperation with religious entities, all this had only an electoral and propagandistic purpose for internal and international image of the Communist State. The archival sources of the analysed period, especially at the beginning of 1948, show a context of an artificial plurality for the expression of religious freedom and a possible guarantee of religious freedom, a vision that will change quickly, especially after mid-1948.

At the beginning of the communist regime in Romania, certain legal and canonical mechanisms were created by the Communist power to repress

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<sup>75</sup> *Monitorul Oficial*, Year CXVI, no. 217, Saturday, September 18, 1948, p. 7679.

<sup>76</sup> *Monitorul Oficial*, Year CXVI, no. 256, Wednesday, November 3, 1948, pp. 8802-8805.

<sup>77</sup> For the suppression of the Greek Catholic Church see Cristian VASILE, "The suppression of the Romanian Greek Catholic (Uniate) Church", in: *East European Quarterly*, Vol. 36, Issue 3, (Fall 2002), pp. 313-322; Cristian VASILE, "Church and State in Romania after the Communist Takeover (1945-1948)", in: *Études balkaniques*, Issue 2 (2002), pp. 101-105; Serge KELEHER, "The Romanian Greek-Catholic church", in: *Religion, State and Society*, 23:1 (1995), pp. 97-108; Lucian N. LEUŞTEAN, "Constructing communism in the Romanian People's Republic. Orthodoxy and state, 1948-49", in: *Europe-Asia Studies*, 59:2 (2007), pp. 303-329.

the religious denominations, elaborated in such a way that these acts of repression were, from a strictly positivist perspective, legal, canonical and even legitimate.

These legal text have been applied through intolerance, abuse, torture, and even crimes.