

РОЗДІЛ 2

ПУБЛІЧНЕ ПРАВО В ПАРАДИГМІ СУЧАСНИХ ТРАНСФОРМАЦІЙ СУСПІЛЬСТВА

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Dr. Adrian G. Corpădean, Dean of the Faculty
of European Studies, Assoc. Prof.,
Faculty of European Studies, Babeş-Bolyai
University of Cluj-Napoca,
Cluj-Napoca, Romania

Dr. Mihaela A. Oprescu, Lecturer,
Faculty of European Studies, Babeş-Bolyai
University of Cluj-Napoca,
Cluj-Napoca, Romania

ROMANIA'S VIEWS ON THE EUROPEAN PRESENT AND FUTURE OF UKRAINE AMID THE WAR OF AGGRESSION OF THE RUSSIAN FEDERATION

The history of Romanian-Ukrainian relations has followed the twists and turns prompted by the Soviet-induced communist regime and its long-lasting repercussions on the broader region. Left with unresolved territorial disputes and with often divergent foreign policy views, the two post-communist neighbours took their time to mend their relations, but their commitment to Western values and Euro-Atlantic integration has succeeded in starting a new, lucrative chapter in this regard. Set against the background of Russia's war of aggression against Ukraine and amid the military, economic and social crisis – to name but a few of the angles this stark violation of international law ought to be regarded from – the closeness between the governments in Bucharest and Kyiv appears to be furthered by the constructive reaction of the Romanian people, which has materialised itself in a variety of acts, from aiding the Ukrainian refugees to supporting Ukraine's bid to join the EU. This article aims to explore the attitude exhibited at the level of both the government and the people of Romania, as well as to ponder its genuineness and explain the reasons that lie at the basis thereof.

When considering the bilateral relations between the two nations sharing a border that stretches more than 600 km, the chapters that would come to mind in the not-too-distant past included the post-communist heritage, the contentions file of the Bystroe Canal [1], or the case brought by Romania before the International Court of Justice (ICJ), pertaining to the continental

shelf around Snake Island [2]. The same, however, does not hold true for cross-border relations, where the Ukrainian minority in Romania and the Romanian minority in Ukraine make up a sizeable part of the population of the shared Bukovina region and implement a variety of cross-border projects, often with the help of EU funding. This long-standing collaboration, and the cultural and linguistic richness it is based upon, have for a long time now contributed to the shaping not only of the identity of the two people, but also of the historical heritage they have in common. Even in this respect, however, bilateral relations have not been exempt from tensions, as it emerges from the constant requests made by the Romanian authorities to provide Romanians living in Ukraine with similar rights to those of Ukrainians residing on Romanian territory – from parliamentary representation to a linguistic policy favourable to national minorities.

It is under such premises that the rekindled relations between the two neighbouring states have emerged, following the invasion of Ukraine by the Russian Federation, as of the 24th February 2022. This shift (or, better yet, improvement) of attitude on the Romanian side was immediately felt in the reaction of civilians and NGOs, which made a point of securing the transit of Ukrainian refugees and of assisting them, in tandem with public authorities and according to international law and practice [3].

Nevertheless, the starkest reactions did not fail to emerge from the administration in Bucharest, which had held true to its commitment to enforcing the sanctions against Russia following its illegal occupation of Crimea, back in 2014, whilst having to endure more or less thinly-veiled threats on the part of Moscow. A member of NATO since 2004 and of the EU since 2007, Romania has followed an unshaken pro-western course of action during and after its transition to democracy, which has proved to be profitable and remains massively endorsed by the population. Hence, a series of concrete measures in international politics have been taken, chiefly through the actions of the Ministry of Foreign Affairs, and those of the Presidency.

Such gestures have included the unequivocal condemnation of the Russian invasion and of the subsequent “referenda” orchestrated in the occupied territories, before the UN Security Council, General Assembly and the Permanent Council of the OSCE [4]. Moreover, in March 2022, Romania joined another 42 countries to ask the ICC to investigate possible crimes of genocide committed by the Russian aggressor on the sovereign territory of its neighbour. Also, in September 2022, Romania submitted to the ICJ the Statement of Intervention in the proceedings initiated by Ukraine against the Russian Federation, which is accused of falsely claiming that Ukraine had committed acts of genocide in the regions Luhansk and Donetsk, in order to justify on the one hand, the recognition of the so-called P.R. Donetsk and P.R. Luhansk, and on the other hand, the legitimacy of “special military operations”

against Ukraine. In September 2022, Romania once again intervened in support of Ukraine, this time before the European Court of Human Rights (ECHR), in the case Kyiv had brought against the Russian Federation. From a pragmatic standpoint, Romania opened its two major ports, Constanța and Galați, to assist in the transportation of Ukrainian cereal, while in terms of defence, it contributed to the NATO funding dedicated to supporting Ukraine, through a donation made in October 2022 [5].

A series of bilateral visits contributed to the visibility of this closeness, with FM Dmytro Kuleba's visit to Bucharest in April 2022, followed by PM Nicolae Ciucă's presence in Kyiv. The culmination of the revamped bilateral ties was President Volodymyr Zelensky's address before the Romanian Houses of Parliament on 4th April 2022 and President Klaus Iohannis' Kiev trip, together with European leaders Emmanuel Macron, Olaf Scholz and Mario Draghi [5]. The most significant gesture, nonetheless, is Romania's support for the EU integration of Ukraine [6], which denotes a considerable level of political maturity, given the amount of spending this endeavour would elicit, from EU policies of vital interest to Romania.

To conclude, all of the above, whether it stems from official bodies of the Romanian state or from the public that is clearly supportive of Ukraine's cause, is proof of Romania's firm commitment to endorsing Ukraine's European future, while lucidly looking at the present and, hence, at the assistance Kyiv legitimately requires so as to ensure that such future is rendered possible.

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Аль-Зухаїрі Мунеам Таїр Фаріс,
начальник коледжу Імама Аль-Кадима,
Юридичний факультет, м. Багдад, Ірак

ІНТЕРПРЕТАЦІЙНА ЮРИСДИКЦІЯ ФЕДЕРАЛЬНОГО ВЕРХОВНОГО СУДУ ІРАКУ

На сьогодні діяльність Федерального Верховного Суду Іраку (далі – Суд) здійснюється у відповідності до Конституції Республіки Ірак та Закону Федерального Верховного Суду Іраку № (30) 2005 р. [1; 2]. До повноважень Суду належать: перевірка неконституційності законів, законодавства та інструкцій, які він видає. Рішення Суду мають обов’язкову примусову силу відповідно до тексту пункту (d) статті (44) Закону про державну адміністрацію Іраку на перехідний період 2004 р. [3].

Суд є конституційним судом, оскільки він розглядає положення, які регулюють дії Іракської держави та її інститутів. На підставі ст. 1 Конституції Іраку 2005 р. був сформований уряд та в цілому утворена федеральна система органів публічної влади. Згідно зі ст.ст. 92, 93 і 94 Конституції Республіки Ірак Суд не розглядає справи по суті, як суди загальної юрисдикції. Цей суд є найвищим судом, це вказує на його важливість, характер місії та специфіку нагляду за ним. Його назва використовується не в контексті структурної ієрархії існуючих рівнів судової системи, а лише для вказівки на природу своєї місії, яка полягає в тому, щоб підкреслити сутність верховенства права та легітимність прийнятих рішень. Тобто, відповідно до ст. 93 Конституції Республіки Ірак 2005 р. Суд наділений повноваженнями щодо тлумачення конституційних текстів, яких до прийняття Основного Закону держави не мав.

В умовах розвитку суспільних відносин, деякі конституційні принципи викликали суперечки та питання серед дослідників, юристів, політичних блоків та організацій громадянського суспільства. Зокрема, тривалий час між федеральним урядом, урядами регіонів і мухафазами точилася дискусія про зміст та обсяг основних прав, свобод особи, а також розподілу доходів від енергетичних ресурсів. Інтерпретацію цих принципів здійснив саме Суд, до процесуального порядку тлумачення