

# ELECTORAL SYSTEM IN ROMANIA – LEGAL FRAMEWORK, INTERINSTITUTIONAL COOPERATION

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*Letitia Mihaela MORAR* \*

**Abstract.** *The paper seeks to retrace the electoral journey of modern Romania, highlighting the general synchronization process of democratization of the vote, as well as the changes that occurred in the legislative and administrative electoral approach, having into consideration the specific requirements of the international law. The first part is presenting the historical overview of the pos-communist period, while the second part is dealing with presentation (structure and functions) of the Romanian electoral bodies considering the present legal situation. It also highlights the cooperation between these bodies, as well as the cooperation with other administrative entities, especially with the Ministry of Foreign Affairs and the judicial authorities in order to create an efficient electoral system. Nevertheless, it is presented the role of the Romanian permanent electoral institution (Permanent Electoral Authority) within World Association of Electoral Bodies (A-WEB), an organization that brings together electoral management bodies from over 100 countries on five continents*

**Keywords:** *democracy, electoral system, constitution, legislation, cooperation*

## Historical overview

One of the main objectives of the December 1989 Revolution was the removal of the communist regime and the establishment of a political system based on the freely expressed willpower of the citizens.

In this regard, a legal framework was established by the Provisional Council of National Union (Consiliul provizoriu de Uniune Națională -CPUN). One of the core burdens of the political government union constituted by the Agreement signed in 1<sup>st</sup> of February 1990 was to adopt an electoral law that allow the foundation of the new democratic regime in post-communist Romania through free elections.

Therefore, Decree-Law no. 92 of March 14, 1990 (Monitorul Oficial Nr. 35 of March 18, 1990) for the election of the Parliament and the President of Romania was not only an electoral law, as it also consecrated the principles of the new government of Romania, the structure of the main public authorities, so that this new regulation prefigured the future constitutional regime (Enache, Constantinescu, 2001). This initial normative act established the option for the Republican form of state, enshrined the two-

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\* Associate professor, Babes Bolyai university of Cluj-Napoca, e-mail:letitia.morar@ubbcluj.ro

headed structure of the executive, consisting of the President of Romania, directly elected by the citizens, and the Government legitimized by the vote of the Parliament. As far as the Parliament is concerned, it was to fulfil the role of ordinary legislator, having a bicameral structure that would not differentiate the Senate from the Chamber of Deputies, neither in terms of attributions nor in terms of the way of election (*Iliescu, 2005*).

The first democratic parliamentary elections were held at the same time as the presidential elections, on May 20, 1990. For the Parliament, 75 political parties and formations submitted lists of candidates, to which a number of independent candidates were added. Three candidates have been registered for the position of President. Due to the permissive electoral system, 27 political parties won parliamentary mandates, including 10 national minority organizations and one independent candidate (Bejan, Datculescu, Liepelt, 1991).

The adoption of the first democratic Constitution in 1991 mainly confirmed the regulations confined in Decree-Law no. 92/1990. Thus, the Fundamental Law of 1991 enshrined the republican form of state, the direct election of the President of Romania, the bicameral structure of the Parliament, the equality of the Chambers of Parliament and the non-differentiation of the way of electing deputies and senators. In the chapter on the fundamental rights, freedoms and duties of citizens, the Constitution reiterated the right to vote for all citizens who have reached the age of 18 (except for the mentally insane, persons placed under interdiction or sentenced by a final court decision to the loss of electoral rights as provided from art 24 of the 1991 Constitution and set the age limit for election at 23 years for deputies and 35 years for senators as well as for the President of Romania (Constitutia României din 1991, art. 35).

The Constitution also established the principle of local autonomy, exercised through directly elected authorities (county council, local council and mayor) as provided of the Article 119-121 of the 1991 Constitution.

Article 72 of the Constitution expressly specifies that the other aspects of the system were to be regulated by organic law. Therefore, the legislative framework on parliamentary and presidential elections was adopted, thus being structured the Laws no. 68/1992 (for the election of the Chamber of Deputies and the Senate) and no. 69/1992 for the election of the President of Romania (Monitorul Oficial Nr. 164 of July 16, 1992).

The electoral system regulated by Laws no. 68/1992 and no. 69/1992, supplemented by a multitude of subsequent normative acts, including the adoption of a new electoral law in 2004 (*Legea nr. 373/2004*). After the revision of the Constitution in 2003, kept in force the essential regulations until 2008, the most important change being the raising of the electoral threshold in 2000 to 5% for parties and a maximum of 10% for electoral alliances (*Article. 1 pct. 5 of the O.U.G. nr. 129/2000*). According to the electoral system regulated by Laws no. 68/1992 and no. 69/1992, four sessions of parliamentary and presidential elections were organized, in 1992, 1996, 2000 and 2004.

As for the presidential elections, in view of the extension, by the revision of the Constitution in 2003, of the term of office of the President from four to five years according to Article 83 of the 2003 Constitution, the conditions for the separation of presidential and parliamentary elections were created. Accordingly, the first separate holding of these elections took place only in 2008-2009.

Other rather technical changes to the electoral system concerned the reduction of the number of deputies and senators, the consequence of the reduction of Romania's population, the duration of the electoral campaign (it was limited to 30 days) and the obligations of the media in terms of its coverage (*2003 Constitution – Article 75 paragraph 4*), the introduction of voter cards and the establishment of the Permanent Electoral Authority (*Legea nr. 373/2004*).

### **Democratic electoral bodies: the permanent electoral authority. The central electoral bureau and its subdivisions**

The Permanent Electoral Authority is an autonomous administrative institution with legal personality and general competence in electoral matters, which has the mission of ensuring the organization and conduct of elections and referendums, as well as the financing of political parties and electoral campaigns, in compliance with the Constitution, the law and international and European standards in the field.

The Permanent Electoral Authority carries out its activity in compliance with the principles of independence, impartiality, legality, transparency, efficiency, professionalism, responsibility, sustainability, predictability and legitimacy ([www.roaep.ro](http://www.roaep.ro)).

For the organization and conduct of each electoral campaign and each election, the Central Electoral Bureau, electoral bureaus of electoral constituencies and electoral bureaus of polling stations are organized ([www.bec.ro](http://www.bec.ro), 2024)

In this regard, the legislator is considering a distinct material and temporal competence of the two electoral public entities, thus being different both the assembly of attributions of the public authority, but also the sphere of the attributions in time (Vedinas 2021).

Beyond the scope of competences and attributions that shall be the subject of the analysis of this paper, both entities represent the specificity of the public, administrative law regime, which is based on the fact that the mission of the administration consists in satisfying the public interest, and the public power regime is the apparatus of means and procedures that make it functional at the parameters expected by the recipients of its activity (Voican, 2020).

In this specific area, the administrative law regime works in order to conduct elections in accordance with the common principles of the European electoral heritage, which are the foundation of a true democratic society, five fundamental rules must be respected: suffrage must be universal, equal, free, secret and direct. Moreover, elections must be organized periodically. All these principles constitute the European electoral heritage which must be strictly respected by all European states (Venice Commission, Explanatory Report, 2002).

This electoral heritage, which must be reflected in national legislation at European level, must take into account the norms of international law in electoral matters. The relevant universal rule is enunciated by Article 25(b) of the International Covenant on Civil and Political Rights, which expressly provides for the entire set of principles, with the exception of direct suffrage, which is presumed (*Article 21 of the Universal Declaration of Human Rights*). At European level, the common rule is Article 3 of the Additional Protocol to the European Convention on Human Rights, which expressly provides for the right to periodic elections by free and secret suffrage (*Article 3 of the*

*Universal Declaration of Human Rights*<sup>1</sup>. The other principles have been recognized as deriving from the jurisprudence (*ECHR, no. 9267/81, Mathieu-Mohin and Clerfayt v. Belgium*) The right to direct elections has also been admitted by the Strasbourg Court, at least implicitly (*ECHR, No. 24833/94, Matthews v. the United Kingdom*). Therefore, these international, European constitutional principles must be expressly mentioned in national constitutions and legislations.

The existence of convergent national laws and practices allows the precise determination of the content of the principles. These practices should be conducted in this regard in a regime of public administration, by specific public institutions. Romania has fulfilled these obligations adopted at international level by adopting the specific legislation and by regulating the public entities as they are presented throughout this paper.

Both of these bodies were established by the Law No. 286 of 27 June 2003 amending and supplementing Law No.68/1992 for the election of the Chamber of Deputies and the Senate – *Article 23*. The Central Electoral Bureau is composed according to this law of 7 judges of the Supreme Court of Justice, the president of the Permanent Electoral Authority and 15 representatives of the political parties and their alliances, which participate in the elections – *Article 24*.

These bodies are therefore interconnected having into consideration the structure, but also the attributions of the Permanent Electoral Authority **between two electoral** periods, as provided by Article 23:

b) *monitors the identification of polling station locations and electoral bureau headquarters;*

r) *organizes tenders for the selection of computer programs to be used by the Central Electoral Bureau for centralizing voting results;*

The attributions of these bodies later enhanced by subsequent legal norms: Law no. 373/2004 for the election of the Chamber of Deputies and the Senate, with subsequent amendments and completions, Law no. 334/2006 on the financing of the activity of political parties and electoral campaigns, with subsequent amendments and completions, Law no. 33/2007 *on the organization and conduct of elections to the European Parliament*, Law no. 35/2008 for the election of the Chamber of Deputies and the Senate and for amending and supplementing Law no. 67/2004 for the election of local public administration authorities, of the Local Public Administration Law no. 215/2001 and Law no. 393/2004 on the Statute of Local Elected Officials, with subsequent amendments and completions, Government Emergency Ordinances no. 1/2007, 8/2007, 9/2007, 20/2008, 32/2008, 36/2008, 97/2008, 11/2009, 55/2009, 95/2009, 4/2014, 12/2014, Law no. 208/2015 on the election of the Senate and the Chamber of Deputies, as well as for the organization and functioning of the Permanent Electoral Authority, Law no. 115/2015 for the election of local public administration authorities, for the amendment of the Local Public Administration Law no. 215/2001, as well as for amending and supplementing Law no. 393/2004 on the Statute of Local Elected Officials (<https://www.roadep.ro/prezentare/en/despre-noi/>).

The activity of amending the normative acts envisaged the harmonization of the national legislation with the provisions of the Council Directive 2013/1/EU of December 20, 2012 and the implementation of the ten outstanding recommendations on the

financing of political parties, formulated by the Group of States Against Corruption (GRECO), following Romania's evaluation in 2010 ([https://www.just.ro/wp-content/uploads/2021/08/Greco-Eval3\\_tema1\\_-2010\\_EN.pdf](https://www.just.ro/wp-content/uploads/2021/08/Greco-Eval3_tema1_-2010_EN.pdf)).

### **Present legal framework**

This paper is presenting the present legal situation as regulated by the Law No. 208 of July 20, 2015 on the election of the Senate and the Chamber of Deputies, as well as on the organization and functioning of the Permanent Electoral Authority (*Monitorul Oficial, nr 553, 2015, July*).

Article 7 of the Law no 208/2015 consecrates a permanent competence of the Permanent Electoral Authority, for the organization of the electoral process. In this regard, the Permanent Electoral Authority issue rulings, decisions and instructions.

On the other hand, the same normative act stipulates a limited temporal competence for the central Electoral Bureau and its structures. In this regard, the Central Bureau is formed during the organization of the elections, as well as the constituency electoral bureaus at county level, of the Bucharest municipality, sector electoral offices, in the case of the Bucharest municipality, and a constituency electoral bureau for Romanian citizens with domicile or residence abroad, as well as electoral bureaus of the polling stations.

**As regards the Permanent Electoral Authority**, its organization is regulated by Chapter II of the Law No 208/2015.

This electoral body is headed by a president, with the rank of minister, assisted by 2 vice-presidents with the rank of secretary of state. They cannot be members of a political party in order to ensure the independence of the institution.

The President shall be appointed by a decision adopted in a joint session of the Senate and the Chamber of Deputies, upon the proposal of the parliamentary groups, from among the personalities with training and experience in the legal or administrative field

The President is assisted by 2 vice- one appointed by the President of Romania and the other by the Prime Minister.

The term of office of the president and the terms of office of the vice-presidents of the Permanent Electoral Authority are 8 years each and may be renewed only once as stipulated by Article 101 of the Law no 208/2015.

The Permanent Electoral Authority has a Secretary General appointed by the Prime Minister on a competitive basis and also 2 deputy general secretaries, appointed by the president of the Permanent Electoral Authority – according to Article 101 par 11 -**11**<sup>1</sup> the Law no 208/2015.

The apparatus has a central structure as well as territorial operational structures. Within the central structure of the specialized apparatus of the Permanent Electoral Authority, departments operate divided into the following main areas of activity:

- a) legislation, electoral litigation, relationship with Parliament and the European Union;
- b) computerization of electoral processes;
- c) control of the financing of political parties and electoral campaigns;
- d) electoral logistics;

- e) coordination and monitoring of activities in the territory;
- f) support for electoral bodies;
- g) international cooperation.

In addition to the departments operating in the above-mentioned areas, within the central structure of the specialized apparatus of the Permanent Electoral Authority, functional compartments are organized with a support role in the financial, legal, administrative, registry, internal audit and protection of classified information fields, at the level of general directorate, directorate, service, office or compartment, as the case may be.

Within the central structure of the specialized apparatus of the Permanent Electoral Authority, a maximum of 3 positions of permanent representative to international organizations, operating in the field of competence of the Permanent Electoral Authority, may be established - Article 102 par 1- 1 3 of the Law no 208/2015.

The organization and functioning of the Permanent Electoral Authority's own apparatus, the number of positions, the status of the staff, its attributions and the organizational structure are established by the organization and functioning regulation, approved by decision of the permanent bureaus of the two Chambers of Parliament, at the proposal of the Permanent Electoral Authority.

The staff of the Permanent Electoral Authority has the same status as the staff of the apparatus of the two Chambers of Parliament - Article 102 par 2 of the Law no 208/2015.

The Permanent Electoral Authority is exercising its permanent duties as provided in Article 103 of the Law No 208/2015 submitting to Parliament an annual report on its activity.

On the other hand, **the structure of the electoral bureaus** reflects its temporal limited competence, not having a specific apparatus. Nevertheless, the structure of these electoral bodies is limited to the citizens with the right to vote. The law provides also incompatibilities with the quality of a member of electoral bureau: candidates in elections, their spouses, relatives and in-laws up to the second degree inclusive may not be members of electoral bureaus - Article 7 par. 2 of the Law no 208/2015.

**It is for the first time when the law provides the function involving state authority for the members of the electoral bureaus** in fulfilling their duties, according to Article 7 par 3 of the Law no 208/2015, even if they are not considered civil servants *per se*.

In general, the term "authority" comes from the French "autorité", and therefore the Latin "auctoritas, -atis", having several meanings, among which the one used by the Roman legislator is that of the *organ of state power competent to take measures and issue provisions of a binding nature or representative of such an organ of state power*. (Zapsa, Tomulet, 2017).

The Romanian legislation defines within Article 2 par 1 b) – Law no 554/2004 on administrative litigation public authority as: *any organ of the state or of the administrative-territorial units that acts, in the regime of public power, for the satisfaction of a public interest; within the meaning of this law, the legal entities of private law which, according to the law, have obtained the status of public utility or are authorized to provide a public service shall be assimilated to public authorities*.

The function of public authority requires the correct and impartial exercise of the function of member of the electoral bureau, which is mandatory. Failure to comply with this obligation shall entail contraventional or criminal liability, as the case may be, as provided by Article 7 par 3 Law no 208/2015.

**At the national level, a Central Electoral Bureau** is established, consisting of 5 judges of the High Court of Cassation and Justice, the president and vice-presidents of the Permanent Electoral Authority and at most 12 representatives of political parties, political alliances, electoral alliances, according to the law, as well as a representative designated by the parliamentary group of national minorities in the Chamber of Deputies - Article 11 par 1 of the Law no 208/2015.

Electoral bureaus and offices shall work in the presence of the majority of their members and shall take decisions by the vote of the majority of the members present. The Central Electoral Bureau shall work in the presence of the majority of its members and shall adopt decisions and resolutions by the vote of the majority of the members present. In case of a tie, the vote of the president is decisive, as stipulated within Article 8 of the Law no 208/2015.

According to the provisions included within Article 7 par 5 of the Law no 208/2015, the Permanent Electoral Authority shall not interfere with the organization of the electoral bureau, only in the case of polling stations with less than 500 registered voters, when it may establish that the president of the electoral bureau of the polling station.

At the level of each of the 43 electoral districts, **a constituency electoral bureau** shall be established, consisting of 3 judges, a representative of the Permanent Electoral Authority and at most 12 representatives of political parties, political alliances, electoral alliances and organizations of citizens belonging to national minorities participating in the elections, in the respective electoral district. The constituency electoral bureau for Romanian citizens with domicile or residence abroad shall be headquartered in the municipality of Bucharest - Article 13 par 1 of the Law no 208/2015.

All the attributions of the Central Bureau are provided by Article 12 in order to ensure the uniform electoral legislation that is frame working the national democratic electoral process. In this sense, the decisions of the Central Electoral Bureau shall be binding for all authorities, public institutions, electoral bureaus, as well as for all bodies with powers in electoral matters, from the date of their announcement in a public meeting. The decisions shall be announced in a public meeting and by any means of publicity, and the decisions shall be published in the Official Gazette of Romania, Part I.

Art 14 of the Law 208/2015 institutes the powers of the constituency electoral bureaus that entitles these bodies to supervise the appropriate organization of polling stations, monitor and ensure the uniform application and compliance with the legal provisions regarding elections by all authorities, institutions and bodies with responsibilities in electoral matters within the constituency.

The constituency electoral bureaus shall receive from the electoral bureaus of the polling station the minutes containing the results of the elections at the level of the electoral district in which it operates, as well as the complaints, appeals and minutes. They will further submit all these data and documents to the Central Electoral Bureau rendering to Article 14 par 1 of the Law no 208/2015.

The decisions of the constituency electoral bureau shall be made known in a public meeting and by posting on its website and shall be communicated to the interested parties. As stipulated within Article 14 par 1 j) of the Law no 208/2015.

As regarding **the electoral bureaus of the polling stations**, they shall be composed of a president, a deputy, who are usually magistrates or lawyers, and at most 8 representatives of the parliamentary political parties and of the Parliamentary Group of National Minorities in the Chamber of Deputies on behalf of the organizations of citizens belonging to national minorities that are members thereof and participate in the elections. The electoral bureaus of the polling stations may not operate with fewer than 5 members.

If the electoral bureaus of the polling stations do not reach the threshold of 8 representatives their number shall be completed with representatives of the other political parties, organizations of citizens belonging to national minorities, political alliances and electoral alliances participating in the elections, by drawing lots - Article 15 par 1 and 1<sup>1</sup>) of the Law no 208/2015.

In cases of force majeure, the replacement of the presidents of the electoral bureaus of the polling stations or their deputies is carried out by the Permanent Electoral Authority, by computerized drawing of lots, from among the persons registered in the body of electoral experts - Article 15 par 3 of the Law no 208/2015.

**The cooperation between these two bodies is reflected also by the fact that the auxiliary technical apparatus of the Central Electoral Bureau is provided by the Permanent Electoral Authority as well as the Ministry of Internal Affairs – Article 14 of the same normative act.**

Article 18 par 1 j) presents the attribution of these electoral bureaus which reflects the subordination to Central Electoral Bureau but also the principles of transparency and ensuring public interest, that are characterizing democratic public authority. In this regard, these electoral bodies issue to each representative of political parties, political alliances, electoral alliances and organizations of citizens belonging to national minorities from the composition of the bureau a copy of each report, certified by the president of the electoral bureau of the polling station. For the same reason, they issue, at the request of both the observers of non-governmental organizations and the press representatives accredited to the respective polling stations, through the president of the polling station, a copy of each report recording the election result in the respective station.

**The electoral bureaus of the polling stations** abroad shall be composed of a chairman, a deputy chairman and at most 8 representatives of the parliamentary political parties and of the Parliamentary Group of National Minorities in the Chamber of Deputies on behalf of the organizations of citizens belonging to national minorities that are its members and participate in the elections.

#### **Cooperation with the Ministry of Foreign Affairs and its divisions**

A very important provision is related to the appointment of the presidents and their deputies of the electoral bureaus of the polling stations abroad and their deputies. According to paragraph 2 of the Article 18 of the Law no 208/2015, they are appointed by the Permanent Electoral Authority upon the proposal of the heads of diplomatic missions and consular offices, the appointments being made public by posting on the

website of the constituency electoral office for Romanian citizens with domicile or residence abroad.

The cooperation with the Ministry of Foreign Affairs is also reflected within paragraph 8 of the same normative provision, Article 18: In the event that the electoral bureaus of the polling stations cannot be completed in the regular procedure provided by the law, they shall be completed by the president of the constituency electoral bureau for Romanian citizens with domicile or residence abroad with personnel provided by the Ministry of Foreign Affairs, as well as by other public authorities.

The attributions of the electoral bureaus of the polling stations as provided by Article 18 of the Law no 208/2015 are conducted in direct cooperation with the Ministry of Foreign Affairs in some specific situation:

-Receival of the following materials:

-the ballot papers, the control stamp and the stamps with the mention "VOTED", the forms for concluding the minutes and other materials necessary for the conduct of the electoral process -from the mayors,

- two ballot papers, one each for the election of the Senate and the Chamber of Deputies, cancelled by the president of the constituency electoral bureau, which they will display in a visible place, on the day preceding the elections – these are received from the constituency electoral bureau for Romanian citizens with domicile or residence abroad, based on the minutes.

-Submitting to the constituency electoral bureaus or the sector electoral office the minutes containing the voting results, by electronic means and on paper, the used and uncontested ballots, the invalid and contested ballots, together with the submitted contestations and the materials to which they refer, as well as the electoral lists used within the polling station, filed by type of list; the electoral bureaus of the polling stations abroad hand over these materials, with the exception of the used and uncontested ballots, to the constituency electoral bureau for Romanian citizens with domicile or residence abroad, on the basis of a minutes.

The cooperation with the Ministry of Foreign affairs with the electoral bodies is also reflected by Article 23 in organizing polling stations in the states where the diplomatic missions and consular offices of Romania are located. This polling station are organized, as a rule, in the headquarters of the diplomatic missions, consular offices, consular sections, if these operate in different headquarters, and cultural institutes. With the consent of the authorities in the respective country, polling stations may be organized in other places. In this regard, the Ministry of Foreign Affairs shall transmit to the Permanent Electoral Authority the draft list of polling station locations abroad.

In fact, the coordination activities of the preparation and organization of the voting process abroad are ensured by the electoral office for the polling stations abroad, with the logistical support of the Ministry of Foreign Affairs.

The Ministry of Foreign Affairs and the Permanent Electoral Authority ensure the information of Romanian citizens with domicile or residence abroad regarding registration in the Electoral Register, the conditions for voting abroad, as well as the places where voting takes place abroad.

In July, when this specific Law no 208/2015 had been adopted, The Permanent Electoral Authority and the Ministry of Foreign Affairs agreed to work together to

promote Romania's experience in electoral matters and regional cooperation in the electoral field abroad, in which sense Collaboration Protocol had been signed on July, 15, 2015. This Protocol provided that the Ministry of Foreign Affairs shall support, according to its attributions, some international projects of the Permanent Electoral Authority ([www.roaep.ro](http://www.roaep.ro)).

Organizing, in Bucharest, a workshop on the codification of electoral law (19 – 20.10.2015), to which representatives of the European Commission for Democracy through Law (Venice Commission) will also be invited to participate;

Organization, in Bucharest, of the 13th European Conference of Electoral Management Bodies, by the Venice Commission, in collaboration with AEP (14 – 15.04.2016).

Another project of the Permanent Electoral Authority that benefited from the support of the Ministry of Foreign Affairs was materialized, in Romania, in 2017, by the General Assembly of the World Association of Electoral Bodies (A-WEB), an organization that brings together electoral management bodies from over 100 countries on five continents. In this respect, the 3rd General Assembly took place in Romania. At this important electoral summit participates over 400 representatives with the electoral management bodies from five continents: Europe, South America, Asia, Africa and Oceania (<https://addisabeba.mae.ro/en/romania-news/5709>).

According to the A-WEB Charter, this association of electoral management bodies promotes efficiency in the organization of free, fair, transparent and participatory elections worldwide.

Its objectives are to identify the latest trends, challenges and developments in democratic electoral management and electoral processes, as well as to facilitate the effective exchange of experience and expertise among members, in order to strengthen electoral democracy worldwide ([www.roaep.ro](http://www.roaep.ro)).

The President in office at that time of the Permanent Electoral Authority, in the person of Mr. Daniel Barbu, was appointed President of this organization for a period of 2 years, starting with December 31, 2017.

PEA has been a member of A-WEB since the establishment of the organization in October 2013, Romania hosting, in March 2015, the meeting of the Executive Committee of A-WEB ([www.cdep.ro](http://www.cdep.ro)).

### **Cooperation with the judicial entities**

In order to effectively apply the provisions of electoral law, the possibility of challenging the failure to comply with electoral legislation before an appeal court must be guaranteed. This applies in particular to the establishment of election results: citizens have the right to challenge the results of elections, invoking irregularities in the voting procedure. This also applies to decisions taken in the pre-election period, in particular as regards the right to vote, electoral lists and the eligibility or validity of candidacies, compliance with the rules of the electoral campaign and access to the media or party financing.

This is the reason the Romanian legislation included for all these phases the possibility to appeal the decisions of these electoral bodies, creating a mechanism that is not only administrative, but judicial, as well. In order not to endanger the constitutional

order, the specific legislation provides Constitutional Court electoral attributions as regarding the election of the President of Romania. The attributions are related to the pre-electoral phase – resolving complaints regarding the registration or non-registration of the candidacy for the position of President of Romania as regarded by Article 38 of the Law no 47/1992 on organizing and functioning of the Constitutional Court. In the same time the appeal to electoral bodies is guaranteed in the electoral phase according to Article 53 par 1 of the Law No. 370/2004 for the election of the President of Romania - validating the result of each ballot, ensuring the publication of the election result in the mass media and in the Official Gazette of Romania, Part I, for each ballot. Article 37 par 2 of the Law No 47/1992 provides the post-electoral phase, Constitutional Court validating in this stage the result of the elections for the position of President of Romania.

### **Conclusion**

Romania acknowledged to fulfil the international, European requirements in the field of electoral law, adopting legislation and impartial electoral mechanisms even if it is not a state with a long-standing tradition of the independence of the administration from political power. The successive legislators understood that only transparency, impartiality and independence from any political manipulation will ensure good administration of the electoral process, starting with the pre-electoral period until the completion of the processing of the results.

The democratic framework is nevertheless realized by a central permanent electoral body working alongside with administrative structures responsible for maintaining organization and function the effective electoral processes. The cooperation between these bodies and, in the same time, permanent contact with local and central public authorities, as well as judicial entities as hereby described is essential for a functioning electoral system.

Respect for the five principles of the European electoral heritage (universal, equal, free, secret and direct suffrage) is essential to democracy. Primarily, including them into national legislative system must be followed to ensure their respect. Secondly, it is not enough for electoral law *stricto sensu* to contain rules appropriate to the European electoral heritage, but these must be included in their context: the credibility of the electoral process must be guaranteed and the procedural framework must allow the effective implementation of the rules proclaimed.

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