

Constitutionalism in Post-Ottoman Southeast Europe during the 19th Century. Serbia, Greece and Romania in Comparative Perspective

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Abstract

The essay investigates the emergence of constitutional statehood in post-Ottoman Southeast Europe during the 19th century in comparative perspective on the example of Serbia, Greece and Romania. It locates central turning points and highlights similarities as well as peculiarities of these processes in relation to the paradigm of Europeanization which functioned as the guiding principle in all three cases. It concludes that Europeanization, respectively “De-Ottomanization”, although dominating Southeast European political discourses, was not a clear-cut uniform concept but to a considerable degree influenced by specific regional factors, in particular the imperial legacies of the region, which have to be considered in order to make the Europeanization-paradigm a viable analytical tool for historical research.

The emergence of Christian nation states in formerly Ottoman territories of Southeast Europe during the 19th Century was accompanied by intense processes of constitutionalization which, as keystones of modern statehood, were perceived by many contemporaries but especially by later historical scholarship, preeminently in categories of Europeanization. In fact, however, these processes were much less uniform than this term suggests, but rather followed specific paths of development which were determined not simply by linear model-transfers from Western Europe, but to a considerable degree by specific regional factors. This can be illustrated very well by the example of Serbia, Greece and Romania as the first Christian Balkan countries that gained independence from Ottoman rule in the course of the 19th century, although in quite different ways which also influenced their respective

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constitutional developments. The present paper takes a comparative look at the constitutive constitutionalization processes in 19th century Serbia, Greece and Romania with reference to their peculiarities as well as their specific regional Ottoman context, in order to contribute to a critical discussion of simplistic uses of the Europeanization-paradigm. For this purpose, a short introductory outline will be given of the general political framework of Serbian, Greek and Romanian independence in the 19th century (Jelavich/Jelavich 1977; Clewing/Schmitt 2011; Sundhausen 2007; Zelepos 2023; Jelavich 1984; Hitchins 1996).

What is known today as the Serbian Revolution (*Srpska revolucija*) was actually a series of local revolts and negotiations which lasted almost thirty years. Its starting point was an uprising in the Paşalık of Belgrade that broke out in 1804, triggered by abuses of local Janissary commanders, the "Dahije". Its central aim was the restoration of the previous state of law and order, and only in the further course of events it took on the character of a national liberation movement. The first Serbian uprising was suppressed in 1813 by the Ottomans, but a second one broke out in 1815 that resulted two years later in a de facto recognition of Serbian semi-autonomy by the Ottoman Vizir of Belgrade, Maraşlı Ali Paşa, and the Sublime Porte. This informal recognition was enhanced thirteen years later by a *Hatişerif*, issued in 1830 in Istanbul, which officially acknowledged the status of Serbia as an Ottoman tributary vassal principality.¹ As will be demonstrated further down, this vassal-status was in no way just of theoretical character in the 1830s, and although it became progressively weaker during the following decades, continued to be formally valid until 1878, when Serbia, as a result of the Congress of Berlin, gained full sovereignty.² Serbian independence was sealed four years later, when in 1882 the Principality was elevated to the status of a Kingdom by self-declaration of its ruler Milan II Obrenović, thenceforth Milan I, who in so doing reacted to the self-elevation of the Romanian Prince Carol I to a King in the previous year. Thus, the emergence of modern Serbia as a sovereign state was a clearly evolutionary process that lasted for over seventy years covering the greater part of the 19th century.

Greece was a completely different case in this regard, since the road to independence began here with an uprising in 1821, whose initial aims were not restorative, but explicitly revolutionary, nor were they locally limited, but intended to question Ottoman rule in Europe as a whole.

¹ Edition of the document in Jovanović (1866: 106-114). The official recognition of Serbian autonomy was stipulated compulsory in 1829 by the Treaty of Adrianople between Russia and the Ottoman Empire.

² Edition of the documents in Geiss (1978).

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Significantly, this uprising did not even start in territories which a decade later were to become the Greek state, but far away from them in the Romanian Principalities. Furthermore, in contrast to the Serbian revolts, it soon developed into a major issue of international politics and finally succeeded only due to massive military intervention by the European major powers Great Britain, Russia and France.³ Consequently, Greek independence was not achieved like that of Serbia through recognition of the insurgents by their former Ottoman overlords, but through international treaties negotiated and signed between 1830 and 1832 in London by the same major powers who had decided the war.⁴

Finally, the emergence of the Romanian state is another specific case that combines aspects of the previously mentioned, since it was evolutionary like in Serbia, but strongly influenced by international politics as was the case in Greece. It differed, however, markedly from both, since in Romania there existed an unbroken continuity of statehood from the Middle Ages in the shape of the Principalities of Wallachia and Moldavia founded in the 14th century under suzerainty of the medieval kingdom of Hungary. These Principalities became vassalized by the Ottomans in the 16th century but never formally integrated into their empire and maintained a considerable degree of domestic autonomy. In this context, state run efforts for the codification of law in printed codices were already undertaken in the 17th century which can be understood as the first beginning of constitutionalization in a modern sense. Since the 18th century the Principalities, due to their geographical position, were increasingly caught up in the confrontation between their imperial overlords and expanding Russia which, in a series of wars against the Ottomans, repeatedly occupied them, sometimes for many years as was the case in 1809–1812 and 1828–1834. Even if the Ottomans managed to preserve their formal suzerainty in this period, Russia became the hegemonic power in the Principalities and, in 1828, transformed them into a de facto protectorate. Russia easily suppressed national democratic revolts that broke out there in 1848, but its supremacy was terminated after the Crimean War 1853–1856 when the European major powers issued a collective guarantee for the autonomy status of the Principalities, which were under military occupation of Austria and the Ottoman Empire from 1854 to 1857. Shortly thereafter, in August 1858, an international convention signed in Paris by the same powers agreed to their de facto independence under the

³ This is not to say that the Serbian revolts lacked any international dimension, but it was essentially limited to Russia whose interventions played an important role in their transformation from a local into a national movement.

⁴ Edition of the documents in Constantopoulou (1999: 27-44).

name “Principautés de Moldavie et de Valachie”.⁵ This was driven forward decidedly in the following year by taking advantage of the international diplomatic situation caused by the Franco-Austrian War about Italy, and finalized in 1862 with the renaming of the state into “Romania”.⁶ However, the new state continued, like Serbia, to be under formal Ottoman suzerainty until the Congress of Berlin in 1878 and, as already mentioned, was elevated to a kingdom by self-declaration in 1881.

The differences pointed out in this outline of 19th century state formation in post-Ottoman Southeast Europe – that is an evolutionary process in a largely local context in the case of Serbia, a revolutionary struggle in an international context in the case of Greece, and finally an evolutionary process with revolutionary impulses strongly influenced by international contexts in the case of Romania – are also reflected in their respective paths to constitutionalization. These followed evolutionary patterns in Serbia and Romania and were mainly promoted by “top down”-initiatives of the ruling elites, if not the Princes themselves, while in Greece they were much stronger committed to a revolutionary paradigm which, referencing the revolt of 1821, became an integral part of national myth and self-staging. Although never the outcome of authentic “bottom up”-movements, they were articulated against established rule – and, as a matter of fact, both constitutions of 19th century independent Greece were preceded by revolts against the king, the second one leading even to his expulsion and a dynasty-change. These general remarks form the backdrop of a somewhat more detailed depiction of the respective processes of constitutionalization which will be laid out in the following.

Serbia

As the very first step to modern Serbian state formation can be considered the erection of a provisional government in 1805 by Đorđe Petrović or Karađorđe (1762-1817), the initiator of the 1804-uprising who was approved as “Leader” (vožd) by a “People’s Assembly” (Narodna Skupština), a legislative body based on traditional customary law, and a “Grand Serbian Council”

⁵ Edition of the document in *Archives Diplomatiques. Recueil de diplomatie et d’histoire. Tome deuxième, 6e année, Avril, Mai, Juin 1866*, Paris 1866, pp. 102-111, available online: <https://gallica.bnf.fr/ark:/12148/bpt6k426644p/f107.item.r=convention%20de%20paris%201858>

⁶ This was less a formal act than a silent transition, as since 1862 the name “Romania” came in use in official documents of state administration. In the same year Bucharest became the national capital (Hitchins 1996: 297).

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(Praviteljstvujušči Sovjet Srpski) summoned in August of the same year. In 1807 (or in 1810), Karađorđe also issued a collection of laws named “Karađorđev zakonik”, which contained 38 articles mainly on criminal law, together with some provisions on civil law. It marks the starting point of Serbian constitutionalization, although it is questionable whether it was ever applied in practice. After the suppression of the first uprising in 1813, a “Peoples Chancellery” (Narodna Kancelarija) was built in 1815 by Serbian notables with consent of the Ottoman Vizir of Belgrade. This institution was, however, soon marginalized by the leader of the second uprising that had broken out in the same year. His name was Miloš Obrenović (1780-1860) and he was the founder of a dynasty that ruled Serbia throughout the 19th century with the exception of an interlude of sixteen years from 1842 to 1858. Miloš not only succeeded to get informal recognition by the Vizir of Belgrade in 1817, but was also elected as hereditary Prince by a newly summoned People’s Assembly (Skupština), after he had murdered Karađorđe and sent his head to Istanbul as a gesture of loyalty to the sultan. He gladly made use of the People’s Assembly as an acclamation-organ, but was deeply suspicious against the basic principles of democratic participation and the separation of powers. Miloš erected a regime of personal rule with strong centralizing impacts which were in stark contrast to the traditional patterns of local rural self-administration based on village communities respectively “zadruge” (i.e. extended families). In its paternalistic character this regime resembled much more those of 18th century Ottoman ayans like Ali Pasha of Tepelena (1740-1822) or Osman Pazvantoglu of Vidin (1758-1807) than contemporary European representatives of technocratic absolutism like Francis I of Austria (1768-1835) or Nicholas I of Russia (1796-1855). Obrenović’s regime generated much discontent and opposition among the local notables (knezi), but also among the Serbian peasantry which formed the vast majority of the population. He nevertheless succeeded to hold on to it, despite the fact that the Hatişerif issued in 1830 by the Sublime Porte in order to officially acknowledge Serbian autonomy and the hereditary status of the Prince, explicitly provided for principles of democratic representation in domestic administration.⁷

⁷ Article 2 of the Hatişerif stated that: “*The current prince [of the Serbs] Miloš Obrenović will be rewarded for his loyalty to my Sublime Porte [...] as prince of the said people and this dignity will be peculiar to his family. On the part of my Sublime Porte, he has the administration of the internal affairs of that country, the establishment of which he will carry out in agreement with the council composed of the heads [notables] of the country.*” (Jovanović 1866: 107). It is noteworthy that Miloš was appointed explicitly as Prince “of the Serbs” and not “of Serbia”, something that reflects

Obrenović was determined to ignore this regulation and to refuse any democratic concession, but after the eruption of internal revolts he reluctantly agreed to the working out of a constitution which was issued in February 1835.⁸ Inspired by the French constitutions of 1814 and 1830, as well as the Belgian constitution of 1831, it stipulated the responsibility of ministers, the compliance with the rule of law and basic civil rights concerning the protection of physical integrity and private property. It also provided the creation of a "State Council" (Državni Sovjet) as governing body consisting of six ministers, and a "People's Assembly" (Narodna Skupština) whose central competence was in tax legislation. This first Serbian constitution, however, would only exist on paper because Obrenović suspended it just one month later. In doing so, he found a welcome excuse in protests on the part of Russia and Austria who were the guaranteeing powers of Serbian autonomy since 1830 and criticized the constitution as too "republican" and "revolutionary", obviously fearing infectious effects among their own subjects. Notwithstanding, the demand for constitutional rule remained strong in the Principality and could no longer be ignored indefinitely.

Already three years later, a new constitution was worked out in Istanbul after negotiations with representatives of the guarantee powers. It was issued in December 1838 in the form of a further Hатишериф that also became known as the "Turkish constitution" of Serbia.⁹ Its central feature was the separation of executive and legislative powers through the creation of a Senate (literally "Council" / "Sovjet") as independent body besides the central government, consisting of the Prince himself and of three appointed ministers exclusively accountable to him. The Senate was made up of seventeen members from all districts who, like the ministers, were appointed by the Prince, but in contrast to them could not easily be dismissed by him. This meant in practice that the Prince's power was now limited by the local notables who made up the Senate, and it speaks for the pronounced oligarchical character of this system, that the People's Assembly (Narodna Skupština) provided in the constitution of 1835 was not even mentioned in its successor of 1838.

The "Turkish constitution" remained valid for the following thirty years, until 1869, and in this period functioned as a central reference point of Serbian constitutionalization. It contained important provisions concer-

the unsettled territorial status of the Principality whose boundaries were not yet clearly delineated. This followed some years later in 1833.

⁸ Edition of the document in Radojević (2004: 29-52).

⁹ Edition of the document in Radojević (2004: 53-69).

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ning civil rights, citizenship, the independence of judicial power, the organization of the church etc., whose discussion would go beyond the scope of this paper.¹⁰ What seems interesting in the present context, however, is the temporal coincidence of this constitution with the much better known *Hatı̄şerif of Gülhane*, issued less than a year later in November 1839, that marks the starting point of the Tanzimat reform era in the Ottoman Empire. The members of the Senate established the Party of the “Constitutionalists” (“*Ustavobranitelji*”, literally “defenders of the constitution”) in 1839 which, besides local notables, also attracted affluent merchants, civil servants and officers. After the abdication of Prince Miloš and the expulsion of his under-aged son Mihailo (1823-1868) in 1842, the power of these “Constitutionalists” reached its peak under the reign of Prince Aleksandar Karađorđević (1806-1885), the son of the legendary leader of the first Serbian uprising, who ruled from 1842 until 1858. In this period, substantial progress was made towards the professionalization of the bureaucracy and the establishment of objectified state institutions, which began to slowly replace traditional patterns of social organization in clientelist networks of personal patronage and allegiance. Another important achievement of this period was the first Serbian civil code, the “*Građanski Zakonik*”, published already in 1844 (in Greece, for comparison, the same venture took a full century longer). The code was essentially based on the Austrian “*General Civil Code*” (*Allgemeines Bürgerliches Gesetzbuch*) of 1811, but it also took into account local customary law.¹¹ This is true especially for family and inheritance matters which in central aspects contradicted the concept of the civilian individual found in Roman law. Characteristically, it explicitly acknowledged the “*zadruga*” (extended family) as a legal person and put it under special legal protection, although this time-honored south-Slavic institution already tended to vanish due to changing social and economic conditions which affected Serbia in this period. The legal protection of the *zadruga* is a good example demonstrating that it would be unjustified to characterize the modernizing efforts undertaken by the “Constitutionalists” simply as superficial imposition of foreign-imported standards and value-systems, essentially alien to Serbian society. Yet, as a matter of fact many of their contemporary critics did exactly that, even more so as they perceived the “Constitutionalists”, who dominated the public service, as foreigners due to their origin and/or education in Habsburg Vojvodina which went hand in hand with different

¹⁰ For further detail see Sundhaussen and Stefanov (2012: 1367-1398).

¹¹ Commented edition of the document in Marković (1921).

habits and sometimes also some degree of contempt for the backward inhabitants of the “Pašaluk”, as they referred to the Principality.

There is no doubt that the modernizing efforts of the “Constitutionalists” caused severe frictions in Serbian society. These became visible in the 1850ies, when popular resistance against the overwhelming dominance of civil servants in virtually every field of Serbian public life became stronger. Apart from that, since the late 1840s a second political formation emerged under the name “Liberals”, which likewise attracted civil servants, but those belonging to a younger generation who were usually well educated at European universities and accordingly critical of the established elite of the older and less educated civil servants who gathered around the “Constitutionalists”.

Trying to balance the internal tensions between the traditional-minded bulk of the population, the “old” and the “new” modernizers, Prince Aleksandar summoned a new “People’s Assembly” (Narodna Skupština) in November 1858 at Kragujevac, which had been omitted in the Hattısherefi of 1838, though not explicitly abolished as an institution. This assembly became known as “Svetoandrejska Skupština”, named after its date on 30th November which is the name day of St. Andrew, but it developed unexpectedly, since it forced Aleksandar by vote to abdicate and eventually restored the dynasty of the Obrenovići by calling back Miloš who, after his death in 1860, was succeeded by his son Mihailo who ruled until his death in 1868 and was succeeded by his cousin Milan Obrenović (1845-1901). The return of the Obrenović-dynasty to power put an end to the sixteen years long dominance of the “Constitutionalists” and led to a temporary setback in the process of institutional modernization. The Senate lost much of its former autonomy, as did the public service, which again became directly dependent on the Prince by special laws issued in 1861 and 1864 by Mihailo. In fostering his personal authority as hereditary Prince, Mihailo followed traditional patterns of paternalistic rule on the one hand, while he was, on the other hand, also influenced by contemporary currents of populist Bonapartism personified then by Napoleon III of France. In any case, he did not simply seek to just return to “good old times”, but was well aware of the contemporary reformist developments in countries like Prussia, the Habsburg Empire after the Austro-Hungarian compromise of 1867, but also the Ottoman Empire, where in 1864 the reformed “Danube Vilayet” (Vilâyet-i Tuna) was founded in direct neighborhood of Serbia (Tafrova 2010).

Under his successor Milan, this led, in combination with internal pressures especially on the part of the “Liberals” to the constitution of 1869

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which replaced the *Hatişerif* of 1838.¹² This constitution was not only a further important step to national emancipation, since in contrast to its predecessor it was worked out without any involvement of the Ottoman overlord or other external powers, but also opened a new chapter in domestic state formation. The catalogue of civil rights was enlarged, now including an explicit guarantee of freedom of the press, and, for the first time, the *Skupština* was firmly institutionalized as parliament and central body of democratic representation, together with an electoral law that gave most male citizens voting right (Stefanov 2020: 1393-1430).¹³ The actual legislative competences of the parliament may have been rather limited in the beginning, but they were successively extended in the following decades, albeit in continuous tension with the Prince's (respectively King's since 1882) claim to power. For these reasons, the constitution of 1869 is to be considered as the central turning point of Serbian constitutionalization in the 19th century.

Greece

As already mentioned in the introduction, the constitutional development in Greece was in stark contrast to that in Serbia, since the country's break with Ottoman rule was much more radical. Apart from that, the Greek revolt of 1821 was from its very beginning a major international media event and the insurgents not only realized that a broad public was watching them, but were also fully aware that the success of their venture would be highly dependent on how it was perceived in Western Europe. Consequently, the revolutionary constitutions they worked out during the war did not only serve practical purposes of state formation, namely to provide a legal basis for tax collection and the recruitment of soldiers, but at least to the same extent the purpose of legitimizing the revolt in the eyes of the European public and cabinets. This led to an impressive production of no less than five local constitutions, issued by respective local assemblies and governments, only within the first year – for the islands of Samos (May 1821) and Crete (May 1821), for the Western Mainland (November 1821), for the Eastern Mainland (November 1821) and for the Peloponnese (December 1821).¹⁴ They were followed by four constitutions of national scope which were worked out in Epidavros (January 1822), in Astros (March 1823), in Troizina (May 1827) and in Nafplion (March

¹² *Velika Narodna Skupština* (1869).

¹³ The constitution distinguished between an "Ordinary" (*Obična*) and "Grand" (*Velika*) *Skupština*, the former being summoned every year, the latter only for election of a Prince or other extraordinary events of national importance.

¹⁴ Edition of the documents in Daskalakis (1980).

1832).¹⁵ They adapted a wide range of models, including the 1795 Directorate-constitution of revolutionary France, the US-presidential constitution of 1787, as well as various forms of constitutional monarchy.¹⁶ Nevertheless, they were not just superficial imitations, since in central aspects they took reference from the specific social and political conditions in the insurgent areas. This concerns administrative structures and mechanisms of democratic representation, which were based deliberately on traditional patterns of communal self-government, but also the dealing with religious heterogeneity that was as a further legacy of Ottoman rule (Zelepos 2012: 1399-1432; Vogli 2007). The revolutionary constitutions had only limited practical impact during the revolt itself and, as a matter of fact, some of them were never applied at all. They gained, however, considerable political importance after independence because they formed a revolutionary heritage which posed a strong democratic paradigm and underscored the fact that Greece was not a dynastical creation but the result of an uprising. In this function they served as central reference points for growing domestic demands for political participation in the 1830s and thus contributed significantly to a constitutional revolt in September 1843 that overthrew the regime of monarchical absolutism by divine grace that had been installed ten years before by the Bavarian regency.¹⁷

They did not serve, however, directly as a model for the first constitution of independent Greece which was worked out in 1844 by the “National Assembly of the Greeks” (Ethniki Synelefsis ton Ellinon) whose deputies represented three political parties, the “English”, the “Russian” and the “French”, which had already emerged during the 1821 War of Independence. It is remarkable that this assembly, although copying specific legislations from the revolutionary constitutions and assemblies, e.g. the catalogue of civil rights and the electoral law, meticulously avoided any explicit reference to them in its protocols. For the sake of political stability, it even avoided any mention of the preceding constitutional revolt which was only circumscribed

¹⁵ Edition of the first three documents in Svolos (1998, 107-152), and of the fourth in Mamoukas (1843).

¹⁶ The French constitution of 1795 was adapted in the constitutions of Epidavros (1822) and Astros (1823), the US-constitution of 1787 in the constitution of Troizina (1827). Constitutional monarchy on the basis of popular sovereignty was provided in the local constitution for the Eastern Mainland (1821) and without popular sovereignty in the constitution of Nafplion (1832).

¹⁷ The Bavarian regency, however, had laid the administrative foundations of the Greek state according to a centralist model of French type, some of them being valid until today (Petropoulos 1968).

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as “the fortunate event”, a formulation somewhat resembling the equivalent Ottoman phrase “Vaka-i Hayriye” that described the destruction of the Janissary corps in 1826. The 1844 constitution established Greece as a constitutional monarchy with the executive, legislative and judiciary as separated powers, the executive being represented by a cabinet appointed by the king, the legislative being represented jointly by the king and a “Parliament” (Vouli) whose deputies were determined in general direct elections for four years, as well as a “Senate” (Gerousia) whose members were appointed by the king for lifetime. This two-chamber system was modelled after the Belgian constitution of 1831 which, as in the case of the Serbian constitution of 1835, served generally as a reference point for the Greek constitution of 1844.

As in Serbia after 1869, the actual competences of the parliament were initially rather limited because the cabinet was exclusively accountable to the king, while towards the parliament it was only obliged to provide information and explanation. The constitution nevertheless included an extensive catalogue of civil rights, emphasized the freedom of speech and press, and granted general active and passive voting right to virtually every male citizen.¹⁸ It did not, however, establish the principle of people’s sovereignty, because, like the Serbian constitution of 1869, it was legally a contract granted by the king to his people, so that the principle of divine grace as the legitimization basis of monarchical rule was formally preserved.

The latter changed twenty years later with the constitution of 1864, which gave the state a new legal basis and turned out to be the most long-lived in Greek history until today.¹⁹ The second constitution of independent Greece was likewise the result of a revolt that had broken out in 1862 against King Otto of Wittelsbach (1815-1867), who was expelled and subsequently replaced by the Danish Prince William of Schleswig-Holstein Sonderburg-Glücksburg (1845-1913), who ascended the throne as George I, though no longer as “King of Greece” like his predecessor, but as “King of the Hellenes”. This terminological change was made in order to emphasize the democratic

¹⁸ Edition of the document in Svolos (1998: 153-168). According to the Electoral Law issued in 18 March 1844 (O.C.), every male citizen from the age of 25 with “any property” in Greece had voting right, which in practice included almost every male, since no distinction was made between immobile and movable property. For further detail see Zelepos (2020: 1431-1463).

¹⁹ The constitution stayed in effect unchanged almost fifty years until its first revision in 1911 which brought only minor changes, as well as the revision of 1952 which stayed in effect until 1975, something that adds up to a constitutional continuity of more than one century.

character of the new constitutional system that explicitly defined the “Nation” (Ethnos) as ultimate source of state power and has later also been characterized as “Crowned Republic” (Vasilevomeni Dimokratia).²⁰ Apart from that, the term “King of the Hellenes” articulated an implicit irredentist claim on the so called “unredeemed brothers” beyond the state’s borders. The principle of democratic participation was, however, not yet fully applied in practice since the constitution allowed the king, in his capacity as head of the state, to appoint and dismiss governments regardless of parliamentary majorities. As a matter of fact, he did so very often, taking advantage of the fragmentation of the political spectrum into four different parties during the 1860s. They represented different ideological camps which can be roughly distinguished by their orientation, while one camp strove for liberal parliamentarism and moderate modernization following the British model, the other advocated for a populist authoritarianism with traditionalist overtones inspired by France under Napoleon III (Hering 1992: 323-480). The concomitant instability led to a constitutional crisis that was overcome in 1875 when Charilaos Trikoupis (1832-1896), the leader of a newly formed Party of radical modernizers, and the most important reform-politician of 19th century Greece, forced the king under strong public pressure to guarantee that he would henceforth only appoint governments with a majority of seats in parliament.²¹ This declaration firmly established parliamentary democracy in Greek politics which remained essentially unviolated for the following forty years until WWI. The year 1875 can accordingly be identified as the central turning point of Greek constitutionalization in the 19th century.

Romania

The “Organic Statutes” (Regulamentul Organic) issued in 1831 (July) for Wallachia and 1832 (January) for Moldavia can be considered as the starting point of modern constitutionalization in Romania.²² The Statutes were

²⁰ This term was explicitly used first time in the revision of 1952 (Svolos 1998: 249-285 (here 257)) with edition of the document.

²¹ This was declared officially in his throne speech of 11 August 1875 (O.C.), edition of the document in Vouli ton Ellinon (1876: 5-8).

²² Edition of the documents in Negulescu/Alexianu (1944: 1-170 (Wallachia), 171-368 (Moldavia)). For the sake of accuracy, it has to be mentioned that there was a historical precedent in shape of the so called “Carbonari Constitution” (Constituția “Cărvunariilor”) drafted in September 1822 after the failed revolt of Tudor Vladimirescu (1780-1821) in Wallachia in the previous year. It was modelled along democratic principles (actually much less radical than its epithet suggests), but never applied in practice due to joint Russo-Ottoman oppression, nor could exert a paradigmatic

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introduced by initiative of the local Russian authorities which had been installed there after the occupation of the Principalities in 1828. They explicitly introduced for the first time the principle of separation of powers and provided the election of the Princes by an “Extraordinary Public Assembly” (Obștească Adunare Extraordinară) of the respective Principalities. The election was for lifetime and the Princes had to come from the indigenous “boyar” nobility, something that referred to previous Russo-Ottoman conventions (Bucharest 1812, Akkerman 1826, Adrianople 1829) and aimed at preventing the appointment of foreign governors (hospodars), namely Phanariotes from the Ottoman capital, as the Sublime Porte had used to do throughout the 18th century until the outbreak of the Greek independence war. As bearer of the executive power, the Prince was assisted by an “Administrative Council” (Sfantul Administrativ) consisting of ministers and state secretaries appointed by him, which institutionally has been characterized as transitional form between the older “Lordly Divan” (Divanul domnesc) of the Phanariot era and a cabinet in modern terms (Müller/Stanomir/Murgescu 2020: 1337-1366). The legislative power was formally shared between the Prince and the Administrative Council acting on his behalf, and a parliament named “Regular Public Assembly” (Obicinuita Obștească Adunare) whose deputies were determined in limited indirect elections for five years. However, the introduction of legislative proposals was the exclusive right of the Prince, while the parliament’s competence was actually limited to their acceptance or rejection. In the latter case, the Organic Statutes provided that Russia in her capacity as protectorate power would act as an arbiter. Furthermore, the Prince was entitled to dissolve the parliament at any time, but only with the consent of Russia and the Sublime Porte, while reversely the parliament could also appeal to the two powers in order to start investigations against the Prince, or even ask for his removal, which happened in 1842 with Alexandru Ghica (1795-1862) in Wallachia. External influence, especially from the side of Russia, was abundant also in many other aspects of political practice, something that caused a severe legitimacy deficit for the government system introduced by the Organic Statutes and met with growing opposition in the 1840s, culminating in the revolts of 1848 (Jelavich 1984: 39-50; Meier 1998: 253-282). Although quickly suppressed by Russia with assistance of the Ottomans, they marked an important step towards the formation of a Romanian national movement, since they led to the definite de-legitimation of foreign rule. The Russian protectorate was now perceived by the people as at least as burdensome as the earlier Ottoman vassalization, and it is hardly by

effect – other as the Greek revolutionary constitutions – for future constitutional developments in the country.

accident that the protagonists of the 1848 revolts were to dominate the political leadership of independent Romania in the decades to come. On the other hand, the outcome of the revolts made clear that, due to the geographic position of the Principalities between three major powers, political success was not likely to be achieved by indigenous efforts alone, but rather in the context of favorable international constellations, which would neutralize the competing influences of the much stronger neighbors. Such a constellation indeed arose only a few years later with the 1853-1856 Crimean War.

The defeat of Russia set an end to its protectorate over the Principalities and consequently to the Organic Statutes which, despite their conservative character and their legitimacy deficit as foreign-imposed regulations, had served for more than twenty-five years as the main legal framework of Romanian constitutionalization alongside a modernizing development path.²³ They were replaced by the Paris Convention of August 1858 which not only settled the international status of the Principalities, but also functioned as a reference point for their domestic administration and thus in place of a formal constitution. The Convention likewise provided for the election of the Princes for lifetime and essentially confirmed their political predominance as bearer of executive and legislative power, the latter being only slightly limited in comparison with the Organic Statutes by strengthening the rights of the parliaments in tax legislation, as well as the establishment of a Central Committee (Comisia Centrală) in the city of Focșani at the Moldavian-Wallachian border as supreme authority in legislative issues in case of differences between the Princes and their parliaments.²⁴ The electoral rules were specified in a separate annex of the Convention and provided for a combination of limited direct and indirect voting right according to property and income, and in practice excluded not only the bulk of the rural population but also the urban middle classes.

To a considerable extent this system continued the regime of the Organic Statutes and was as foreign-imposed as those had been, though in contrast to them not by one single protectorate power but by an international treaty. Apart from that, it proved transient because of rapid political developments following shortly thereafter. In January/February 1859, only a few months after the conclusion of the Paris Convention, both “Divans ad hoc” (Divanuri / Adunările Ad-Hoc) which had been established already in the

²³ For a differentiated assessment of the Organic Statutes under modernizing aspects see Müller/Stanomir/Murgescu (2020: 1344-1346).

²⁴ This commission consisted of eight members, four of them selected by the Princes among members of the parliaments or high officials, the other four dispatched by the parliaments themselves, see. Art. 5, 27 and 29 of the Paris Convention.

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1856 peace-treaty of Paris as legislative bodies with consultative competences in the Principalities, elected Alexandru Ioan Cuza (1820-1873) as Prince (Domnitor) of Wallachia as well as of Moldavia. By doing so, they pushed through the de facto unification of the Principalities into a single state and confronted the European powers with a *fait accompli*.²⁵ Cuza managed to gain approval from the Sublime Porte in April 1861 to unify the administration by establishing a single cabinet and a single parliament, as well as abolishing the Central Commission in Focșani. This was confirmed in December of the same year by the other European powers as well and marks the last decisive step to unification of Romania because, although formally limited only to the duration of Cuza's reign, it was never undone later. Cuza ruled in cooperation with the parliament until 1864, when he dismissed it in order to erect a personal regime inspired by the populist autocracy in France. For this purpose, he held a general plebiscite on the enlargement of his personal powers, which he won with an overwhelming majority. A major conflict issue between the Prince and the parliament which was dominated by the land-owning elites was the agrarian question i.e., the distribution of agricultural ground, which became further complicated by the fact that around 25% of it was in the hand of Orthodox monasteries and thus under control of the Ecumenical Patriarchate of Constantinople. In the plebiscite Cuza received 682.621 votes to 1.307 against him and 70.220 abstentions. Backed by this legitimation, Cuza launched an ambitious reform program which concerned not only the unsolved agrarian question, but also the education system, the centralization of the administration, the working out of a civil code, and other aspects of modern statehood. However, he soon faced growing opposition from the side of the Conservatives as well as the Liberals, and in February 1866 was forced to abdicate as a result of an unbloody coup d'état carried out by army officers. According to the demand already made by the "Divans ad hoc" in the 1850s for a ruler from a foreign dynasty, the parliament eventually proclaimed Karl Anton of Hohenzollern-Sigmaringen (1811-1885) as

²⁵ The unification was opposed particularly by Austria in fear of future irredentism regarding her Romanian population in Transylvania and Bukovina, but also the Ottomans who wanted to secure at least a remnant of influence as suzerain power. It was supported, however, vigorously by France and Sardinia-Piedmont who in spring/summer 1859 won the upper hand against Austria in the second war of Italian independence. It should be noted that the issue did not only divide the European powers but was also disputed among the Romanian political elites themselves, where a conservative fraction advocated the status quo, while the liberals, mostly French-oriented younger people, who since 1856 had gathered in the "National Party" (Partida Națională) pursued unification (Jelavich 1984: 114-127).

Prince of Romania who entered the reign in May of the same year as Carol I. Only a few weeks later, in July 1866, a previously elected constituent assembly issued the first formal constitution of Romania which in central aspects was inspired, like in Serbia and in Greece, by the Belgian constitution of 1831 (Ionescu 2000: 414-428).²⁶ As in Serbia, the actual legislative competences of the parliament were quite limited in practice and the principle of democratic participation was even more impeded due to a quite restrictive electoral system which revised the slight expansion of suffrage previously made by Cuza. Nevertheless, the constitution of 1866, which stayed in effect with only small revisions until 1923 and thus proved similarly long-lived as the Greek one of 1864, marks the central turning point of Romanian constitutionalization in the 19th century.

Constitutionalism in Post-Ottoman Southeast Europe – convergences and divergences

The three case studies examined above show at first glance some strong affinities. This concerns particularly the impressive temporal coincidence of the turning points in the respective constitutional developments: On the one hand, the early 1830s, when Ottoman rule came to a definite factual end in all three, and constitutionalization in a narrow modern sense began in two of them (Serbia and Romania). On the other hand, constitutions were issued in all three countries in the 1860s (1869 Serbia, 1864 Greece, 1866 Romania) which were pathbreaking for future developments until the 20th century, while, it is noteworthy that in the same decade important constitutional edicts were also issued in the Ottoman Empire concerning the non-Muslim communities (1862 for the Orthodox, 1863 for the Armenians, 1865 for the Jews). A further striking affinity, although not limited exclusively to Southeast Europe, was the paradigmatic function of the Belgian constitution of 1831 as a reference point for constitutional discourse in all three countries. This was hardly by accident, since the Belgian model provided constitutional monarchy in combination with a two-chamber system of limited democratic representation, inspired by the idea of balancing the demands of modernization as well as those of political stability, something that appeared particularly suitable for the task of state building which all the three countries had to deal with. Together with the influence the European major powers exerted in this period on domestic political developments in all three countries – most

²⁶ Edition of the document in Ionescu (2000: 414-428). Part of recent scholarship, however, questions the model effect of the Belgian constitution or at least simplistic interpretations of their reception in older scholarship (Guțan 2018: 354-397).

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obviously in the case of Romania, but also in Greece and somewhat less in Serbia – this seems to corroborate the initially mentioned Europeanization-paradigm dominant in historical research of Southeast European constitutionalization.

In order to avoid reductionist interpretations of this phenomenon it is useful, however, to also take into account the differences of the respective institutional development paths during 19th century. Even the starting points of state building in the three countries were hardly comparable, since Serbia emerged from the transformation of an Ottoman administrative district i.e., the Paşalık Belgrade, into a principality, while Greece was formed from areas with little historical coherence and all the stronger particularism, and Romania from the unification of century-old vassal states. Accordingly, the establishment of central state authority was a completely different task in Romania, where it was a legacy of imperial rule, in Serbia, where it was based on charismatic leadership of a native dynasty (respectively two dynasties), and in Greece, where it was structurally precarious despite the centralized administrative system that the Bavarians had introduced under European aegis. This is one of the reasons why in Serbia and Romania the issue of constitutionalization along principles of democratic participation was handled reluctantly by the head of state and the ruling elites, while in Greece it was achieved relatively early and easily because the social elites perceived it as a means of defense against the claim to power of the central state authority. Furthermore, although the modernizing path followed by all three countries was definitely committed to the nation-state paradigm, they differed remarkably in their practical handling of ethno-religious alterity in their domains. While in Serbia this played only a marginal role, at least in the period under examination, due to the composition of its population,²⁷ in Greece as well as in Romania it was an issue of considerable importance from the beginning, which was dealt with in different ways, however: a more integrative in the former, and a more exclusionist in the latter case.²⁸ Thus, even in the

²⁷ This concerned essentially Muslim groups which according to the *Hatışerif* of 1830 had to leave the rural districts of the Principality – something that seems to have been implemented until the end of the decade (be it through voluntary or forced migration) – and from then on were limited to the city of Belgrade (Sundhaussen/Stefanov 2012: 1367-1398).

²⁸ In Greece this concerned Roman Catholics (on the Cyclades and, since 1864, on the Ionian Islands), Jews, but also Muslims living in territories towards the northern border (Rumeli and Euboea). All of them acquired full citizenship rights with the foundation of the state (in the case of the Jews this was much earlier than in many other European countries, see on this Bowman 2004: 419-435). The number of

perhaps most crucial aspect of Europeanization of the post-Ottoman Balkans, i.e. the ideological impacts of nationalism, a closer look at the specific developments disproves simplistic generalizations. Not the least, the imperial dimension of constitutionalization in the three countries should be considered: As far as the term “De-Ottomanization”, more customary in cultural and social studies, is also viable in the present context, it can only be used in the sense of a radical political break in the Greek case, while in the other two countries it was a process that took place within the formal framework of established Ottoman order and in the case of Serbia even with active participation of the latter. In conclusion, constitutionalization in post-Ottoman Southeast Europe in the 19th century should therefore not be reduced to a – more or less clumsy – adaption of European political models but rather as an entangled history of imperial legacies and the building of nation-states.

Bibliography

- Bowman, B. 2004. “The Jews in Greece.” In: L. Ehrlich, S. Bolozky et al. (eds.), *Textures and Meaning: Thirty Years of Judaic Studies at the University of Massachusetts*. (electronic publication), 419-435.
- Clewing, K., and Schmitt, O. (eds.), 2011. *Geschichte Südosteuropas. Vom frühen Mittelalter bis zur Gegenwart*. Friedrich Pustet.
- Constantopoulou, P. (ed.). 1999. *The Foundation of the Greek State. Major Treaties and Conventions (1830-1947)*. Kastaniotis Editions.
- Daskalakis, A. 1980. *Oi topikoi organismoi tis Epanastaseos tou 1821 kai to politevma tis Epidavrou. En parartimati ta keimena*. Vagionakis Editions.
- Geiss, I. (ed.). 1978. *Der Berliner Kongreß 1878. Protokolle und Materialien*. Harald Boldt.
- Guţan, M. 2018. *Transplant constituţional şî constituţionalism în România modernă 1802-1866*. Editura Hamangiu.
- Hering, G. 1992. *Die politischen Parteien in Griechenland 1821-1936*. De Gruyter Oldenbourg.
- Hitchins, K. 1996. *The Romanians, 1774-1866*. Oxford University Press.

Muslim Greek citizens grew considerably after the incorporation of Thessaly in 1881 as a result of the Berlin Congress (Immig 2015). In Romania this concerned a multi-ethnic kaleidoscope consisting of Germans, Hungarians, Greeks etc. as well as large Jewish communities, predominantly in the urban centers of commerce, who were notoriously discriminated by Romanian legislation and national discourse (Müller 2005).

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- Immig, N. 2015. *Zwischen Partizipation und Emigration. Muslime in Griechenland 1878–1897*. Harrassowitz Verlag.
- Ionescu, C. (ed.). 2000. *Dezvoltarea constituțională a României. Acte și documente 1741–1991*. Monitorul Oficial al României.
- Jelavich, B., and Jelavich, C. 1977. *The Establishment of the Balkan National States, 1804-1920*. University of Washington Press.
- Jelavich, B. 1984. *Russia and the Formation of the Romanian national state 1821-1878*. Cambridge University Press.
- Jovanović, G. (ed). 1866. *Polazak Knjaza srpskog Miloša Obrenovića u Carigrad*. Nikola Stefanović Press.
- Marković, L. (ed.), 1921. *Građanski Zakonik Kraljevine Srbije sa kratkim objašnjenima od Lazara Markovića*. Geza Kom Editions.
- Meier, L. 1998. "Die Revolutionen von 1848 in der Moldau und in der Walachei." In: D. Dowe et al. (eds.), *Europa 1848. Revolution und Reform*. Dietz Verlag, 253-282.
- Müller, D. 2005. *Staatsbürger auf Widerruf. Juden und Muslime als Alteritätspartner im rumänischen und serbischen Nationscode. Ethnonationale Staatsbürgerschaftskonzepte 1878-1941*. Harrassowitz Verlag.
- Müller, D., Stanomir, I., and Murgescu, B. 2020. "Die Rumänischen Fürstentümer." In: W. Daum et al. (eds.), *Handbuch der europäischen Verfassungsgeschichte im 19. Jahrhundert. Institutionen und Rechtspraxis im gesellschaftlichen Wandel. Vol 3: 1848-1871*. Dietz Verlag, 1337-1366.
- Negulescu, P., and Alexianu, G. (eds.). 1944. *Regulamentele organice ale Valahiei și Moldovei: 1831–1832, Vol I*. Eminescu S.A. Editions.
- Petropoulos, J. 1968. *Politics and Statecraft in the Kingdom of Greece 1833-1843*. Princeton University Press.
- Radojević, M. (ed.). 2004. *Srpski ustavi od 1835 do 1990 godine*. Zemun Gramatik.
- Stefanov, N. 2020. "Serbien." In: W. Daum et al. (eds.), *Handbuch der europäischen Verfassungsgeschichte im 19. Jahrhundert. Institutionen und Rechtspraxis im gesellschaftlichen Wandel. Vol. 3: 1848-1871*. Dietz Verlag, 1393-1430.
- Sundhaussen, H. 2007. *Geschichte Serbiens. 19. – 21. Jahrhundert*. Böhlau.
- Sundhaussen, H., and Stefanov, N. 2012. "Serbien." In: W. Daum et al. (eds.), *Handbuch der europäischen Verfassungsgeschichte im 19. Jahrhundert. Institutionen und Rechtspraxis im gesellschaftlichen Wandel. Vol. 2: 1815-1847*. Dietz Verlag, 1367-1398.
- Svolos, A. ³1998. *Syntagmatiki istoria tis Ellados*, Stochastis Editions.
- Tafrova, M. 2010. *Tanzimatât, Vilaetskata Reforma i Bălgarite. Administratsijata na Dunavskija Vilaet (1864-1876)*. Gutenberg Editions.

- Velika Narodna Skupština (ed). 1869. *Ustav Knjaževstva Srbije*. State Printing Press.
- Vouli ton Ellinon, (ed.). 1876. *Praktika Synedriaseon tis Voulis tis A' Synodou tis Z' Periodou*. Hellenic Parliament Editions.
- Vogli, E. 2007. «Ellines to genos». *I ithageneia kai I taftotita sto ethniko kratos ton Ellinon (1821-1844)*. Panepistimiakes Ekdoseis Kritis.
- Zelepos, I. 2012. "Griechenland." In: W. Daum et al. (eds.), *Handbuch der europäischen Verfassungsgeschichte im 19. Jahrhundert. Institutionen und Rechtspraxis im gesellschaftlichen Wandel. Vol. 3: 1848-1871*. Dietz Verlag, 1399-1432.
- Zelepos, I. 2023. *Kleine Geschichte Griechenlands. Von der Staatsgründung bis heute*. C. H. Beck.
- Zelepos, I. 2020. "Griechenland." In: W. Daum et al. (eds.), *Handbuch der europäischen Verfassungsgeschichte im 19. Jahrhundert. Institutionen und Rechtspraxis im gesellschaftlichen Wandel. Vol 3: 1848-1871*. Dietz Verlag, 1431-1463.