

From the Roman Magistratus of the Republic Era to the Absolute Monarchy

Ionuț Ciutacu

Lecturer PhD, "Dimitrie Cantemir", Christian University of Bucharest, Faculty of Juridical and Administrative Sciences, Bucharest, Romania, e-mail ionutciutacu@yahoo.com

ABSTRACT: Republican political institutions appeared in Rome in 509 B.C. They have their origin in the institutions created by the Ancient Romans, who were conservative, proof that they cared about its values. Therefore, they sought to preserve the old institutions, which they considered to be of divine origin. Being, at the same time, pragmatic, they sought to adapt the existing institutions to the new realities, taking them, practically, to the last consequences. They applied this principle not only in the field of Private Law, but also in that of Public Law.

KEYWORDS: *imperator, princeps*, magistrates, Republic, Principate, Dominate

Introduction

In its millennial evolution, the Roman State went through several phases of evolution, of which we only mention the Republic, the Principate and the Dominate. Each era is characterized by the existence of state institutions that were modeled after the institutions created by the Ancient Romans. This is due to the conservatism of the Romans, but also to the fact that, for a long time, it was considered that the institutions of Public Law and those of Private Law were of divine origin.

The first of the mentioned eras was established in the middle of the 1st century B.C., when Rome was a simple city in Italy. At that time, political power was held by the magistrates, the people's assemblies and the Senate. Gradually, with the beginning of the wars of conquest, Rome extended its rule over the neighboring cities, reaching that, towards the end of the 1st century B.C., to become the most important state of antiquity and includes all of Italy, but also parts of Asia and Africa.

In the new conditions, the existing state institutions proved to be outdated, because they had been created in the first centuries of the Roman Republic, when Rome was a fortress in the area of Latium (Molcuț 2011, 28); the reality demonstrated that the republican institutions were unable to ensure the exercise of state powers on such a territory and that the transition from republican type institutions to those specific to the monarchy was required (Hanga 1967, 13).

However, the absolute monarchy could not be openly established, due to the opposition of the Romans, who did not approve of the idea of all power being held by one person. The Romans did not take kindly to the dictatorships of Sulla and Caesar, proof that in 79 B.C., 3 years after he had been appointed dictator for an indefinite period, Sulla renounced the dictatorship, and Caesar was assassinated in 44 B.C., shortly after he was appointed dictator for life (Tudor coord., 1982, 398). In order to manage the mentality of the Romans, a system based on appearances was resorted to, the application of which required a lot of time, so that the Romans would get used to the idea. According to this system, state powers continued to be exercised, *de jure*, by republican institutions: the magistrates, the Senate, the people's assemblies. In reality, as will be seen, these institutions were subordinate to the emperor. This process, once started, could not be interrupted. It ended with the establishment of absolute monarchy in the Roman Empire and, implicitly, with the establishment of a new form of state organization - the Dominate, which had as its model the institutions of the Principate era, as well as the republican ones.

State institutions in the Republic Era

The Roman Republic was established in 509 B.C., when the last king, Tarquinius Superbus, was dethroned. Dissatisfied with the abuses he had committed the Romans decided to renounce the monarchy and establish a new form of government.

In this era, Roman legal texts mention the existence of three state institutions: the magistrates, the Senate and the people's assemblies. The magistrates were created in the era of the Republic, unlike the Senate and the assemblies of the people, inherited from previous eras: royalty in state form (half of the 6th century B.C. - 509 B.C.) and the pre-state era (753 B.C. - half of the 6th century B.C.).

Magistrates were high dignitaries of the Roman State who exercised military, administrative and judicial powers (Girard 1906, 29). Among them, the most important are the consuls, because they exercised the supreme power. This institution, even though it was new, had as a model the institution of the king. Unlike this one, who was elected for life, the consulate was exercised for one year. This solution was resorted to, because the Romans hated the idea of being led by a single person.

Initially, the consuls could only be elected from among the members of the privileged social category, known as the patricians. As the plebeians (members of the disadvantaged social category) requested access to the leadership of the state, we will see that certain powers will be taken from the consuls in order to create new magistrates. However, the consuls retained the prerogatives to convene the *Comitia Centuriata* and the Senate.

This process, of dividing the consuls' duties to other magistrates, had advantages. Advantages, because it satisfied the needs of the plebeians, who wanted to access positions of dignity, but also for the optimal exercise of administrative duties. Against the background of the development of society and the conquest of new territories, specific to the end of the Republic, this system became ineffective, proof that in the era of the Principality the magistrates will acquire new functions, able to respond to the new realities.

Apart from the consulate, the Romans also created a magistracy modeled after the institution of the king. This is called dictatorship and it was instituted in case Rome faced any internal or external danger, and had the effect of suspending the other magistracies, because crisis situations required unity of thought and action. Practically, the dictator was elected for a term of six months, he was a "king for a fixed period", and could be re-elected, if the danger prolonged (Willems 1888, 256).

The Roman legal texts also sent us information about another magistracy that played an important role in the further development of the Roman State. It is about the tribunate of the plebeians, which appeared at the beginning of the 5th century B.C. Initially, its holder could convene the works of the *Concilium Plebis* (assembly of the plebeians), and later, the *Comitia Tributa*, in the works of which both the patricians and the plebeians participated.

The analysis dedicated to this era cannot be completed without presenting some information about the people's assemblies and the Senate, because their activity was closely related to the duties of certain magistrates.

Initially, at the beginning of the Republic, the Roman people met in 3 assemblies, the *Comitia Curiata*, the *Comitia Centuriata* and the *Concilium Plebis*, which later became the *Comitia Tributa*. The people's assemblies were created at a time when the population of Rome was not large, a fact that allowed their involvement in the decision-making process. Towards the end of this Era, this mechanism proved to be inadequate to the new social realities. However, Roman legal texts mentioned the effective functioning of the *Centuriata Comitia* and the *Tributa Comitia*. Patricians and plebeians participated in the works of the *Centuriata Committee*, they were organized in belts, which were, at the same time, military units and voting units. This explains the fact that the draft laws drawn up by the consuls, who were the heads of the army, were submitted to the *Centuriata Comitia* for adoption. Only the plebeians participated in the work of the *Concilium Plebis*. After the patricians began to

participate in the work of this assembly of the people, it turned into the *Comitia Tributa*. This explains the fact that, initially, the tribunes of the plebeians could propose plebiscite projects for adoption by this assembly and later, draft laws.

Unlike the era of state royalty, the **Senate** became the most important institution of the Roman state (Mommsen 1891, 1). In this capacity, he exercised executive powers (declaring a state of siege, suspending magistrates and appointing a dictator, managing the provinces and the public treasury, coordinating foreign policy, declaring war and concluding peace, appointing military commanders), overseeing the observance of the traditions and morals of the Roman people and exercised powers that influenced the legislative process (ratifies laws, interprets their provisions, could suspend the application of laws in certain situations).

Towards the end of the Republic, Rome was shaken by four civil wars. The instability generated by these events and the incorporation of new territories into the Roman State demonstrated that the republican state institutions were ineffective. To solve these problems, several solutions were resorted to, among which we mention the dictatorship for an indefinite period and the triumvirate. The reality, however, demonstrated that the establishment of the monarchy could no longer be postponed. Caius Julius Caesar understood this and tried to openly impose despotism of the Oriental type. His attempt failed because of the republican mentality of the Romans, as evidenced by the fact that he was assassinated in the Senate in 44 B.C. After the death of Caesar, 2 triumvirate were established, each for a term of 5 years, between Octavian, Marcus Antonius and Lepidus. After the removal of Lepidus, the conflict between Marcus Antonius and Octavian becomes inevitable. This conflict will be settled by the Battle of Actium in 31 B.C., won by Octavian, and will result in the establishment of a new form of government - the Principate.

State institutions in the Principate Era

The Principate has its origin in the Latin *princeps*, which means supreme power, empire. The Principate is a new form of government of the Roman Empire, lasting from 27 B.C., until the year 284. It is characterized by the reformation of certain institutions from the previous era and by the fact that the government was carried out by the emperor together with the Senate. This is the result of the skillful maneuvering of Augustus, who, unlike Caius Julius Caesar, understood that the new form of government could not be introduced suddenly.

After the death of Marcus Antonius, Augustus was left alone at the head of the Roman state. Aware of the fact that this was unpleasant to the Romans, on January 13, 27 B.C., convened the Senate, at the proceedings of which he affirmed that he would leave public life and reinstate the republican institutions, because peace had been established in the Empire, and the exceptional powers with which he had been invested, as a triumvir, were no longer useful. Finally, after a long period of internal, bloody wars, peace reigned in Rome. Realizing this, the senators begged him not to give up the leadership of the state, because everyone wanted to enjoy the benefits of peace. Augustus accepted the proposal of the senators, on the condition that they rule together with him (Tudor coord. 1982, 615).

In order to be able to exercise power, Augustus was proclaimed, among other things, princeps, consul and tribune for life. As we observe, he was not declared emperor, as the reader would have expected, but certain republican dignities were assigned to him. As princeps, he was the first of the senators (Mommsen 1891, 156). This was perfectly combined with the quality of consul, because this magistrate convened the Senate and he was also the one who draw up the draft *senatusconsult* (decision of the Senate), which was to be adopted by the senators and which, from the time of Emperor Hadrian, would acquire the force of law. Also, as consul, he could convene the *Comitia Centuriata* and propose to it draft laws for adoption. As tribune of the plebeians, the emperor could convene the *Comitia Tributa*.

Taking advantage of the fact that the jurisconsults managed to expand the scope of the law, the emperor associated his best jurisconsults, granting them a special right (*ius publice*

respondendi ex auctoritate principis), by virtue of which they offered consultations of an official nature and they contributed to the expansion of the scope of the law. The Roman emperors who reigned before Hadrian knew how to benefit from the fact that the praetors sanctioned new subjective rights through the processes organized between citizens, and the Senate had taken over the legislative powers from the people's assemblies. As the emperor took over the duties of the other state institutions, the assemblies of the people were no longer convened, and the praetor's edict was codified, on the grounds that there was legislative stability. This is how, through ingenious reforms, the Roman emperors contributed to the disappearance of obsolete state institutions.

In parallel with these reforms, the emperor created new magistracies. Unlike the republican magistrates, who were not subordinate to each other, the holders of the new magistracies were subordinate to the emperor and were appointed and dismissed from office by him. This is what happens with the *praefectus praetorio* and with the imperial legates who were in charge of the provinces.

Some historians said that Augustus saved the Republic. Others, with a more developed sense of reality, said that he created the Empire. Both are right. The reality is that Augustus created the state institutions of the Empire and established the monarchy using the old republican institutions as a model (Grimal 1993, 69). As will be seen, the Principate Era was one of transition from republican institutions to absolutist institutions.

State institutions in the Dominate Era

In Rome, the Dominate Era lasted from AD 284 to AD 565. The name of the era originates from the Latin *dominus*, which means master. This period is characterized by the existence of the absolute monarchy, which emerged after a long process. The legal and historical texts that analyze this period mention the existence of public institutions at the central level: the emperor and the *consistorium principis*.

The emperor held the supreme power in the state, as Master and Deity, respectively Master and God, after the acceptance of Christianity as the official religion. He had accumulated over time the state attributions exercised by the other institutions from the Principate Era, which had disappeared from the political scene or whose role was minimized. Thus, the people's assemblies had disappeared since the Principate Era, the Senate had declined to the level of a simple city council, and the republican magistrates, to the extent that they still existed, had become decorative functions (Girard, 1906 70-71).

The *consistorium principis* was a collective body that carried out its activity at the central level (Willems 1883, 569). His role was to assist the emperor in the exercise of his duties. Subordinated to the council was a huge apparatus made up of civil servants (Molcūt 2011, 34).

Conclusions

The Roman Monarchy is the result of a long process, which has its origin in the state institutions of previous eras. Thanks to its millennial life, we can observe all the phases of evolution that the Roman state went through and we can know how the Roman mentality influenced the creation of state institutions in most historical eras. As we have observed, the Romans were a conservative people, and, inexplicably, at the same time, a pragmatic people, who used their own institutions and constantly adapted them to reality, taking them to their last consequences.

Our approach is not only theoretical, but also useful for those who research the Roman legal phenomenon. With the help of the tools made available by this study, jurists will discover legal tools with which to optimize or even create an effective model of political organization.

References

- Girard, Paul Frederic. 1906. *Manuel élémentaire de droit romain*, quatrième édition revue et augmentée. Paris. Librairie Nouvelle de Droit et de Jurisprudence Arthur Rousseau.
- Grimal, P. 1993. *L'Empire romain*. Le Livre de Poche, Éditions de Fallois.
- Hanga, Vladimir. 1967. *Caius Iulius Caesar*. Bucharest: Tineretului Publishing House.
- Molcuț, Emil. 2011. *Drept privat roman (Roman Private Law)*, revised and added edition. Bucharest: Universul Juridic Publishing House.
- Mommsen, Théodore. 1891. *Le droit public romain*, tome septième, traduit de l'allemand avec l'autorisation de l'auteur par Paul Frédéric Girard. Paris: Ernest Thorin, Éditeur.
- Tudor, Dumitru. coord. 1982. *Enciclopedia civilizației romane (Encyclopedia of Roman civilization)*. Bucharest Științifică și Enciclopedică Publishing House.
- Willems, P. 1883. *Droit public romain*, sixième édition. Louvain. Ch. Peeters Librairie-Éditeur. Paris. L. Larose&Forcel. Libraires-Éditeurs.
- Willems, P. 1888. *Droit public romain*, sixième édition. Louvain. Ch. Peeters Librairie-Éditeur. Paris. L. Larose&Forcel. Libraires-Éditeurs.