THE TELEOLOGICAL INTERPRETATION AND THE DISCOVERY OF THE CONSTITUTION'S EFFICIENCY MEANINGS

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Motto: „Everyone admires the Constitution; few understand it."
(David P. Currie)

Abstract

Surprisingly, the judicial research seems to have stopped with the approach of the interpretation methodology at the level of the legal norms in general, paying less attention to this field of law at the level of the norms contained in the supreme law in the hierarchy of the law system. In the Romanian doctrine there is a single and beneficiary monograph focused on the constitution interpretation[1] *that, noticing the existence of the premise that we stated above, makes an inventory of the interpretation methods for the fundamental law based on general valid guiding marks from the law theory and jurisprudence of the Constitutional Court of Romania. Starting from the observation that the inventory of this monograph lacks just the teleological interpretation, the present study makes an introduction to the epistemological horizon of this interpretative method and it aims to identify the purposes and the principles of the Constitution, as well as the relation between them and the spirit of the fundamental law. The connection between the teleological interpretation method and the constitution efficiency notion may be given by the extent of the immanent purposes' accomplishment of the fundamental law in the meaning of ensuring an equilibrium state issued by the primary sense of the Pareto optimum among the state powers, among individuals and between the state and the individuals. This equilibrium state is the direct result of the institution of effective mutual control forms between powers, of the governors by the governed and the citizens' participation to the public decision process.*

Keywords: *teleological interpretation, Constitution interpretation, Constitution purposes, Constitution efficiency*

1. Introduction

Our approach presents a triple difficult approach - which we try to convert into a tribute to originality and authenticity - because, from the objective necessity to interpret the Constitution to understand its deeper meanings (in the sense in which David P. Currie made an apodictic remark: "however, only reading the Constitution

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[1] I. Muraru and others, *Interpretarea Constituţiei,* Lumina Lex, Bucharest, 2002.

does not mean knowing it, because some of the most important provisions are highly imprecise"[2] Assembly), and also from the general features of the teleological method in law, our proposal consists in applying it over the fundamental law in order to split its immanent goals and the palpation of the limits and effects of this interpretation as the basis of the separation of some of the meanings given to the constitution's efficiency.

In another order of business, the difficulty of our approach is that none of the concepts with which we will operate within this study- the teleological interpretation, the spirit of the law (fundamental), the purpose of the constitution and the constitution's efficiency – have not been fully explained in their manifestations in the field of constitutional law.

In law, the teleological or purpose interpretation seeks to find the meaning of the normative act by highlighting the finalities of the interpreted normative act.[3] In this hermeneutic approach, the trichotomy practiced by Origen in analyzing a text is essential: a first and literal level, has a guiding character, based on the relationship between thought and words, thus giving us the direct meaning of the text; the second level is the soul, of an evocative order for the receiver, and the third, of a spiritual order is the one which bears the essential meaning of the text, this being the level at which the method or the teleological interpretation criterion operates.[4] This multi shared approach of the reception of a text completes itself with the justified observation of M.-C. Eremia: "it is necessary to specify that the interpretational mechanism is not the same for all interpretational levels and bearings."[5] The major difficulty of the teleological interpretation rests in the accurate deceleration of the distinction between the spirit of law and the will (intention) of the legislator – states professor Gh. Mihai, but exactly this represents the concordance point in our approach because, as the same author demonstrates: "*telos* **-** we can find the original purpose of instituting a law order in the Fundamental Law, it is detectable in the Constitution."[6]

An important methodological dichotomy between the historical and teleological method is accomplished by professor I. Humă who states that: "the purpose is a representative criterion of valuable judgments, which the teleological approach uses, while the historical approach is causal-analytical, and it identifies direct motivations; it operates in the world of facts as facts, not of the ideal which transcends them, by using ascertained or mostly ascertained judgments.[7] Also, professor D. C. Dănişor shows that the purpose of law identifies itself with the reason of law *(ratio legis)* which is also called "the spirit of the law", and it is formulated in a preamble or in an express disposition of the text itself (although this procedure is kind of rare).[8] This attracts attention in a justified manner that: "in order to better interpret a text it is

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[2] D.P. Currie, *Constituția Statelor Unite ale Americii – comentarii -*, Nord-Est S.R.L., Iași, 1992, p. 7.
[3] I. Craiovan, *Tratat de teoria generală a dreptului,* Universul Juridic, Bucharest, 2007, p. 427.
[4] Gh. Mihai, *Argumentare și interpretare în drept,* Ed. Lumina Lex, Bucharest, 2001, p. 199.
[5] M.-C. Eremia, *Interpretarea juridică,* All, Bucharest, 1998, p. 73.
[6] Ibidem, p. 199.
[7] I. Humă, *Probleme controversate privind tehnica istorică în interpretarea dreptului,* in „EIRP Proceedings", Vol. 1, (2006), „Danubius" Univerdsity, Galați, p. 14.
[8] D.C. Dănişor, I. Dogaru, Gh. Dănişor, *Teoria generală a dreptului,* C.H. Beck, Bucharest, 2006, p. 396.

essential to clearly notice this law reason, to admit, for instance, which are the interests that the law tends to protect, which are the abuses which it wants to stop, which is the political or social result that it tends to realize, etc."[9]

The issue of the purpose, as a future state, anticipated and desired, as a product of the voluntary human action, as well as of the ideal, as a representation of an always desired but never fully reached model – shows professor I. Craiovan – interacts in the field of law and cannot be isolated by the philosophical layer and the social and political context in which it evolves.[10] The purpose, shows the same author by resuming one of R. von Ihering's theories, is the creator of the whole law, and the law is the frame in which the state organizes, by constraint, the insurance of the life conditions of the society. By consequence, the existence and insurance of the society represents the final purpose of law.[11] From the conceptions revised by I. Craiovan we also mention R. Stammler's opinion, according to which law is justified as far as its purposes are fair: "in this conception, the content of a norm is fair when in its determined conditions it corresponds to the social ideal, whereas the social ideal is the conception of a perfectly free human will community, (...) in which each individual assimilates the objective and general purposes of the others."[12]

2. The teleological interpretation in the constitutional doctrine and in the jurisprudence of the Constitutional Court of Romania

Paradoxically, although it belongs to the general framework of the juridical interpretation, the problematic of interpreting the Constitution is not exclusively and exhaustively approached in our doctrine[13], where only one monograph exists on this theme. In the opinion of these authors, the activity of defining the Constitution can be defines as follows: there is a phase of applying the constitutional norms which emphasizes the correlation between the letter and the spirit of the fundamental law; an explanatory and analytical operation of the significance of the constitutional norms and an operation which emphasizes the place of the constitutional norms in the hierarchy of the juridical norms.[14] Moreover, unlike the interpretational activity of the regular juridical norms, the specifics of interpreting the Constitution can be found in the following features: it cannot be considered "a purely scientific act", but on the contrary, "a manifestation of will"; it is "anterior to the inherent syllogism of any application of a juridical norm"[15] and from this point of view another observation of M. –C. Eremia is salutary: "the legislator never reveals the procedures which he uses and neither the way in which he uses them. He only reveals the result of the actions of these procedures- materialized in the text of the law"[16]; being a superordinate law of

[9] Ibidem, p. 396.
[10] I. Craiovan, *op. cit.,* p. 166.
[11] Ibidem, p. 167.
[12] Ibidem, p. 167.
[13] I. Muraru et alii, *op. cit.,* p. 4.
[14] Ibidem, p. 23.
[15] Ibidem, p. 13.
[16] M.-C. Eremia, *op. cit.,* p. 39.

the juridical system and, in the same time, a political act, ensuring the juridical framing of the political phenomena concerning the conquest, use and maintenance of power, the Constitution is capable of being interpreted through the juridical and political methods, without them being antagonistic[17]; the activity of interpreting the Constitution is much wider than the object over which the constitutional control is exercised so that it cannot be reduced only to the interpretation of the constitutional jurisdiction in a certain way.[18]

In what the teleological interpretation of the Constitution is concerned, exclusively attributed to the portfolio of the political method of interpretation, the approach of the afore-mentioned authors is situated between two limits of which we can affirm that they are *Scila* and *Caribda* of this hermeneutics of the fundamental law: on one side, the original intention of its authors (”The Constitution is also what its authors wished for it to be”[19]) and, on the other side, because of the ”fluid” character of the constitutional text, which is in a continuous evolution, the possibility of an extensive interpretation to be taken up to the recreation of constitutional norms (better yet to their meanings – *n.a.*).[20] They consider that the doctrine registers a so-called ”original intention of the author”, in conformity with which the original text and intention of those who created it must lead to juridical effects, this method not being the best because: ”the interpretation of the Constitution cannot be limited to the search of the meaning which the authors gave to a disposition, but it must take into account the social realities to which that norm is applied.”[21]

If for the identification of the purposes of a constitution in general – and, particularly, of the Romanian Constitution – we must start with the original[22] meaning which the authors meant to give to each norm and to answer to the exceptional methodological questions asked by the same authors, respectively: “who are the authors (the ones who wrote the text or the ones who voted for it)?”; “what did they actually want?”; “What did they say in that certain historical context or in the final purpose of the regulation?” [23], in the case of the extensive interpretation we must take into account a phenomenon which started in the years 1971-1974, namely the jurisprudence of the constitutions, “a document still in the course of being written, without doubt, but written by the constitutional judge.”[24] By consequence, we must admit that the interpretation is an act of creation and that the creative role of the law constitutionality’s interpreter (usually an instance of constitutional contentious) is extremely complex because it reports itself to the constitutional norm and also to the controlled one and it may have as an effect the concretization or even the

[17] I. Muraru et alii, *op. cit*, p. 90.
[18] Ibidem, p. 16.
[19] Ibidem, p. 11.
[20] Ibidem, p. 14.
[21] I. Muraru and others, *op. cit*, p. 15.
[22] We consider that the authors thought of the primordial, starting meaning of the word ”originary”, not the ”original” one.
[23] I. Muraru and others, *op. cit*, p. 11.
[24] D.C. Dănișor, I. Dogaru, Gh. Dănișor, *op. cit*, p. 123.

enrichment of the signification of both norms, but always through the perspective of the constitutional norm.[25]

The identification of the teleological meaning of the constitution, namely of its reason for existing at the congruency point with its purpose or immanent purposes, with the spirit of the law that is, justifies the extension of the application domain of the fundamental law (*ubi eadem ratio, ibi idem ius*) and the creative role of the constitutional jurisdiction in the meaning of D. Rousseau's affirmation – taken up by D.C. Dănişor: "(...) in contrast to the closed constitutions, where the affirmation of new rights is usually done through profound political and juridical confusions, the existence of a new Constitutional Council inaugurates a constant public space open to the acceptance of new freedoms."[26]

Paradoxically, although I. Muraru *et alii* does not nominate it among the interpretation methods used in the jurisprudence of the Constitutional Court of Romania, it has open the way to teleological (and historical) interpretations starting with the invocation of the *Resolution of the Grand national Assembly from Alba Iulia* (decision no. 112/2001, M. Of. No. 280 of the 30th of May 2001), but also of other documents of a legislative nature or of the executive power (The Journal of the Council of Ministers which refers to the rights of the minorities from the 4th of August 1938, concerning different types of constitutional dispositions, as follows: the general principles (art. 13 concerning the official language, art. 6 concerning the right to identity of the people belonging to national minorities, art. 4 concerning the nation's unity), but also to dispositions on the structure of the state (art. 120 and art. 121 on public local administration).[27] We think that the modality of affirmation of the democratic traditions of the Romanian nation and their identification on the means of the judicial practice of a constitutional order, before they are committed at a supreme value level through the review of the Romanian Constitution of 2003, is the expression of the manifestation of the contemporary juridical syncretism (and especially of the constitutional one), the Constitutional Court practically borrowing a prerogative of the supreme instances from the law systems of a jurisprudence origin. The consequence of the jurisprudence direction open by the Constitutional Court of Romania is manifested through the necessary tendency to complete the Constitution with norms from other normative, non-normative and historical or contemporary, national or global documents, opening the gate to the composition of the Romanian constitutionality unit.[28]

The recurrence to the political founding policies is itself a tradition in our political-juridical literature from the XVIIIth century until now and we consider that its reinstatement in a jurisprudent way by the Constitutional Court is not random, because it formalizes the tradition of invoking our founding political traditions even from before their consecration as a new constitutional category, this action expressing a reflex of the need of legitimization of our fundamental law through generally

[25] I. Muraru et alii, *op. cit*, p. 119.
[26] D.C. Dănişor, I. Dogaru, Gh. Dănişor, *op. cit*, p. 123.
[27] D. C. Dănişor, *Constituţia României comentată, Titlul I. Principii generale,* Universul Juridic, Bucharest, 2009, p. 81.
[28] Ibidem, p. 92.

accepted and valid bench-marks for the Romanian society. A possible answer to the question "What are the democratic traditions of the Romanian nation?" in a constitutional registry could start from the acknowledgement that the constitutional text links the evolutionary values of a nationally integrated vision and the assumed historical fundamentals. In other words, the present aspirations will be considered legitimate only if they take into account the promises made some time ago by the nation itself for its future.[29]

Therefore, the recurrence to the democratic traditions of the Romanian nation opens up a successional vocation of the contemporary Romanian nation which can be always claimed from its own political evolution model, although taking into consideration A. De Tocqueville's theory, only America can offer a pure democracy and a government produced by the only original democracy but, taking advantage of the generous opening of the same author, "we may suppose that there exists a democratic nation organized differently than the American nation."[30]

In our opinion, another effect of the teleological and historical interpretation practiced by the Constitutional Court of Romania is the edification of the constitutionality block which is already a constitutional reality, not just a doctrinaire concept, and which is in full process of completion until the identification and integral recovery of the democratic traditions of the nation, these having the founding, symbolic, integrative and juridical force- where the texts are identifiable as *ad probationem* – to legitimate the construction and destiny of our political society. We base this opinion on three arguments used by D. C. Dănişor as follows: a) – the diachronic perspective over the *demos* which has exercised the power in a democratic way in the reference moments of the national history; b) – the inclusion in the sphere of democratic documents for the democratic traditions of the Romanian nation of revolutionary proclamations, even if they are not strictly normative; c) – the compulsoriness of the interpretation of a whole Constitution in the spirit of democratic traditions, [31] which gives back the historical method of interpretation of the fundamental law its preeminent place and its teleological meaning. This is also the fundamental meaning that the will of the Constituent Gathering from 1991 records. Notice what Dan Amedeo Lăzărescu, member of the Constituent Assembly, said in the support of this idea: "The traumatizing historical experience of the past 53 years has still been a guide in our efforts to compose this pre-project, which has taken into account the previous Romanian constitutionals (…), but also modern constitutional texts, among which has caught our attention the Spanish monarchic and parliamentary Constitution of 1978 and the Constitutions of Portugal, Greece and republican Italy. (…) In order to find out who is the Romanian nation, we must compare ourselves with who we were in our tumultuous past, but also with what is best in the foreign nations."[32]

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[29] B. Breslin, *From word to worlds: exploring constitutional functionality,* The John Hopkins University Press, Baltimore, U.S.A., 2009, p. 49.

[30] F. Furet, Prefață, *Sistemul conceptual în „Despre democrație în America",* în A. de Tocqueville, *Despre democrație în America,* Volumul I, Ed. Humanitas, Bucharest, 1995, p. 13.

[31] D. C. Dănişor, *op. cit.,* p. 81.

[32] D. Ioncică (ed. coord.), *Geneza Constituției României 1991 – Lucrările Adunării Constituante -,* Regia Autonomă „Monitorul Oficial", Bucharest, 1991, p. 66.

3. The identification of the purposes of the Constitution and the problem of the constitutional efficiency

To search for the purpose of law is to search for its value, meaning, its justice – after an expression of G. Radbruch.[33] "The teleological conceptual family" – as I. Craiovan names it – formed out of the concepts of purpose, ideal and function, shows its explicative value also in the juridical field in a relationship in which purpose appears as a partial expression of the ideal – supreme purpose, and the function as an action, a materialized expression of them at the level of society.[34] In this relationship we must understand the assertion according to which the concepts and notions gain the senses attributed by the context in which they act. They are the basic instruments over which the legislator has pronounced himself and with the help of which the interpreter expresses himself. Together with the principles, methods and interpretation techniques these instruments are meant to identify the significations and meanings of the juridical norms, in a given context, in the purpose of ensuring the expected efficiency.[35]

In the constitutional field the purpose, as an element of the ideal, the teleological interpretation and the efficiency concept gain new valences in the framework of a special relationship. The justification of the interpretation is found in the necessity of applying a general constitutional text to a concrete situation. Extrapolating, one could actually affirm that the interpretation is necessary because only through it the text ensemble from which the Constitution is made of, transforms itself in genuine efficient juridical norms.[36] In this sense, B. Bresiln's observation is correct: in a literal sense the constitutions are incapable of offering solutions in the juridical conflicts between the state's institutions or in the political disputes, and because of that the institutions in charge of interpreting the constitutional text have to identify the meanings of the general principles of the Constitutions and ensure their concrete application oriented in the purpose of the fundamental law's functionality and of the institutions.[37] So, D. P. Currie shows that in the activity of the interpretation of the Constitution, the judge must firstly determine its meaning and make it so that anyone can examine its words, history and intentions, invoking in the support of its affirmation the opinion of a great American judge, J. Story, who said in 1842: "maybe the safest rule of interpretation would be to direct your attention to the nature and object of each power, duty or right, in the light and with the help of contemporary history and to give the words on each exactly the effect and the force, as close as possible to their natural meaning, so they reach their targeted purposes."[38]

Then, the natural question is: what could we call the purpose of the constitution? The purposes of the citadelle's constitution according to Aristotle and to the law in

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[33] I. Craiovan, *op. cit.,* p. 167.
[34] Ibidem, p. 171.
[35] M.-C. Eremia, *op. cit.,* p. 76.
[36] I. Muraru et alii, *op. cit*, p. 14.
[37] B. Breslin, *op. cit.,* p. 88.
[38] D. P. Currie, *op. cit*, p. 8.

general, as I. Craiovan notics, are the virtue, well-being and happiness of the citizens.[39] More precisely, Stagiritul sais that: "Therefore, because there are, obviously, many purposes, some of which we are interested in for the sake of others, like wealth, flutes or instruments in general it is obvioust that not all of the purposes are perfect. But of course the supreme good is. So, if there is one perfect purpose, it must be sought by us; and if there are more, then it is the most perfect of all. (...) But, agreeing on the fact that happiness is the supreme good, it may be better to clarify what it actually is. (...) Our exposure is consistent with the affirmation that happiness consists generally of virtue or of a particular virtue; because happiness owns soul activity consistent with virtue."[40] In connection with virtue, the Greek philosopher makes the connection between this quality and virtue, which he sets as the goal of activities and politicians: "Because happiness is an activity of the soul in conformity with perfect virtue, let us deal with virtue; We can thus understand better things related to happiness. Virtue seems to be the concern to the true and highest politician because he seeks to make capable and law obedient people out of the citizens".[41] But the most important aspect of our approach is the relationship that Aristotle draws between purpose and the method of achieving it, what we might call efficiency: "This is also proven by what is happening in the citadels, because legislators make the citizens become better, making them accustomed with the good. This is indeed the intention of any legislator, and those who do not properly apply it can not reach their goal; through this we can also distinguish one legislation from another, a good one from a bad one." [42] Through this idea we must also understand P. Roubier's statement that 'the object of law as a science of funds is set out outside of it, while politics establish the goals for social governance and the law chooses the means."[43]

If the goal is the intention of the legislator, let us see what the initial goals of a constitution or the first modern constitution (applied) are - the american one- and then let's establish the ones for the Romanian Constitution of 1991. Constitutions claim to set the political mechanism of a community which is thus the supreme law, meaning what form of government should be adopted and the arrangement of political institutions, where "to constitute" means "to organize" or to order partsin a clearly defined configuration that not once does it reflect the break of that certain country with the past and, on the other hand, its hopes for the future.[44] B. Breslin considers that in the theory of constitutionalism there have emerged three major themes that are found in most modern constitutions and in relation to which they can be classified in terms of efficiency: 1) the specificity of constitutions and how this feature contributes to conflict mediation ; 2) The idea that a written constitution creates political stability of the regime and society; 3) The paradox of the (old) text

[39] I. Craiovan, *op. cit.,* p. 166.
[40] Aristotel, *Etica Nicomahică,* Introducere, traducere, comentarii şi index de S. Petecel, Ed. a II-a, Ed. IRI, Bucharest, 1998, p. 37.
[41] Ibidem, p. 45.
[42] Ibidem, p. 49.
[43] I. Craiovan, *op. cit.,* p. 167.
[44] B. Breslin, *op. cit.,* p. 70.

and the passage of time.[45] The author starts from the assumption that a constitution must manage conflicts so as to ensure the stability of the regime noting that in contemporary society the conflict (of powers) is not necessarily bad. So being that one of the purposes of the constitution is to stimulate constructive conflicts and obviously to put out the destructive ones.[46] Regarding the effectiveness of a constitutional text , this translates into how well promoted long-term plans are and the capacity of institutions and individuals to be convinced that the plans and actions will not be interrupted by arbitrary state action, which generates political regime stability.[47]

The problem of the paradox of the age of a constitutional text conceived and written by people who were unable to conceive the complexity of the contemporary society and the asumption and respect of its principles by individuals and institutions that have not participated in the adoption of the pact in its original terms[48] is, in our opinion, a legitimacy equation. From this point of view, J. Rawls has succeeded to describe in a plastic manner the evolution of ongoing processes, talking about legitimacy as a constant that determines the ongoing evaluation of the performance of a political regime, which implies the continuation of the trial of reassurance and affirmation of consent at the original social contract (joining consent)[49]. Only in this equation does the teleological role of interpretation appear as a bridge between the vision of the Founding Fathers and the current meaning of the constitutional text and its use becomes mandatory in order to ensure the continuity of its goals.

A brief comparison with the U.S. Constitution can enlighten us concerning the identification of the purposes of our own national constitutions. So - says Fr. Hayek - it is considered as a fundamental principle that a stable constitution was essential to any free government, and that the constitution meant limited government.[50] The ideological sources of the American constitution were in addition to the English traditional as Magna Charta Libertatum, Habeas Corpus Act and others, the Mayflower Pact and the colonial charters. Linked to the concept of representative government in which the powers of this body were to be strictly circumscribed, the constitution was conceived as a means to protect people against any arbitrary action from the legislator and other branches of political power. [51] Consequently, such a constitution should contain, in addition to the provisions governing the origin of authority, positive rules which stipulate general principlesof the vested legislative's activity and not just the hierarchy of authorities or powers, but also the hierarchy laws with respect to their legal authority.[52] Also, for the authors rof the Constitution, the constitutionality control was a necessary and obvious part of fundamental law, and soon enough, by a decision of the Supreme Court, it has become a generally accepted norm.[53]

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[45] Ibidem, p. 89.
[46] Ibidem, p. 90.
[47] Ibidem, p. 98.
[48] Ibidem, p. 101.
[49] F. Peter, *Political Legitimacy*, in „The Stanford Encyclopedia of Philosophy" (Summer 2010 Edition), Edward N. Zalta (ed.), http://plato.stanford.edu/archives/sum2010/entries/legitimacy/.
[50] F. Hayek, *Constituţia libertăţii,* Traducere de L. D. Dîrdală, Institutul European Iaşi, 1998, p. 197.
[51] Ibidem, p. 197.
[52] Ibidem, p. 197.
[53] Ibidem, p. 205.

By comparison, a look over the work of the Constituent Assembly of Romania from 1991 can enlighten us on the will of the constituent power and on the separation of goals of our Constitution in 1991. The editing commission of the Romanian Constitution's project has elaborated principles and the structure of the fundamental law for which - said rapporteur Anthony Iorgovan – "the democratic constitutional traditions of our country were considered, including those reflected in the Constitution of 1923, the modern constitutional principles that underlie, particularly, regimes of European democracy, international conventions and conventions and pacts concerning the enshrining and ensuring of human rights and freedoms and also aspirations and ideals of the Revolution of December 1989. (...) The fundamental idea that formed the basis for this thesis is the definition of a charter of citizen rights and freedoms for the realization of which the whole mechanism of the state powers is subordinated, of public life in general. (...) In the end, I wish to assure you that all its members, regardless of their political affiliation, have been aware of the fact that in the society that we are building in Romania human dignity, rights and freedoms of the citizens, the free development of their personality, the constitutional order, juridical equality and political pluralism are supreme values."[54] From the report concerning the principles and the structure of the constitution project, the will of the constituency to renew democratic traditions of the country referring to the bicameral structure of the Parliament is easily detached, the autonomy (and not the independence - n.a.) of the judiciary power and the reinstatement of the Supreme Judicial Council and the Public Ministry and also of a Constitutional Council (which later became the Constitutional Court) and even in the texts concerning the organization and functioning of the President of the Republic , where the solution of founding a presidential tradition in the Revolution of 1989, although it entered the autochthon constitutional heritage in 1974[55] but also the subordination of the whole mechanism of the state to respect and safeguard the idea of citizen rights and liberties (but not human and we cannot know if it was just a draft superficiality or a doctrinal and political option - n.a.), which represents, we believe, a commitment worthy of the founders of our constitution.

4. Conclusions

In our opinion, relating the constitution's goals and its efficiency means to assess, as proposed by I. Muraru, former President of the Constitutional Court of Romania, the degree of putting into practice the letter and spirit of the fundamental law in the same time with the identification of the vulnerabilities from the mechanism of the constitutional balance.[56] In this relationship, a teleological interpretation represents the method of checking the resistance in time of the constitutional goals and the subordination of the whole state mechanism to these purposes, as well as loyalty to individuals, the society as a whole, and especially, to the state institutions to work

[54] D. Ioncică (coord.), *op. cit.,* p. 56.

[55] R. Carp, I. Stanomir, *Limitele Constituției. Despre guvernare, politică și cetățenie în România,* Ed. C. H. Beck, Bucharest, 2008, p. 266.

[56] I. Muraru, *Eficiența și valabilitatea Constituției*, in „Revista de Drept Public", nr. 1/1995, p. 24-25.

under these commands and goals. And if the state of the constitutional equilibrium is the equivalent of the economic equilibrium towards which the Pareto optimum tends, then we can affirm that this is the primary purpose of a constitution, and it must be sought in any event or conflict of a constitutional nature. The guarantee of the constitutional equilibrium is the limited government, which is why we agree with the observation that: "only in the context of a limited government in what concerns ambition and mission, the fundamental law supremacy has its original meaning."[57] Or, moreover, the efficiency of a constitution means protection from the power of the Leviathan, and this protection involves policies, procedures and institutions that limit the effective power of the state.[58]

Regarding the effects of historical and teleological interpretation in the sense of recovering the democratic traditions of the Romanian nation, we agree with the importance of the consequences identified by D.-C. Dănişor in the Romanian constitutional system which may lead to a radical change in the meaning of the concept of constitution and to a construction of a "ladder of supreme values in order to achieve individual freedom through the liberal state mechanisms"[59], which were never in excess.

The consecration of our democratic traditions, on the way of their jurisprudence by the Constitutional Court of Romania, in the fundamental law of the country through which, in practice, the custom has become the constitutional principle, reflects, we believe, the beginning of a theoretical, juridical and imaginary construction of a possible founding myth of Romanian constitutionalism that we are convinced that we need as a society. From here on, the constitutional doctrine has the mission to identify, retrieve, interpret and chronologically place all normative and non-normative documents that expressed the democratic will of the Romanian nation, - directly or indirectly, through its legitimate representative bodies -, in a background of Romanian constitutionalism and which shows its links with major programmatic documents and declarations of rights from the universal constitutionalism heritage.

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[57] R. Carp, I. Stanomir, *op. cit.,* p. 228.

[58] A. D. Lowenberg, B. T. Yu, *Efficient Constitution - Formation and Maintenance: The Role of "Exit",* în „Constitutional Political Economy", Vol.3, No.1, 1992, p. 63, available online at: http://www.springerlink.com/index/036712283GH18U81.pdf

[59] D. C. Dănişor, *op. cit.,* p. 83.