

**“STATUS CIVITATIS”  
IN THE ROMANIAN SIBIU ASSEMBLY OF 1864  
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**Abstract:**

*Status civitatis configured by the laws of the first Romanian Assembly held in Sibiu between 1863 and 1864 reflects a change of essence of the constitutional regime of Transylvania, by enacting, for the very first time in Romania, a principle of liberal democracy, that of representing the citizen in the chosen institutions of the state.*

**Keywords:** *constitutional regime, fundamental right, doctrine, system, democracy*

Starting from the antique Aristotle’s’ axiom according to which “man is by nature a social individual and if one individual can’t or doesn’t want to accommodate himself in society because he is self sufficient, than he is either not a member of the state or a god”<sup>1</sup>.

The Assembly, which worked in Sibiu according to the emperor’s edict passed by the king of Austria, was based on the principle of proportional representation, a fact which enlightened a fundamental right of the citizen, namely that of choosing and of being chosen; the only problem is that this principle was mystified in practice, according to the statistical data which showed that the 44 Hungarian representative were representing a population of 568172 inhabitants, thus one person represented 12973 inhabitants; the 33 elected Saxon representatives had a number of 10441 inhabitants, thus one person was representing 6370 people; the 48 Romanian elected representatives had a number of 1309913 inhabitants, meaning 1 representative for each 26280 people<sup>2</sup>.

Given all these, there was a sensible mutation in regard to the nature of constitutional law in Transylvania, as it passed from the basic historic law “to national law” thus transforming the people in a nation, where the citizen was the supreme value of society.

Romanian judicial doctrine states, for the very first time, the idea according to which citizenship is a bilateral contract in which there are rights and obligations for both parties, as the parties are in a relative state of equilibrium. George Bariţiu stated, around the time the Sibiu Assembly works, that “Our language and nationality is not ensured and, without personal freedom, the freedom of speech, of the media, of the assemblies, without the security of domicile, all our rights basically become a “fictio iuris”<sup>3</sup>.

Thus, what we may call a new right starts to appear in Romanian doctrine, the right “to be a citizen”, a right which, at least on a constitutional level, expresses another judicial meaning excluded at those times by the doctrine of historic law.

From a legal point of view, another axiom appeared according to which “no one can be arbitrarily deprived of his citizenship, an inherent right of the person, which refers to natural right”. According to this opinion, citizenship is the fundamental right of a person, according to which citizens can exercise all their rights in accordance with their own will.

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<sup>1</sup> Aristotel, Politics by El.Bezdechi, Bucharest, 1924, p. 17.

<sup>2</sup> Cf. S. Retegan, The Romanian Transylvania Assembly, Dacia Publishing House, Cluj Napoca, 1979, p. 42.

<sup>3</sup> Cf. C. Murzea, The reform of state and law in the modern ages, Sitech Publishing House, Craiova, 2013, p. 147.

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By using these arguments in the Romanian judicial ideology from Transylvania, the premises of an important change were created, that of changing the constitutional order of the Austrian Empire, which was based on discrimination and inequity, as the people’s public rights were restricted during those times.

Thus, the promises for the autonomy of Transylvania, made by the 1860 - 1861<sup>4</sup> emperor of Vienna will be partly materialized in the activity of the Transylvania Assembly, which existed between the years 1863-1864, also known as the Sibiu Assembly, composed of 125 chosen representatives and 40 named representatives. The feudal system of forming an assembly was let go, a system “whose centerpiece was the group of royalists, the representatives named by the emperor”, thus a modern system was applied in regard to elections, that of representatives, even if it was partly infringed, as shown above<sup>5</sup>. However, from this date, starting from the principle of proportional representation, a national aspect was considered rather than the social one which presented its advantages for the Romanian nation in regard to exercising the right to vote. This was made possible by the fact that Romanians were represented in the assembly as a nation and even became the majority by obstructing the rights of the Hungarian representatives, who refused to take part in this legislative game, which was about to create the necessary frame for unifying all Romanian territories, namely the United Principalities.

In this context, on June 15<sup>th</sup> 1863, “in the presence of all Romanian and Saxon deputies and only three of the Hungarian ones, the Sibiu Assembly began, also known as the Romanian Assembly”<sup>6</sup>.

Thus, a new stage had begun, one that placed the citizens’ equal rights at the center of the legislative policy, regardless of the citizen’s nationality. The preoccupation for promoting and protecting the citizen’s rights and freedoms crossed traditional boundaries, as a natural consequence of the historical course. The legislative activity of the assembly would follow these coordinates and it would become an important moment in defining and promoting man’s fundamental rights and public liberties. All these from the statute of the citizen in the age of the atlantics revolutions of the 19th century which will become a century of nationalities by expressing a new type of state with modified functions and competences, a state which was about to represent a turning point for the future modern state entities. A new vision on individual and collective legitimate rights was configured, one that was meant to emancipate the nation by using sovereign state entities.

The legislative activity of the Sibiu Assembly was accentuated in regard to the formal content and the elements of judicial technique by new texts of law which affirmed the fundamental rights and liberties of man from the perspective of the configurative factors of the 19th century law. Thus, we mention the Law for equal rights of the Romanian citizens and the law for the use of three languages in official public communication<sup>7</sup>.

Thus, the principle of equality of all citizens was reaffirmed in the constitutional system of law regardless of whether they were Romanian, Greek-catholic, Greek-oriental, as all these religions are acknowledged by law just like the other nations and “the three languages, Hungarian, Saxon and Romanian are equally used in all public official communication”<sup>8</sup>.

The press of those times<sup>9</sup> stated that, for the first time, the Romanian nation was given back what was taken from her, namely the judicial status according to which Romanian citizens were equal in rights to the other nationalities and known religions, thus abolishing the feudal discriminatory laws established in 1437.

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<sup>4</sup> xxx, The history of the Romanian state and law, Academic Publishing House, RSR, Bucharest, 1987, p. 145.

<sup>5</sup> Ibidem.

<sup>6</sup> Th. Păcătean, The Golden Book or the national political struggles of the Romanian people under the Hungarian Crown, vol. II, Society’s Printery, Sibiu, 1908, p. 54.

<sup>7</sup> Ibidem, p. 146.

<sup>8</sup> Ibidem.

<sup>9</sup> Cf. “Foaie” no. 6 of 8 January 1861, p. 44.

A constitutional desire phrased by the 1848 Romanian revolutionaries from Transylvania was transformed to reality, as it was the pile of support and the judicial principle which would configure the entire legislative work of the Sibiu Assembly, works which were about to set the objective frame in order to start the procedures for the legislative unifying of the territories on one side and on the other side of the Carpathian Mountains even before the national united Romanian state was created.

Thus, Ion Ratiu, the front man of the Ardeal national move, stated that within a Romanian Assembly in which the majority of representatives were Romanian, a legal inequity was not liquidated in order to be replaced with another inequity, but the principle of equality of all nations was legislated; further more “the different names of certain parts of the country do not provide political rights based solely on the name of that region”<sup>10</sup>. A modern principle of constitutional rights and freedoms was legislated, according to which the free and consensual use of the Romanian language in justice, administration or educational system, represented the basis of the citizen’s status in a free liberal regime along with the natural rights of any other nationalities to a similar regime.

If we were to analyze the entire activity of the Sibiu Assembly from the perspective of logic and judicial technique, we will see that the principle of full equity of “nationalities” is the stability factor around which the future laws were configured, acts which pointed out the entire process of achieving the people’s rights from the perspective of the active role the citizen must play in a democratic state; this statement was based on the fact that the personal rights of a citizen are inherent from the moment the person acquires full capacity of exercise.

The front men of the Romanian nation chosen as representatives in the Sibiu Assembly understood the primordial truth of the modern society, the fact that the state is obliged to not discriminate between its citizen for reasons of nationality, thus the members of the majority group and those belonging to minority groups must all live together in full legal equity by respecting the principle and fundamental rights of man which inevitably leads to the guarantee and affirmation of human dignity.

Following this line of reasoning, no law must be based on national or religious discrimination, thus reaffirming a new state of “the citizen” seen as the beneficiary of the activity of applying the law under the influence of factors which help configure the laws, as the feudal society was abolished in favor of the modern one.

It is confirmed that “the citizen’s state” is a fundamental right, practically accomplished by the exercise of the right to choose and to be chosen, to express freely, regardless of nationality or religion, to use the national language in an equal manner along with other minority groups in administration, justice, education, essentially having the same rights and political freedoms as all members of society.

### **Conclusions**

This path led to realizing a favorable judicial and political frame for defining “the citizen’s state” in the process of affirming the future national united Romanian state, as prefigured by the national ideology of the Transylvanian Romanians who saw in the Sibiu Assembly’s activity an opportunity to acknowledge the historic legitimate rights of the Romanian nation.

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<sup>10</sup> Ibidem.

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