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The electoral system – configuration and implications

- PhD thesis –

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- SUMMARY –

The electoral system, an indispensable element of a democratic society, has been appreciated over time as "a strong element of power, grandeur and independence"¹, as through its mechanism the exercise of public power is legitimized, citizens participate in political life and, at the same time, the connection is made between voter preferences and governors' policy choices.

The debate on electoral systems configuration is still an important issue on the public agenda in several democratic states, even in those that use long-established systems. In Romania, the effects generated by the current electoral system gave rise to heated discussions on the need to reform it, the last attempt in this regard being made in 2012, when USL, the present governing political alliance, wanted to radically change the election rules by establishing a plurality voting system. The proposal of the USL alliance did not materialize in an electoral system change, because the law which introduced the new system was declared unconstitutional². The discussion on changing the electoral rules is currently in a somewhat dormant state and most likely will be brought back into the spotlight at a time closer to the date of the next parliamentary elections. Such debates are taking place within the European Union too, whose legitimacy is often questioned, especially because of the democratic deficit in the European institutions.

Whether it is considered as the expression of social cleavages and of the party system, or is perceived as a means of manipulation that politicians use to influence politics, the electoral system has a strong political and social impact, influencing both the structure of the party system, the conduct of the electoral competition, the relationship between the elected and the electorate and also citizens' attitude towards the electoral process.

Electoral design and the consequences it produces, issues which are this paper's object of study, have raised the interest of many researchers who have highlighted the shaping power of the electoral system on the political and constitutional system within a country, and on the political behavior of citizens. Thus, these studies have revealed the reforming power of the electoral system, by concluding that "if one wants to change the nature of a particular democracy, the electoral system is likely to be the most suitable and effective instrument for doing so"³.

Of all the components of the electoral system, the electoral formula used for converting votes into mandates, has the greatest influence, as is the element by which the chances of a party to enter Parliament are appreciated, and also plays a role in the construction process of the voting decision. For this reason, the stake in regulating the electoral system is represented by the choice of either a proportional system, a majority one, or a mixt system.

There are many factors that influence the election of a particular system, such as the socio-political context, the historical particularities, the structuring of the party system, but in

¹ Gănescu, I., Zotta, C., Kostachi, A., *Dreptul electoral român, 1937*, quoted in *Istoricul alegerilor parlamentare*, Buletin informativ, Anul I, no. 1/2008, edited by Autoritatea Electorală Permanentă, p. 9.

² Decision no. 682 of June 27, 2012, published in the Official Gazette. No. 473 of July 11, 2012.

³ Lijphart, A., *Electoral Systems*, in *The Encyclopedia of Democracy*, edited by S.M. Lipset, Vol II, Routledge, Londra, 1995, p. 412.

most cases, the electoral systems are the result of the will of political actors whose primary purpose is to obtain as many seats as possible. In the early stages of representative democracy, because of the fact that the implications of the electoral systems were not fully known, the electoral rules were either adopted under the influence of colonial heritage, inspired by the electoral systems used in neighbouring states, or even chosen at random. But currently, the electoral systems are designed consciously and deliberately. Having a fairly clear picture of the consequences of electoral systems, policy makers will opt for a system which best serves their purposes, ignoring other considerations. Therefore, the governors' option will be mainly dictated by the objective of maximizing the chances of the ruling party to win the elections. This practice, however, may prove dangerous, because an electoral system which favours at some point a certain political party, in the future it may turn against it. Thus, politicians should be more moderate and cautious when outlining the structure of the electoral system, which requires a deeper analysis of the effects it may have on governing, on the representativeness of the legislature and on voting behaviour.

The designing of the electoral system brings to the fore the antagonism between majority voting and proportional representation, which are the two main types of election systems. Having as premises this antagonism and the idea of electoral equity, this paper is built around the dilemma of choosing between majoritarianism and proportionality, and primarily aims to identify an electoral system which best complies with the principle of electoral equity. Achieving this objective requires, firstly, defining the concept of electoral equity and establishing the criteria to be considered for assessing the fairness of the electoral system. In addition, I consider that it is necessary to clarify the meaning of the concept of electoral system, because in the electoral literature one can find both broader and less extensive definitions. On the other hand, this approach involves an analysis of the political, legal and social consequences of different types of electoral systems.

The results of this study will be reflected in a series of *lex ferenda* proposals, which aim to improve the Romanian electoral system, to increase voter turnout and to enhance the efficiency of the electoral process.

The thesis is divided into two main parts, which in turn comprise two chapters, and begins with addressing the role that the electoral system plays in a democratic society. The first part of the thesis reveals the indissoluble link between democracy and the electoral system, which involves delineating the notion of electoral system, establishing the elements that form its structure, and analysing the legal means provided to protect voting rights and to ensure the conduct of free and fair elections. Therewith, in the first title of the thesis, I address in detail the different types of election systems and I also present the evolution of the Romanian electoral system, especially in the post-communist period, highlighting the peculiarities of the current system and its compliance with the principle of electoral fairness.

Chapter I, entitled "Structure of the electoral system and its role in strengthening democracy" contains so few general notions concerning the electoral system, such as its definition, its components, and some aspects of the election of the Romanian democracy, with an emphasis on the guarantees established by law for ensure the freedom and fairness of elections

and election procedures for litigation. Also, the first chapter presents the stages of crystallization of political rights, the characteristics of voting rights and the principles governing applications with highlighting the imperative to ensure equality in the matter of the right to vote and to be elected.

The first chapter, entitled “*The structure of the electoral system and its role in strengthening democracy*” contains some general notions concerning the electoral system, such as its definition, its components, and several aspects regarding the conduct of elections in Romania, with an emphasis on the legal guarantees, aimed to ensure the freedom and fairness of elections, and also on the procedures concerning electoral litigation. Also, the first chapter presents the stages of the crystallization process of political rights, the characteristics of voting rights and the principles governing candidacies, highlighting the imperative to ensure equality in the exercise of the right to vote and to be elected.

As for the definition of the electoral system, there must be made a clear distinction between the concept of "electoral system" and the notion of "election law", because the two terms are not synonymous. The legal provisions that constitute the electoral system regulate the way in which citizens vote, the ballot type and the method of counting the votes and determining the election winner. By contrast, the electoral law represents the entirety of legal rules governing the dimension and content of electoral rights and the whole electoral process, from the announcement of the election date and till the moment the result of the vote is revealed. Thus, the electoral law establishes which persons enjoy the right to vote and to be elected and also covers all aspects regarding the organization of elections, such as candidacies, the conduct of the campaign, voting procedure, the counting of votes and determining the final result. Of all these rules, only those that determine the way citizens exercise their right to vote and the procedure used for translating valid votes into seats, represent the electoral system⁴. Therefore, the notion of electoral system should not be confused with the notion of electoral law, the relationship between the two concepts being part-whole type.

Consequently, I will consider a narrow definition of the concept of electoral system and not the broad meaning, which was embraced by the majority of the Romanian legal literature. From my point of view, the electoral system represents *all the legal rules governing the procedures by which voters appoint their representatives, regardless of the level at which elections are conducted*. Thus, the electoral system does not designate absolutely all the operations of the electoral process, but, nevertheless, it's not limited to the electoral formula, which determines how votes are converted into seats and can take different forms.

Regarding the components of the electoral system, they were identified for the first time by the political scientist Douglas W. Rae, who established three basic dimensions of electoral systems, i.e. district magnitude, ballot structure and the electoral formula. These three key elements represent at the same time the criteria by which the classification of different electoral

⁴ Gallagher, M., Mitchell, P., *Introduction to Electoral Systems*, în *The politics of Electoral Systems*, eited by M. Gallagher and P. Mitchel, Oxford University Press, New York, Paperback edition, 2008, p. 3

systems is made. District magnitude concerns the size of the constituency, i.e. the number of seats assigned to the respective constituency. The second element of electoral systems refers to the manner in which voters express their political preferences. The main distinction that is made for this components is between "categorical" ballots (used in the U.S. and the UK), where citizens can choose a single candidate or one party of all the electoral competitors, and "ordinal" ballots, which allow voters to order a list of candidates based on their preferences, as it happens in Ireland or Malta, or to express approval or disapproval of a candidate, as in Latvia. Electoral formula, the third element of electoral systems, defines the procedure by which the votes cast are transformed into mandates and, as I mentioned, can take many different forms.

In relation to voting rights, an aspect that I think should be pointed out, as it has implications for the universality of suffrage, is the exercise of the right to vote by citizens living abroad. This topic was recently brought to the attention of the European Court of Human Rights, which in 2007 received a request from some Greek citizens who had been unable to exercise their right to vote in parliamentary elections, because at that time they were living in Strasbourg, as they were officials of the Council of Europe⁵. The applicants showed that even though they had made an application to the Greek Ambassador in France, in which they had expressed the wish to exercise their right to vote, they could not vote because the ambassador's response was negative. Thus, he claimed that although the Greek Constitution provides voting rights for citizens living abroad, there is no infra-constitutional law to regulate the effective way in which they can express the right to vote.

Therefore, the applicants requested the Court to establish that the Greek State had infringed article 3 of the First Protocol to the Convention, which provides that "The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.", arguing that the Greek legislature had an obligation to pass legislation in accordance with the constitutional provisions which enshrined the right to vote for all Greek citizens, including those living abroad.

After an exhaustive analysis of the provisions of international conventions and treaties that protect the universality of suffrage, and an analysis of comparative law on the recognition of the right to vote for the citizens living abroad, the Chamber (decision of 8 July 2010) concluded that there had been a violation of art. 3 of the First Protocol, because although article 3 did not impose any obligation to secure voting rights to voters living abroad, the constitutional provision in question could not remain inapplicable indefinitely, as that would mean depriving its content of any normative value. Subsequently, the Grand Chamber, following the referral made by the Greek Government, reached a different conclusion, ruling that there had not been a violation of art.3 of the First Protocol. Even though in its motivation the Court stated that "any general, automatic and indiscriminate departure from the principle of universal suffrage risks undermining the democratic validity of the legislature thus elected and the laws it promulgates", considered that "having to satisfy a residence or length-of-residence requirement in order to have or exercise

⁵ Case of Sitaropoulos and Giakoumopoulos v. Greece, Application no. 42202/07.

the right to vote in elections is not, in principle, an arbitrary restriction of the right to vote and is therefore not incompatible with Article 3 of Protocol No. 1”⁶.

Taking into account the margin of appreciation that states enjoy when choosing the electoral system, the Court held that it is not its task to indicate to the national authorities at what time and in what manner they should give effect to Article 51 § 4 of the Constitution and that “in any event, the competent authorities cannot take account of every individual case in regulating the exercise of voting rights, but must lay down a general rule”.⁷

As far as I'm concerned, although I agree with the fact that states should recognize the right to vote in national elections to citizens living on the territory of another state and take all necessary measures to ensure this right, I think some distinctions have to be made based on the length of citizens' residence abroad. Thus, if it is a temporary stay outside the country, obviously, a restriction of the right to vote is out of question. But, if citizens live abroad for a very long time and, maybe, with the intention to immigrate in the respective state, I believe that in such circumstances, the right to vote may be limited. In my opinion, a citizen who lives for many years outside its country, develops stronger relationships with the host state and becomes more attached to its rules than to the ones established by its country. In addition, it is difficult to sustain that he is affected to the same extent by the public policies implemented in his country as a citizen living on the respective territory.

As it was argued in the electoral literature, democracy is not just about calling all the citizens to the polls, without any discrimination or exclusion, but also requires effective participation in decision making, in the determination and conduct of public affairs”⁸. Consequently, I hold that the restriction of voting rights to citizens who live for a very long time on the territory of another state would not be inconsistent with the rule of law and the principles of democracy, since these citizens do not participate in the decision-making process in their countries (which, in principle, does not affect them).

The period of time after which citizens living abroad would lose the right to vote in national elections should be considerably long, in order for the restriction of voting rights not to be arbitrary. In this respect, I think that a period of 20 years would justify limiting the voting rights of citizens living abroad, as this period is long enough to assess that those citizens are economically, socially and culturally more connected to the state in which they live. Such restrictions are applied in the UK and Germany. Obviously, in the event of return to their home country, citizens would be able to regain the right to vote following an application to be re-enrolled on the electoral register.

Concerning the right to be elected, I have highlighted the need to ensure the principle of equal opportunities and I addressed in particular the principle of equality between men and women for occupying a public elective office, and also the imperative of equal opportunities for

⁶ Judgment in *Doyle v. the United Kingdom* (dec.), no. 30158/06, February 6, 2007.

⁷ Case of *Sitaropoulos and Giakoumopoulos v. Greece*, March 15, 2012, para. 79.

⁸ Ben Achour, R., *La generalisation du suffrage universel*, in *Le suffrage universel*, sous la direction de d'Abdelfattah Amor, de Philippe Ardant et d'Henry Roussillon, Presses de l'Université des Sciences Sociales de Toulouse, Toulouse, 1994., p. 40.

citizens belonging to national minorities. Equality between men and women in electoral matters prohibits Romanian legislature, under the sanction of unconstitutionality, to impose a certain number of persons of a particular sex or setting a maximum of persons of the same sex to be present on the list of candidates proposed by the electoral competitors, and also prohibits the parity composition of lists. Romanian election law does not contain any provision establishing a quota reserved for women's candidacies or requiring parity in drawing up the lists of candidates, but merely states that the lists of candidates must be composed in such a way as to ensure representation of both sexes, under penalty of nullity, which must be established by a decision of the Central Electoral Bureau⁹.

Therefore, the Romanian legislator limited to reiterate the constitutional requirement provided by art. 16 para.(3), without specifically determining how equality between sexes could be achieved when making the list of candidates. Thus, the legislator chose not to clearly settle this delicate issue, but to formally encourage a higher presence of women in the representative bodies which are elected through a vote list.

Equal opportunities for citizens belonging to national minorities implies that any citizen who meets the conditions required by law to stand for a public office can exercise the right to be elected, regardless of membership to a majority or sociological minority.

With the aim to ensure equal opportunities for candidates belonging to national minorities in occupying a seat in the Chamber of Deputies, art. 62 para.(2) of the Constitution provides that “the organizations of national minorities, which fail to obtain the number of votes required to be represented in Parliament, have the right to one Deputy seat, under the conditions provided by the election law. Citizens belonging to a national minority are entitled to be represented by a single organization.”

The analysis of the wording of art.62 para.(2) reveals that, in reality, parliamentary representation of citizens belonging to national minorities on equal terms with other citizens is not encouraged, but only representation of national minorities as sociological groups is taken into consideration¹⁰.

From my point of view, in order to substantially encourage the participation of citizens belonging to national minorities in the electoral process, both by exercising the right to vote and to be elected, the voting system should be designed so as to allow representation of national minorities, even if a small part of citizens belonging to a minority vote for the political party that represents the respective minority, and no matter if the electorate is geographically dispersed. I consider that reserving a seat is not sufficient to ensure electoral equality between citizens belonging to national minorities and citizens who constitute the sociological majority.

Unlike the first chapter, which provides an insight into the world of electoral systems and also an overview of the legal provisions aimed at ensuring the effective exercise of the electoral rights and the conduct of free, fair and periodic elections, **the second chapter**, entitled “*The voting method - key element of the electoral system*” includes both a descriptive part, as the

⁹ Art. 6 alin.(1) of Law no. 67/2004 and art. 12 alin. (8) și (11) of Law no. 33/2007.

¹⁰ Nica. E. M., *Drept electoral*, Editura Sitech, Craiova, 2010, p.138

different types of voting systems are presented, and an analytical part, because I address in a critical manner the advantages and disadvantages of each system and also the evolution of the Romanian electoral system, especially after the fall of the communist regime, with a focus on the shortcomings of the current electoral rules.

Before examining the various ways in which an electoral system can be configured, chapter II draws attention to the regulatory framework, especially regarding the electoral formula, which is the key point of the electoral system. In this regard, the need for strict rules concerning the regulation of the voting system is highlighted, in order to avoid frequent changes of the electoral system and, consequently, situations of electoral instability. To achieve this objective, I support the introduction of some basic principles with regard to the electoral system at the constitutional level, including the rules that govern the voting method, especially the electoral formula and the type of ballot. Such a measure could prevent opportunistic changes of the electoral system, as it would be more difficult for the governors to shape the electoral rules at their will, because they would have to convince a larger number of MPs to vote in favour of an eventual change. However, we are not in favour of a detailed regulation of the electoral system at the constitutional level, its complex aspects can be regulated at the infra-constitutional level, by a normative act superior to ordinary law.

Regarding the regulatory framework of the Romanian electoral system, I consider that paragraph 6 of Article 115 of the Constitution should be amended, in the sense of prohibiting the adoption of emergency ordinances that could affect the electoral system. In my opinion, not only voting rights should be removed from scope of government ordinances, but also the essential elements of the electoral system, such as the electoral formula. In addition, I support the adoption of an electoral code that would systematize all legislation in the field and remove the conflicting and the redundant provisions. The codification of electoral rules would ensure coherence and unity for the Romanian electoral system and at the same time, facilitate citizens' access to the electoral law, because they would find all the legal provisions in a single normative act and not be forced to seek them in several laws.

Furthermore, in the second chapter, the central idea of the paper is detected, namely that although states enjoy a wide margin of appreciation in relation to the choice of the electoral system, there are several principles that must be considered when designing it. Thus, in this chapter, I argue that the electoral system should be designed according to the principles of electoral fairness (equity), which requires, among other things, equal suffrage, a free expression of the popular will, political pluralism and equality between the electoral competitors, without ignoring the historical, economic and social realities of the country where the electoral system were to be applied.

Taking into consideration the concept of electoral fairness, which in my opinion requires the existence of conditions of impartiality and freedom in the pre-electoral period, the day of the elections, and the post-electoral period so that all candidates can participate in a level-playing field for political office, and after analysing the different types of voting systems practiced in contemporary democracies, I concluded that in terms of electoral equity, proportional systems are preferable. Even if there are large differences between the different types of proportional systems,

especially related to the degree of disproportionality, compared to the majority systems, are more compatible with the requirements of electoral equity. Thus, the systems that are based on the principle of proportional representation ensure greater representativeness of Parliament, encourage the representation of smaller political parties, reflect in a more accurate manner the votes cast and confers the voters a greater psychological freedom.

Nevertheless, the states that have adopted proportional voting systems did not do it on grounds of electoral fairness, but for strategic reasons, namely, either to prevent the domination of one political party or to guarantee the parliamentary representation of smaller parties. Hence, the electoral system has been used mainly as a tool to manipulate the political landscape, electoral equity being put in the background. I believe that political parties should be more cautious when designing the electoral system because “it is more important to create a stable electoral base, although it is a process that requires time, than to take advantage of certain moments and situations to attract a large number of voters, in order to gain public power”¹¹. Therefore, policy makers should be more concerned to keep voters loyal and gain new voters by implementing the policies contained by the governing program proposed during the campaign, and not as a result of the functioning of the electoral system. This means that political parties should have a long-term strategy, not a circumstantial one, and contribute through their conduct to civic education, the characteristics of the electorate depending on the behaviour of political parties.

Consequently, the design of an electoral system should not be dictated by the desire to win as many parliamentary seats as possible, but the aim should be to raise voter turnout and to stimulate citizens to be more actively involved in the political life. But, in order to convince people to be more involved in the electoral process, they must be assured that their vote is significant and that their preferences and interests will be represented in Parliament. Thus, even though we admit that government stability and efficiency represent a noble purpose, I believe that this goal should not prevail when choosing the voting method, but the components of electoral system should be configured so as to ensure as far as possible the principle of electoral fairness, political pluralism and free expression of the popular will. Finally, as I mentioned, the electoral system should be adjusted to the particularities of the country where they are to be used.

All these principles are largely dealt with in the second chapter and, in its final part, I present both the evolution of the Romanian electoral system since 1990 and a radiography of the current system, whose flaws reveal the need to reform it, as the Romanian Constitutional Court itself has stated¹². Applying the criteria of electoral fairness for the Romanian system and in view of the still fragile democracy and the weakness of the ideologies of political parties, which fail to convey the necessary political impetus to civil society, I support the adoption of a proportional system, namely the single transferable vote.

Even if, in the recent years, the ruling parties have expressed the desire to change the voting system by introducing a majority electoral formula, I consider that a majority voting

¹¹ Deaconu, Șt., *Instituții politice*, C.H. Beck, București, 2012, p.40.

¹² Decision no. 61/2010, published in the Official Gazette. No.76 of 03.02.2010.

system would be inappropriate, since the Romanian political parties do not have a strong enough structure and their doctrines are not sufficiently defined in order to polarize the electorate into two blocks, as usually happens as a consequence of the functioning of such a system. In addition, the Romanian political parties have not identified the social cleavages to reflect them in their ideologies and government policies, for which the level of electoral volatility is high, because citizens do not vote according to party doctrine, but according to the performance of the incumbent government. Thus, most citizens do not identify with any of the political parties and because of this, most of the times, their vote constitutes a reward or a penalty for the decisions of the incumbent government. The insufficient crystallization of the political doctrines is also revealed by the evolution of the political landscape after the fall of the Iron Curtain, as it is dotted with ephemeral and opportunistic alliances, even between political parties which theoretically were on opposite sides of the political spectrum, as is the case of the political alliance that is currently governing the country. For all these reasons, instead of speculating the moments when they enjoy a dominant position within the system to shape an electoral system that would serve their interests, the political parties should make sure that the system they configure will mobilize citizens to be more politically engaged, an aspect that is essential in a genuine democracy. “Exiting the communist system cannot be possible with one simple stroke of the pen. This implies a solution just as profound as the one which gave rise to the preceding regime. It is not enough to establish democratic institutions in order to establish democracy. We must move from a culture of passivity to a citizenship culture”¹³.

Our option for the single transferable vote is justified for several reasons. Firstly, the system generates a high level of proportionality, reflecting quite accurately the political preferences of voters. Secondly, it is consistent with the preference expressed by the Romanian electorate for the uninominal voting system, because even if this kind of system implies organizing multi-member constituencies, citizens do not express their vote for a list compiled by a political party, but may rank candidates in order of preference, considering their personal qualities and not their political affiliation. In addition to the fact that voters would be encouraged to vote for their favourite candidate, they would also be certain that their vote will not be wasted in case of disposal of their preferred candidate, because the vote expressed in his favour would be transferred to the candidate ranked second among their preferences.

Besides, the single transferable vote favours a close relationship between candidates and voters, because being a preferential voting system, will force candidates to be more interested in the problems and needs of people in the constituency in which they compete. On the other hand, political parties would be encouraged to present a balanced team of candidates in each constituency, to achieve a greater number of votes. This voting method may positively influence the electoral campaign, because knowing that in each constituency there are more seats available and that they could benefit from the surplus votes of one of the candidates, electoral competitors

¹³ Seiler, D. L., *Partidele politice din Europa*, Institutul european, Iași 1999, translated by E. Zăinescu and S. Bocance from Seiler, D. L., *Les Partis Politiques en Europe*, Presses Universitaires de France, 1978, p. 118.

would be more reluctant to engage in aggressive and negative campaign towards each other. All these virtues of the single transferable vote have come forward in Ireland, where it was adopted in 1992 and has helped build one of the strongest and most vibrant democracies in Europe¹⁴.

It is true that the system is more complex and that the process of counting and determining the final result is longer, but I believe that these drawbacks are overshadowed by the many advantages that this kind of voting system has. Therewith, we admit that this system is more demanding for the voters, since it involves a transfer of power from political parties to citizens regarding the ordering of candidates on the list, but I strongly believe that after a few election cycles, voters will become more familiar with the functioning of the system and the results will be the expected ones.

While the first part of the thesis deals with aspects related to the structure, classification of electoral systems and the principles that should govern the design of the voting system, the second part focuses on the political, legal and social effects of electoral systems.

Chapter III entitled “*Implications of the electoral system on political life*” analyses the consequences of the electoral system on political life, especially the impact of the electoral formula on the number of parties in a system, on the relationship between them, on their internal structure and not least, on the strategies used by politicians during the election campaign.

The analysis begins with the assertions made by Maurice Duverger in 1950 on the relationship between electoral systems and party systems, which were categorized as true sociological laws, despite the fact that Duverger himself stated their biased nature.

Thus, relying on the idea that the influence of electoral systems on political life manifests through political parties, Duverger¹⁵ enunciated three theories, which were meant to schematize the impact of voting systems on the party system:

- the plurality voting system tends to lead to a two-party system;
- the two-ballot majority system tends to lead to a moderated multipartism, with supple parties and dependent on each other;
- proportional representation tends to lead to a system with many rigid and mutually independent parties.

These theories, despite the fact that they have been criticized by many scholars and even though Duverger himself recognized their frailty, have found application in certain contexts and have a significant value for the electoral literature, which makes them impossible to be ignored by researchers who study electoral systems.

Hence, even if I agree with the view expressed by other researchers, who argue that other factors have a greater impact on the party system and on government stability, like social

¹⁴ Soudriette, R., Ellis, A., *A global snapshot*, in *Electoral Systems and Democracy*, edited by Diamond, L., and Plattner, M., The Johns Hopkins University Press and the National Endowment for Democracy, Baltimore, 2006, p. 50.

¹⁵ Duverger, M., *L' influence des systèmes électoraux sur la vie politique*, in *Cahiers de la Fondation Nationale des Sciences Politiques*, Editura Armand Colin, Paris, 1950.

cleavages, the polarization of the political system, the internal structure of political parties and the strength of their ideologies, I cannot deny the seductive nature of Duverger's law.

Duverger's law has been criticized from several different points of view, some scholars arguing, among others things, that the sustainability of major parties, their evolution and the development of a dominant ideology are determined by more complex factors than the electoral system¹⁶. Some researchers have gone even further, arguing that, in fact, electoral systems are only an element of the party systems, the latter acting on them, either because the parties want to preserve their position of the political scene, either because the social pressure is such that compels the electoral system to change¹⁷. The idea of reverse causality has been supported by other researchers¹⁸ too, some of them considering that electoral systems have the effect of crystallizing, enhancing or revitalizing a pre-existing configuration of the party system, rather than of generating its restructuring¹⁹. Other political scientists have brought into question the proportionality of the electoral system, the district magnitude or the social cleavages, arguing that they have a much stronger effect on the number of parties in a system.

In Romania, the political parties are poorly connected socially speaking, and do not reflect the real social cleavages. In addition, in the Romanian society, the cleavages are themselves faintly outlined and difficult to be identified. For these reasons, it is difficult to structure the party system based on social cleavages. On the other hand, the sociological approach, despite its subtlety and the historical perspective it offers, cannot be accepted as a final analysis of the relationship between electoral systems and party systems, because it underestimates the potential for change of even the most stable political structures and denies the existence of certain political divisions, which are not the result of social cleavages²⁰.

Unlike the researchers who just proved the weaknesses of the Duvergerian theories and stopped at the conclusion that the relationship between electoral systems and party systems are so complex that they cannot be synthesized by a scientific law, Giovanni Sartori has made a step forward and reformulated Duverger's theories. Thus, considering not the number of parties, but their systemic relevance within the system and the double effect of electoral systems (on the number of parties and on voter behaviour), Sartori opts for a reconfiguration of Duverger's law, enunciating a number of four laws, as follows²¹:

L1- Given systemic structuring and cross-constituency dispersion (as joint necessary conditions), plurality systems cause (are a sufficient condition of) a two-party format.

¹⁶ Lavau, G.E., *Partis Politiques et réalités sociales*, în Cahiers de la Fondation Nationale des Sciences Politiques, Editura Armand Colin, Paris, 1953, p. 45.

¹⁷ Cotteret, J.-M., Emeri, C., *Les systèmes électoraux*, Presses Universitaires de France, Paris, 1970, p. 103.

¹⁸ Grumm, J.G., *Theories of Electoral Systems*, Midwest Journal of Political Science Vol. 2, No. 4 (Noiembrie, 1958), pp. 357-376.

¹⁹ Colomer, J.M., *It's Parties That Choose Electoral Systems (or, Duverger's Laws Upside Down)*, Political Studies, Vol. 53. 2005, pp. 1-21.

²⁰ Bogdanor, V., *Conclusion: electoral systems and party systems*, în Bogdanor, V., Butler, D., *Democracy and election. Electoral systems and their political consequences*, Cambridge University Press, Cambridge, 1983., p. 259.

²¹ Sartori, G., *Ingegneria costituzionale comparata, quinta edizione*, Ed. Il Mulino, Bologna, 2004, p. 54.

Alternatively, a particularly strong systemic structuring is, alone, the necessary substitutive sufficient condition for causing a two-party format;

L2- Given systemic structuring but failing cross-constituency dispersion, plurality systems cause (are a sufficient condition of) the elimination of below plurality parties but cannot eliminate, and thus permit, as many parties above two as are permitted by sizeable above-plurality concentrations.

L3- Given systemic structuring, proportional representation obtains a reductive effect caused (as a sufficient condition) by its nonproportionality. Hence, the greater the impurity of PR, the higher the entry costs for the smaller parties, and the stronger the reductive effect; and, conversely, the lesser the impurity, the feebler the reductive effect. Alternatively, a particularly strong systemic structuring is alone the necessary and sufficient condition for maintaining whatever party format preexisted the introduction of PR.

L4- Failing systemic structuring and assuming pure PR, that is, an equal cost of entry for all, the number of parties is free to become as large as the quota permits. Thus, the influence on the number of parties is insignificant.

As Sartori himself states, the laws governing the influence of electoral systems on party systems are actually just the first three, the fourth only showing the limits of the effects of voting systems. As for the so-called multiplier effect of proportional representation, the scholar believes that it is more an optical illusion caused by the historical evolution of proportional systems and that any increase in the number of parties could be no more than a side effect of proportional representation.

Building his reasoning on Duverger's theories, Sartori managed to formulate these general laws, which, in my opinion, reflect in a more appropriate manner the relationship between electoral systems and party systems. The author showed that Duverger's premises were largely justified, but some correctives were necessary in order to incorporate the exceptional situations and to provide them with more exactness.

The electoral system also influences the internal cohesion of parties, the cooperation between them, the opposition majority-proportional representation being replaced being replaced by the opposition party list voting - uninominal voting. Thus, it is considered that the party-list voting generates the strengthening of the internal structure of parties, while the uninominal voting system generates its weakening, because during the election campaign, the focus is mainly on the personal qualities of the candidate and less on the political program of the party who supports his candidacy. However, these are only tendency assertions, as certainly there are cases which do not fall within the rules set.

Regarding the effect of the electoral system on the relations between political parties within a state, it can be significant, as in some cases cooperation between political parties is imperative for good governance. The collaboration between parties can manifest both before the election (through electoral alliances) and after the election (governing alliance). In this matter, there are three general trends, which were also asserted by Duverger²², i.e. : the two-ballot

²² Duverger, M., *L' influence des systèmes électoraux sur la vie politique*, op. cit.,p. 28-31.

majority system tends towards tight alliances, proportional representation leads to more fragile alliances and the consequences of plurality voting depend on the number of parties within the system (under the conditions of a two-party system, the electoral system favours mutually independence of parties, while in the context of a multi-party system, generates the making of strong alliances).

Related to the influence of the voting system on the relationship between voters and their representatives in parliament, the problem is also approached from the perspective of the opposition between the uninominal voting and the party-list voting. The uninominal system puts spotlight on the qualities and aptitudes of the candidates, giving voters the opportunity to choose a person, not a list of candidates on which, most of the times, they have absolutely no control. In general, it is argued²³ that uninominal voting ensures a close relationship between voters and the candidates, the former doing an analysis of the candidate's abilities before exercising the right to vote. In contrast, list voting, which is typical of proportional representation, does not favour a rapprochement between electors and the elected candidates, because the parties prepare the lists without first consulting voters on the candidates to be placed on the list. In most cases, voters have only very little information about the candidates on a party list, so it is hard to believe that they make a totally informed choice when voting.

As for the electoral tactics used by political parties during the campaign, they will depend not only on the type of electoral system that is practiced, but also on the way the party system is structured and on the level of rigidity and discipline of the parties.

When using party-list voting in a system with mutually independent parties, the political parties will participate in the elections on their own and lists will be drawn up so as on the top of the lists to be candidates who are rather popular among the electorate. If the parties are more flexible and under the condition of an impure proportional system (as in most states using a system based on proportional representation), we can expect electoral alliances, even between parties who are not on the same side of the political spectrum

Of course these are just general rules, in practice one can encounter many exceptions, many of which are highlighted in the paper.

Concerning the consequences of the electoral system on governing and on the stability of the political system, the premise from which I start my analysis is that plurality voting favours a stable and effective government, while proportional systems generate a climate of political instability. Although the proportional electoral formulae lead in most cases to the formation of governing coalitions, which do not always enjoy stability, there is no proven correlation between proportional representation and government instability, all the cases cited by opponents of proportional representation (e.g. the Republic of Weimar or Italy) representing exceptional circumstances where the political crisis has been particularly favoured by the socio-economic context, not by the voting system. The stability and durability of a coalition depends to a greater degree on the political polarization within system, as highlighted and argued by Sartori. Thus, the

²³ Gîlia, C., *Reformarea sistemului electoral românesc. Considerații privind noile reglementări în materie electorală*, op.cit., p. 303.

more polarized a political system is and the more ideologically distant the political parties are, the more fragile and unstable the governing coalitions will be. In contrast, if political polarization is weak and the political parties are more flexible in terms of their doctrines, cohabitation within a coalition will be easier and thus, the governance will be more stable and effective. Therefore, even if a proportional system usually implies the formation of a governing coalition, it does not mean that the respective coalition will generate political instability and hamper the government acts. It is true that proportional representation can contribute to the triggering or amplifying of a political crisis, but only if it overlaps with economic, political or social factors. On the other hand, neither the correlation between majority voting systems and a stable government is not always valid, the example of India being eloquent.

Consequently, I reiterate my preference for a proportional representation system, eventually with some corrective (e.g., setting a threshold) to prevent excessive political fragmentation of the Parliament and government instability.

Chapter IV entitled “*The influence of the electoral system on voting behaviour*” aims to analyse, as the title itself indicates, the way the electoral system affects voting behaviour, specifically the implications it has on the construction process of the voting decision.

In the context of the electoral process, citizens have to take two decisions, namely: to exercise or not the right to vote and to choose which political party or candidate to vote for. Thus, the electoral behaviour has two components: the decision to vote or to abstain and the decision which candidate or political party to vote for. In the last chapter, therefore, I address both the way the electoral system influences the voting decision, and the factors that determine a lesser or a greater citizen participation to the electoral process, with the aim of identifying the institutional mechanisms by which electoral absenteeism could be countered and, at the same time, the political awareness of voters could be raised. The last chapter also analyses electoral behaviour in European parliamentary elections, particularly in light of the role that these elections could play in creating a truly European electorate and a common political identity.

Regarding the impact of the election system on the way in which people construct their voting decision, in the electoral literature has been launched the idea that the natural tendency of any electorate is to vote strategically, i.e. to vote for the political party that has the most chance to get into Parliament, and not for the preferred one. Duverger's theory concerning the action of the psychological factor of electoral systems was also based on the same idea, namely that in a system with two dominant parties, the voter will avoid to give his vote to a third party, because he is aware of its reduced possibilities to win the elections. Therefore, strategic voting, also called sophisticated voting, is considered to manifest more strongly in states which use majority voting systems, than in those that use a proportional system. It was argued that proportional representation encourages voters to vote according to their political preferences, their vote being sincere, communicative. However, recent studies have shown that sophisticated voting also occurs in proportional systems, especially if a high threshold is provided, case in which voters must take into account the real chances of the political party they prefer to enter parliament.

Regardless of the way strategic voting is defined, some researchers consider it to be essential for strong democracies, its absence from early democracies being seen as a potential

threat to the consolidation of democracy, because it inhibits the development of a stable party system²⁴. Tactical voting is seen as a process that comprises two stages: the recognition of a "wasted vote" situation and the strategic action in response to this situation. So, voters will be incited to vote strategically when they realize that if they vote for the preferred candidate or political party, their vote will be wasted.

Although it is considered that strategic voting occurs mainly in consolidated democracies, where voters are well informed in terms of electoral matters, some researchers have shown that also citizens from young democracies have enough information to vote tactically and, moreover, have the ability to assess the costs and benefits associated with strategic voting²⁵. Despite the pessimistic views, loyal to the elitist theories specific of the nineteenth century according to which the electorate's capacity is too limited to vote rationally, as voters are incoherent in terms of their political preferences and lack the necessary cognitive skills in order to develop strategies, recent empirical studies have shown that nowadays, sophisticated voting is a phenomenon that occurs in almost all electoral systems.

Nevertheless, some authors who have studied the implications of political ignorance on strategic voting argue that voters can make rational decisions even if they lack political knowledge, by resorting to heuristics²⁶, such as the appearance of candidates, their party affiliation, political ideology, the support certain parties receive from various interest groups, and the anticipation of election results.

From my point of view, in order to abstract information on the political ideologies of the parties, on the eventual support the parties get from interest groups and make an assessment on the election results, voters should have a minimum of political and electoral knowledge. It is hard to believe that people can make a strategic decision based only on heuristics.

As mentioned, though it does not manifest very strongly, strategic voting also occurs in the context of proportional systems, especially if a high threshold is provided, which affects the proportionality of the system and favour stronger political parties. Tactical voting is encountered in mixed systems too, an example in this regard being the German system, where the phenomenon of ticket-splitting occurs, as voters have two votes. Thus, voters divide their vote, casting the first vote for the candidate of their preferred party vote (which is usually one of the big parties) and the second vote for the list of the political party with which their preferred party could form a governing coalition.

However, the existence of communicative (sincere) voting was confirmed in the context of the single transferable vote, practiced in Ireland. Thus, it was shown that in 91% of cases,

²⁴ Duch, R., Palmer, H., *Strategic Voting in Post-Communist Democracy?*, British Journal of Political Science, Vol 32 / No.. 1 / January 2002, pp 63-91, p 63.

²⁵ Duch, R., Palmer, H. ,*op.cit*, p. 91.

²⁶ Nisbett, R.E., Ross L., *Human inference: strategies and shortcomings of social judgement*. Prentice- Hall, Englewood Cliffs, NJ, 1980; Sniderman. P.M., Tetlock. P.E., Brody, R.A., *Reasoning and choice: explorations in political psychology*, Cambridge University Press, Cambridge, 1991; Lupia, A., McCubbins, M.D., Popkin, S.L., *Elements of reason: cognition, choice, and the bounds of rationality*. Cambridge University Press, Cambridge, 2000, apud. Van der Straeten, K. , Laslier, J-F., Sauger, N. , Blais, A., *Strategic, sincere, and heuristic voting under four election rules: an experimental study*, Soc Choice Welf (2010) 35, p. 446.

sincere voting theory is valid²⁷. Following this finding, it was concluded that sincere voting occurs in complex voting systems, in which the strategic calculations appear to be insurmountable, and that the strategic model works better in simple systems and the heuristic perspective is more relevant in systems of moderate complexity.

Concerning electoral behaviour in Romania, given that the voting system is quite complex, I believe that citizens do not have enough political and electoral information in order to vote strategically. In addition, political instability, the frequent modification of the electoral law and the transience of the various political alliances have not allowed voters to vote rationally and to be able to clearly anticipate the governing coalition that could be formed after elections. Unfortunately, amid dissatisfaction with the political class, the vote of many Romanian citizens in has acquired a negative character over time, representing, in some cases, a protest vote against a candidate or a political party, and not in favour of their opponents.

Although strategic voting may contribute to the stability of the party system and the strengthening of democracy, from the perspective of electoral equity, I believe that the electoral system should be designed in a way to encourage voters to vote sincerely, in accordance with their political preferences and not from the desire not to waste their votes.

Chapter IV also deals with the factors influencing turnout rate, the goal being to identify the means to combat electoral absenteeism, which is a problem for most contemporary democracies. Studies on this issue have revealed that there are three broad categories of factors that influence turnout, namely: the socio-economic status, the institutional framework and the party system.

The socio-economic factor concerns the influence of six variables, namely: gross domestic product (GDP) per capita, GDP growth per capita, life expectancy, level of illiteracy, population size and density. The premise when analysing the impact of the socio-economic status is that economic development fosters participation in elections, as citizens become more informed and more engaged in the political process.

Of all these variables, it was found that the level of education has a very large influence on the decision to vote, being practically impossible to obtain a high rate of participation when the degree of illiteracy is high²⁸. Voter turnout is also determined by the level of interest in politics, because a greater concern for politics generates the need for information and to discuss political issues, which in turn lead to higher levels of political knowledge and to a higher turnout rate²⁹.

The influence of the institutional framework was analysed using five variables, three of which relate to the electoral law (the voluntary or compulsory nature of voting, the age at which

²⁷ Van der Straeten, K, Laslier, J-F., Sauger, N., Blais, A., *Strategic, sincere, and heuristic voting under four election rules: an experimental study*, Soc Choice Welf (2010) 35. , p. 453.

²⁸ Nevitt, N., Blais, A., Gidengil, E., Nadeau, R., *Socio-economic Status and Non-voting: A Cross-National Comparative Analysis*, in *The Comparative Study of Electoral Systems* edited by Klingemann, HD and McAllister, I., Oxford University Press, 2009, p 98

²⁹ Comşa, M., *Cultură, participare și opțiuni politice* în Sandu, D. (coord), Comşa, M., Rughiniş, C., Toth, A., Voicu, M., Voicu, B., *Viața socială în România urbană*, Editura Polirom, Iași, 2006, p. 149.

citizens acquire the right to vote and the electoral system), and the other consists of the decisiveness of elections and the level of democracy in each state. The premises in this case are the following: in countries where voting is compulsory, turnout is higher; the lower the age at which citizens acquire the right to vote, the lower the turnout will be; proportional voting systems encourage political participation; the more decisive the elections are and the higher the level of democracy is, the more involved in the electoral process citizens will be.

Related to the type of electoral formula used, it was argued that proportional representation generates a higher turnout for several reasons: firstly, it is a fairer system, secondly, it leads towards an increased number of parties and thus to a wider range of options; thirdly, it generated a greater competitiveness between the parties, since in a constituency there are more seats available, which determines the political parties to more intensively mobilize voters.

Empirical data have confirmed that in countries where voting is compulsory, turnout is quite high and the hypothesis that reducing the voting age leads to lower political participation was also validated. As for the correlation between proportional representation and voter turnout, the results indicated a higher presence at the polls by comparison to the majority voting systems, yet the difference is not so significant. Therefore, it was concluded that degree of proportionality that a system generates is of greater relevance, meaning that a higher degree of proportionality will raise voter turnout.

The analysis of the effects generated by the third factor, i.e. the party system, entails the study of two dimensions: the number of parties in the system and the degree of competitiveness between them. The theory that the existence of a large number of parties from which the electorate may choose, would raise voter turnout was not confirmed by the results of the research. Thus, even if people are given more options from which to choose, at the same time, the system becomes more complex and a majority governing coalition is formed with greater difficulty, following intense closed-door negotiations.

Concerning the second dimension, the degree of competitiveness, the results of studies have confirmed that when electoral competition is tight, voters are more interested in elections and as a consequence turnout increases.

In my opinion, the education level, especially in political and electoral matters, is one of the most important determinants of citizens' involvement in the electoral process. For this reason, I support the involvement of political parties and of the authorities (in particular, the Permanent Electoral Authority) in the electoral education of citizens by organizing informational and awareness campaigns on the importance of participating in elections. Political parties can disseminate the electoral information through multiple channels of information, namely the media, Internet, electoral advertising, and through materials (leaflets, brochures, guides), or can even organize meetings with citizens. One of the most effective media channel and also not very expensive is represented by online platforms. Fortunately, this media channel has been used quite often in the last few years by Romanian politicians, due to the proliferation of social networks. However, one must consider that the information submitted by political parties do not enjoy a too high degree of impartiality, often being cropped and presented in a manner that serves the

interests of the political party which disseminates it. For these reasons, it is necessary that public authorities and civil society organizations get involved in the educational process of citizens, using in this regard any means of communication. Nevertheless, I believe that besides these campaigns, which are usually carried out only during the election campaign, civic education classes containing in the curriculum some aspects concerning the functioning of the electoral system and basic information about political parties should be introduced in the 11th grade. The importance of civic education classes was revealed by other studies too, which have shown that they can be an extremely effective means in promoting democratic values and increasing the involvement of young people in the political life³⁰. In addition, classes of civic education can provide students with objective information, without undue political influences.

Another method used in some countries to stimulate citizen participation in elections is the regulation of compulsory voting. Even though I support the introduction of compulsory voting, which is compatible with the principles of democracy, I believe that the current socio-political context of Romania is not conducive to such a measure. I consider that in Romania truly effective measures are needed to increase the level of education and political involvement of citizens, to which must be added the effort of political parties to provide viable solutions to the problems of Romanians. Only when the political knowledge of Romanian voters would reach a reasonable level, the introduction of compulsory voting might have beneficial consequences

Regarding voting behaviour in the EP elections, I believe that a European electoral reform is necessary in order to strengthen the role of European parties and to increase citizens' interest in European elections. Thus, I hold that transnational lists should be introduced, i.e. a part of the parliamentary seats (25 to 30) should be distributed according to a proportional system within a single electoral region consisting of territories of all Member States. In addition, I think that all EU Member States should use the same electoral formula for converting votes into seats. I strongly believe that changing the electoral procedure in this sense could generate a genuine political competition during the election campaign and make European institutions more accountable to citizens. The creation of a European political system and a common political identity still has several steps to go, but these reforms are necessary, especially now, when in a context of economic and financial crisis, the political legitimacy of the EU is more than ever questioned.

After analysing the consequences of the electoral system on political and social life, one can argue without hesitation that the choice of the electoral system is one of the most important institutional options. For most citizens, the electoral system is the instrument by which the democratic ideal becomes concrete³¹, as for them participating in elections constitutes the main, if not the only, form of political participation.

However, no matter how well designed an electoral system is, it cannot do wonders for any political system and cannot generate the reforming of the political class, as long as people

³⁰ În acest sens, vezi McAllister Ian, *Civic Education and Political Knowledge in Australia*, Australian Journal of Political Science, Vol. 33, No. 1, pp. 7-23.

³¹ O'Neal, B., *Electoral Systems*, Political and Social Affairs Division, Parliamentary Research Branch (PRB) of the Library of Parliament (Canada), 1993.

remain passive and politicians are indifferent and even alien to the real needs of the electorate. Political participation of citizens and the process of educating them in electoral matters are essential for the consolidation of Romanian democracy, because “democracy cannot function without a system of values, mentality and attitudes, which is called citizen culture”³².

For these reasons, it is extremely important that electoral systems are perceived by voters as equitable and meet their expectations, otherwise democracy itself being endangered.

³² Seiler, D. L., *op.cit.*, p. 119.