

CLASSIFICATION OF FUNDAMENTAL RIGHTS AND FREEDOMS – A DIACHRONIC APPROACH AND CURRENT TRENDS

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Abstract

What seems relevant to this study is the current trend of the classification of rights and fundamental freedoms according to the universal and indivisible values criterion, criterion established by the Charter of Fundamental Rights of European Union. Taking as reference the new scientific criterion, we propose a diachronic approach classification in terms of rights and fundamental freedoms in the light of juridical doctrine and in terms of European and international documents on human rights and citizen. It is necessary to point out from the beginning that the classification of fundamental rights and freedoms does not imply a hierarchy and, from this point of view we consider it necessary to classify or group the rights and fundamental freedoms by scientific criteria, at least from the following reasons: it facilitates their explanation, their general characteristics and basic understanding, and the progress of their content and scope. By this approach, the proposed study opens a complex and complete vision, but not exhaustive on the classification classification of the current human and citizen rights. That is why the study begins with preliminary specifications that establish the terminology used in the content of the study, the correlation between domestic regulations and international human rights and the relationship between law and the law of European Union. Following a key – scheme we analyse successively the two major parts of the study, namely the classification of fundamental rights and freedoms in terms of constitutional doctrine and the doctrine of human rights, and the current trends on the classification of fundamental rights and freedoms.

Keywords: *fundamental rights, fundamental freedoms, diachronic approach, current trends, values.*

1. Introduction The subject of scientific endeavor will be circumscribed to the scientific analysis of two large parts of it: 1. The diachronic and selective approach of the classification of fundamental rights and freedoms in terms of *Romanian and French constitutional doctrine and the doctrine of human rights*; 2. Current trends regarding the classification of fundamental rights and freedoms, their diachronic and selective approach in *European and international documents on human and citizens rights* from the Universal Declaration of Human Rights and other subsequent documents adopted at international and European level, in the *Romanian constitutional doctrine and the doctrine of European human rights* and in the *constitutions of certain EU member states*.

In our opinion, the study is important for the constitutional doctrine in the field, the doctrine of human rights and for the European law doctrine of human rights, as by this scientific approach, we propose to establish, diachronically and selectively, a complex and complete illustration, but not exhaustive of the entire current trends on the classification of human rights and fundamental freedoms. For full but not exhaustive coverage of the field of study, following the preliminary specifications, we propose the classification of fundamental rights and freedoms in the Romanian constitutional doctrine. This classification was made according to a conceptual model representing the analysis on the contribution of Romanian authors of constitutional law, starting with the holder of the first constitutional law course at the Law Faculty of Bucharest, from 1915 until today.

By comparing the legislation, we selected for this study the French constitutional doctrine and the doctrine of human rights, as described in Section 3.1, which was the primary source of inspiration for the Romanian constitutional doctrine.

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Also, from the French constitutional and human rights doctrine we present briefly, in a diachronic and selective approach, classifications of public freedoms, which in our opinion are synonymous with the classification of fundamental rights and freedoms of Romanian constitutional doctrine.

In terms of full but not exhaustive coverage of the area of classifying the fundamental rights and freedoms, we have introduced in the conceptual model, a diachronic and selective approach of the current trends on classification of rights and freedoms. By this approach, we aim to identify the classification of human rights and citizen in the Universal Declaration of Human Rights and other subsequent documents adopted at international and European level, in the Romanian constitutional doctrine and European law doctrine of human rights, and in the constitutions of certain states of the European Union.

Even if the classification of fundamental rights and freedoms traces back in time from the adoption of the first written constitution, the theoretical interest to resume it is determined by the fact that the existing literature in the field has not always paid sufficient attention to theoretical classification of fundamental rights and freedoms.

Moreover, in the literature considered, in our opinion, the approach has not reflected diachronically and selectivele the complex and complete but not exhaustive classification area of fundamental rights and freedoms.

In addition, in the study we have analysed the new criterion of universal and indivisible values for classifying the universal and fundamental rights and freedoms.

2. Preliminary specification

This study is a continuation and extension of the scope of previous research on human rights and fundamental freedoms. The previous study focused on the study of *Concept of fundamental human rights in the light of juridical values theory*.¹

The study includes in paragraph 3 the diachronic approach to the concept of fundamental rights in terms of classic constitutional doctrine and the doctrine of human rights. At the end of the study, we defined the concept of fundamental rights in the light of juridical values theory.

The concept of fundamental rights approached from the perspective of juridical value theory reads: *"Fundamental rights are those subjective rights of man and citizen, components of the human dimension, which in axiological approach are vital to the dignity and freedom of the people and for the free development of human personality, universal values, common European values and Romanian supreme values enshrined and guaranteed in the universal and European standards and in the Romanian Constitution and which subsumes four determinations of relativity: first determination of relativity relates to approaching the temporal evolution of human rights, the second determination of relativity relates to addressing the economic, social, political and cultural context of a society organized in a state, the third determination of relativity refers to the lack of synchronicity between the provisions at universal or regional level and those at state or national levels, and the fourth determination of relativity refers to the diversity of approaches to human rights issues explained by the heterogeneity of the international community."*

Regarding the components of fundamental rights concept outlined above, for this study we observe the following:

a) Fundamental rights and freedoms have the same juridical status, both being subjective rights.

b) We define *subjective rights as prerogatives or powers guaranteed by the Constitution and law to the will of the subjects to the juridical relation to act or not in a particular way, which implies recognition of a sphere of individual autonomy, or to require an appropriate attitude from the other*

¹ Nicolae Pavel, *Defining the Concept of Fundamental Human Rights in the Light of Juridical Values Theory* (București: Pro Universitaria, 2011), 779-793, accessed 2011, cks.univnt.ro/download/48_cks_2011_ebook.pdf.

subject or subjects, and ultimately to seek protection for his right from state authorities if it is illegally harmed. As mentioned in the previous study, we observed that in legal terms, the right is a freedom and freedom is a right, and, in this regard, between the two terminological nuances there is no difference in terms of legal nature, which in our opinion constitutes one fundamental concept, namely *the fundamental right*.

c) The terminological distinction of *fundamental right* and *fundamental freedom* has at least one historical explanation.² Initially, the so called liberal *freedoms* appeared in the catalog of human rights as exigencies of man as opposed to public authorities, and *these freedoms required the other only a general attitude of restraint from any action that might prejudice these freedoms*.

The development of freedoms, in the broader context of political and social development, resulted in a *crystallization of the concept of human right*, concept with complex legal content and meaning. Furthermore, in relation to state authorities, *human rights* involved also correlative obligations, at least of protection. In time, these freedoms *were not only proclaimed, but also promoted and especially protected, guaranteed*.

d) Throughout the study we use the terms *rights and fundamental freedoms*, with reference to Chapter II of Title II of the Romanian Constitution, republished in 2003, and entitled *Rights and Fundamental Freedoms*. In our opinion, the title of this chapter is such a formulation at least from the following reasons. Within a state, there are citizens, foreign citizens and stateless persons. According to article 15 paragraph (1) of the Constitution of Romania, republished, *citizens enjoy the rights and freedoms enshrined in the Constitution and other laws*. In accordance with the article 18 paragraph (1) of the Romanian Constitution, *foreign citizens and stateless persons shall enjoy general protection of persons and property, guaranteed by the Constitution and other laws*. Furthermore, in accordance with article 1 paragraph (3) of the Romanian Constitution, republished, *rights and freedoms are supreme and guaranteed values*.

Also, in the present study we use the terms *fundamental rights and freedoms of citizens* when we refer to *rights and freedoms enshrined in the Constitution and other laws*.

e) We note that the European standards on human rights and fundamental freedoms make use of the term *right to freedom*. This term can be found in European standards in article 5 of the Convention on Human Rights and Fundamental Freedoms and in article 6 of the Charter of Fundamental Rights of European Union, and proclaims the right to freedom of any person. In our opinion, by using this term, the initiators of the mentioned documents wanted to establish an additional guarantee to the freedom proclaimed at the European level, by combining the general attitude to refrain from any action that might prejudice this freedom by the state or European authorities with the obligation of these authorities to protect it.

f) In our opinion, the need to classify the fundamental rights and freedoms does not imply a hierarchy, and in this regard we consider it necessary to classify or group rights and fundamental freedoms by scientific criteria, at least taking into account the following two reasons: *to facilitate their explanation and understand their general and essential characteristics*.

g) The study of classifying the fundamental rights and freedoms is also necessary in terms of *the current trend to classify the fundamental rights in universal and European standards on human rights and the newly revised constitutions of member states of the European Union*. This trend, in our opinion should be correlated with constitutional regulations in the field, regarding the relationship between domestic, international and European law. From this perspective, we must mention at least three basic rules:

² Muraru, Ioan and Tănăsescu, Elena Simina, *Constitutional Law and Political Institutions*, 13 edition, Vol. I. (Bucharest: All Beck, 2008), 141.

- A first fundamental rule in the matter is identified in the content of the article 11 paragraph (2) of the Romanian Constitution,³ revised, referring to *Relationships between international and domestic law*, and establishes that *Treaties ratified by the Parliament, by law, are part of the domestic law*.

- The second fundamental rule in the matter is established by the article 20 of the Romanian Constitution, republished, referring to *International treaties on human rights*, and also establishes the following two constitutional rules: the first rule states that *the constitutional rights and freedoms shall be interpreted and applied in accordance with the Universal Declaration of Human Rights, the covenants and other treaties to which Romania is part*, and the second states that *if there is a conflict between the covenants and treaties on fundamental human rights to which Romania is part, and the national laws, international regulations shall take precedence, unless the Constitution or domestic laws comprise more favorable provisions*.

- The third fundamental rule is stated in the article 148 paragraph (2) of the Romanian Constitution, revised, and establishes the relationship between domestic law and EU law, as follows: *Following the accession, constituent treaties of the European Union and other mandatory community regulations have precedence over the provisions of the national laws, in compliance with the act of accession*.

3. Classification of fundamental rights and freedoms in terms of constitutional doctrine and the doctrine of human rights

3.1. Classification of fundamental rights and freedoms in terms of Romanian constitutional doctrine

The need for classification, an order in grouping and enumerating the fundamental rights, appeared only after these rights were proclaimed in declarations of rights and especially in constitutions⁴. We must observe from the beginning that many classifications of fundamental rights and freedoms were made in the constitutional doctrine in diachronic evolution. This multitude of classifications can be explained by the evolution of constitutional regulations in time, both in terms of content and scope of fundamental rights and freedoms and human and citizen rights generations.

For this study, we mention that the second chair of constitutional law in Europe was founded only in 1834, in Paris, and it was entrusted to Pellegrino Rossi, an Italian. The author, in his *Treaty of French Constitutional Law*, considers insufficient the classification as *civil and political rights and prefers the classification as private rights, public or social rights and political rights*.⁵

Of the Romanian constitutional doctrine we present briefly, in a diachronic approach, the classifications of fundamental rights and freedoms of citizens, proposed by various authors.

a) In Romania, the field of constitutional law is strengthened by teaching and publishing the course *Constitutional Law*⁶ by Professor Constantin Dissescu at Faculty of Law, University of Bucharest, in 1915. The author names Chapter IV of course *The Rights of Romanians*, but defines *right as a regulation of freedoms and notes that the fundamental problem of social organization is the harmonization of freedoms in their coexistence*, and concludes that the fundamental law of the United Principalities in 1866 regulates these freedoms and guarantees them in articles 5-30. The author states that *when accepting a form of government, freedom and its cases may be reduced to*

³ *** *Romanian Constitution*, revised in 2003, was published in the Official Gazette, Part I, no. 767, of October 31, 2003.

⁴ Muraru, Ioan and Tănăsescu, Elena Simina, op. cit., 153.

⁵ *** www.universalis.fr/.../pellegrino-rossi

⁶ Dissescu, Constantin. *Constitutional Law*. (Bucharest Bookstore SOCEC & Co. Publishing, limited liability company, 1915), 460-461.

three types. Based on this conclusion, he classifies the different types of freedoms into *three major types of freedoms*

a.1.) *individual freedom*, includes the right not to be arrested illegally, inviolability of domicile, judicial guarantees, ie the right not to be distracted from his natural judges, freedom of locomotion and emigration and religious freedom, which includes: freedom of conscience, religious liberty and freedom of propaganda.

a.2.) *civil liberty*, includes freedom of labour, that give rise to the right to property, freedom of speech and correspondence, and in connection to it, the freedom of press, freedom of assembly, freedom of association, and freedom of education.

a.3.) *political freedom* includes the right to vote, the right to stand as candidate, the right to hold public office, to serve on a jury and to serve in the military.

b) For the present study, it is appropriate to mention Professor Paul Negulescu's⁷ contribution to the classification of fundamental rights and freedoms, of course, with the terminology of the historical period in which he conducted the study.

In our opinion the author proposed the classification of *civil liberties* based on the idea of *individual liberty proclaimed by the French Declaration of Human Rights and Citizen which shows that public rights, also called public freedoms, or the rights of man and citizen, are faculty, opportunities recognized by the constituent legislative to all members of society except for specific restrictions in order to help improve and preserve the individual himself*. Also, from the course *Romanian Constitutional Law* results that the professor had as reference the normative content of the Constitution of the United Principalities in 1866 and the Constitution of the United Kingdom of Romania in 1923.

According to the author's opinion, public freedoms fall into three categories: primary or basic freedoms, secondary or complementary freedoms, and collective freedoms.

b.1.) *Basic or primary freedoms* are: individual freedom, freedom of movement, inviolability of domicile, freedom of labour, trade and industry, the right to property, freedom of opinion, freedom of conscience and of religion.

On these freedoms, the author states: *All these freedoms are absolutely necessary, without them the safety of the individual is inconceivable, we can not talk about individual freedom*.

b.2.) *Secondary or complementary freedoms*: freedom of press, freedom of association or assembly.

On these freedoms, the author mentions that these freedoms shall be exercised without prior authorization, but that which, in their exercise, violates public policy, will suffer the consequences arising from this course.

The content of the course also gives way to a subclassification, named by the author *Collective freedom*. These are *the right to association and assembly*, enshrined in the article 28 and article 29 of the Constitution of the Kingdom of Romania in 1923.

In connection with the paragraphs a) and b) above, we also observe the following opinions:⁸

A typical aspect of the juridical literature before the Second World War was that *the classification of rights included neither the socio-economic rights* (which, of course, were not proclaimed by the constitutions), *and with some exceptions, nor the political rights*, because based on the fact that the French Declaration of the Rights of Man and Citizen of 1789 *did not include any aspect in connection with the political rights*, it seems that the authors of the Declaration did not considered them rights, *but ways of exercising a function*. Meanwhile, new aspects on their classification have been revealed.

Building on the above in the paragraphs a) and b), we observe the following aspects:

⁷ Negulescu, Paul, *Romanian Constitutional Law Course*. (Bucharest: Edited by Alex. Th. Doicescu, 1927), 512-537.

⁸ Muraru, Ioan and Tănăsescu, Elena Simina op. cit., 153-154.

1. Both authors cited were *influenced by the French Declaration of the Rights of Man and of the Citizen and by French studies in the field.*

2. The three categories of freedoms proposed by the first author *correspond to three categories of relations that the individual can experience* when he exercises his freedoms: in relation to himself, in relation to things and in relation to the other people.

3. The second author *groups public liberties in the two categories* that correspond, the first one to ensuring the individual's safety, and the second enablesman to spread his ideas.

4. For the first time in the Romanian constitutional doctrine before the Second World War, *Collective Liberties* are mentioned, and in our opinion this classification takes into account their way of exercise.

5. From the above, we note that although the Romanian Constitution of 1866, 1923 and 1938 constantly proclaim in the Title II *Romanians' Rights*, they are mentioned in the stuiies in the field as *public liberties*, or *public rights*, or *rights of man and citizen*.

c) After the Second World War, after the totalitarian regimes were installed in Eastern Europe, including Romania, and especially after adopting the Universal Declaration of Human Rights and the two Pacts, many of the states Constitution were inspired by this model, incorporating its provisions, which led to increasing the complexity of the classification of rights and freedoms of citizens.

During the totalitarian regimes in Romania, we note for the present study, the classification of fundamental rights and freedoms proposed by Professor Nistor Prisca, in his course of Constitutional Law⁹. The author names the Title IV of the course *Rights and fundamental duties of citizens*, and in Chapter II of the mentioned Title, *using the content criterion of fundamental rights of citizens, determines their classification*. The author takes as reference of his classification the normative content of the Constitution of the Socialist Republic of Romania of 1965, republished¹⁰.

On the opportunity to classify the fundamental rights of the citizen, the author states that *this classification is necessary to facilitate explanation and understanding of many rights granted to citizens, it is necessary to group, to classify them according to certain criteria*.

Thus, after some theoretical explanations, Nistor Prisca suggests the following classification of rights and freedoms of citizens:

c.1.) *equal rights of citizens*, Equality is defined by the author, as *the right of citizens to have and equally exercise all rights under the Constitution and other laws, the right to participate equally in political, economic, social and cultural life, without any discrimination and the right to be treated on equal terms, both by the state and other citizens*.

c.2.) *socio-economic rights*, which include: the right to work, right to rest, the right to material security from the state, the necessary conditions of physical and intellectual development, personal ownership, right of inheritance.

c.3.) *social and political rights and freedoms* of the citizen, which includes political rights: electoral rights and rights to association and *democratic freedoms*: freedom of speech, press, meetings, and demonstrations, freedom of conscience.

c.4.) *inviolability*, which includes: personal inviolability, inviolability of the home and the secrecy of correspondence and telephone conversations.

c.5.) *rights guarantees*, which includes: the right to petition and right of the injured in his right by an illegal act of a state body, to request the competent bodies, as provided by law, its annulment and damages.

Building on the above in the paragraph c), we observe the following aspects.

⁹ Prisca, N. *Constitutional Law*. (Bucharest: Editura Didactică și Pedagogică, 1977), 239-278.

¹⁰ *** *Constitution of The Romanian Socialist Republic of 1965*, republished, was published in the Official Gazette of Romania, of February 20, 1968.

1. We notice that in the Romanian literature in the field, during the reference period under review, important changes occur in connection with the classification of fundamental rights and freedoms of the citizen.

2. These changes can be explained by the reception in the Constitution mentioned of the fundamental rights and freedoms contained in the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights, ratified by the Romanian state.

d) After the Romanian Revolution of December 1989, the Constitution was adopted in 1991, revised in 2003, and republished. With reference to normative content of the Romanian Constitution of 1991, Professor Tudor Drăganu¹¹, in his course *Constitutional Law and Political Institutions*, reveals that for solving scientific classification of fundamental rights and freedoms it is necessary to apply a uniform and substantial criterion.

The author concludes that a classification can not claim to be scientific if the distinction between the groups of analyzed phenomena starts from a certain aspect of their own, while for others, on a different basis.

On the other hand, classification of phenomena studied in general must be based on consideration of their fundamental aspects, since only thus can reach the knowledge of the essential nature of the matter studied.

Using *regulatory object criterion*, the author sets the following classification of the fundamental rights of citizen:

d.1.) *individual freedoms*, which includes: the right to life and physical and mental integrity, right to live in the state and to move both at home and abroad, security, inviolability of domicile and residence, secrecy of correspondence and other means of communication, freedom of conscience and religious freedom, right to information.

d.2.) *socio-economic rights*, which includes: the right to work, right to health, right to strike, right to private property, right to inheritance, right to education, the right of the injured in its right by a public authority, through an administrative act or failure to solve a legal term requests to obtain recognition of his right, annulment and damages act, freedom of access to justice.

d.3.) *political rights*, which includes: the right to elect representatives in Parliament, the right to elect the President, the right to vote in the referendum, the right to initiate, together with the number of citizens eligible to vote according to art. 73 of the Constitution and the conditions there set the enactment, amendment or repeal of an ordinary or organic law, the right to initiate, together with the number of citizens eligible to vote according to art. 146 of the Constitution and the conditions there set revision of the Constitution, the right to elect representatives to local and county councils the right to be elected in Parliament, President of the Republic, member of the local authority in villages and towns.

d.4.) *social and political rights*, which includes: freedom of expression of thoughts, opinions or beliefs of any kind, by speech, writing, images, sounds or other means of communication, freedom of religion, freedom of assembly; freedom of association, right to petition.

d.5.) *equal rights*; on equal rights, the author sets the following clarifications. Equality refers to the universality of rights and obligations of citizenship. Also, equality encompasses all areas in which the person operates.

e) For this study, we note the contribution of professors Ioan Muraru and Elena Simina Tănăsescu to the classification of fundamental rights and freedoms¹². Regarding the scientific criterion used for classification of fundamental rights and freedoms, the authors mention that *the*

¹¹ Drăganu, Tudor *Constitutional Law and Political Institutions, Elementary Treaty*, vol. I. (Bucharest: Editura Lumina Lex, 2000), 154-187.

¹² Muraru, Ioan and Tănăsescu, Elena Simina *op. cit.* 153-158.

scientific criterion, verified, of the rights of citizens is that of their content, knowing that it is risky to give a classification of human rights based on their weight or importance.

Folosind criteriul conținutului drepturilor și libertăților cetățenești, conținut ce determină și finalitatea acestor drepturi, autorii clasifică drepturile și libertățile fundamentale ale cetățenilor români în următoarele categorii:

Using the content criterion of rights and liberties, content that determines the purpose of rights, the authors group the rights and freedoms of the Romanian citizens in the following categories:

e.1.) *inviolability*; those rights and freedoms which by their content, ensure life, the possibility to move freely, the physical and mental health, individual and home safety. In this category are included: the right to life, right to physical integrity, right to mental integrity; individual freedom; the right to defense; the right to free movement; right to private life and private family protection; inviolability of domicile.

e.2.) *socio-economic and cultural rights and freedoms*, those rights and liberties that ensure by their content the social and material life conditions, education and the possibility of protection. This category includes: the right to education; access to culture; right to health; right to a healthy environment; right to employment and social protection of labor; the right to strike, ownership, right to inheritance; right to a decent living; the right to marry; the right of children and young persons to protection and assistance; the right of people with disabilities to special protection.

e.3.) *exclusively political rights*; ie rights which by their content may be exercised only by citizens for participating in governance. In this category are included: the right to vote and be elected, including to the European Parliament.

e.4.) *social and political rights and freedom*; ie those rights and freedoms which by their content may be exercised by choice, either to solve social and spiritual issues, or to participate in government. This category includes: freedom of conscience; freedom of expression; right to information; freedom of assembly, freedom of association, and secrecy of correspondence.

e.5.) rights guarantees, ie those rights which by their content play mainly the role of constitutional guarantees. This category includes: the right of petition, the right of the person injured by a public authority.

f) Throughout this study we observe the contribution of Professor Ion Deleanu¹³ to the classification of rights and freedoms.

On the *classification and nomination of the main rights and freedoms*, the author makes the following preliminary comments; *the complexity of discourse universe, multiplicity and variety of criteria that can lead to a possible classification* make it difficult for this trial; the difficulty of classification is increased by the fact that one and the same freedom can be examined in various facets, in other words, it is likely to group it in two or more categories; however, attempts have been made, each with advantages and disadvantages; all these criteria and classifications have a formal character; yet in some degree, they involve and evoke both the substance of that right or freedom, and the purpose targeted by enshrining and ensuring that right or freedom; the nomination of main rights and freedoms is also difficult.

Under such difficulties and methodological limitations, the author proceeds to the classification and nomination of the main rights and freedoms, *using the mode of exercising them as criterion, thus*:

f.1.) *rights and freedoms exercised individually or in person*: f.1.1.) *rights and freedoms that protect person and private life*: the right to life, right to citizenship, right to personal security, privacy, freedom and inviolability of domicile, the secrecy of correspondence, the right to move; f.1.2.) *rights and freedoms that protect individual options in private and social life*: the right of person to dispose of himself, freedom of thought, freedom of speech, freedom of press, right to

¹³ Deleanu, Ion, *Constitutional Law and Political Institutions*. Vol. I. (Bucharest: 1991), 76-78.

education, freedom of conscience, electoral rights, the right of petition, right to health insurance, the right to start a family, right to work or freedom of employment, social security, right to rest, freedom of association, right to strike, right to property, inheritance rights, freedom of trade and industry;

f.2.) *group exercised freedoms*: freedom of association, freedom of assembly, freedom demonstrations.

g) For the present study, we observe the contribution of the study author to the classification of rights and freedoms.¹⁴ Also, we mention that we use the term *rights* for classification, since rights and freedom have the same legal status.

Using as method of study the theory of criterion relativity in terms of rights and fundamental freedoms' content; complex content with interdependent variables that can be analysed under different aspects, for the classification of these rights and freedoms and their nomination relativity according to this criterion, we establish the following classification:

g.1.) *The right to equality*.¹⁵ From the systematic analysis of constitutional provisions it results that *equality* is a constitutional principle proclaimed in the article 16 paragraph (1) of the Constitution, and applies to fundamental rights and freedoms, but in our opinion, it can be approached as a *subjective right*. In this respect, equality is a possibility given to a person in his interest, allowing him to enjoy something of value or to require someone else a benefit; *equality is part of subjective rights* in the sense that it is a legally protected interest enjoyed by individual and that also is an obligation for public authorities.

As a *subjective right*, equality enables people to claim infringement of the principle of equal rights before the Constitutional Court by raising the objection of unconstitutionality, and attacking the administrative acts before the administrative court.

g.2.) *Inviolability*. In our opinion, indicating inviolability in the classification of rights and freedoms is necessary because the inviolability of rights and freedoms is provided expressis verbis in the normative content of the Romanian Constitution republished. Inviolability guarantees human dignity and free development of human personality. This category can include: right to life and physical and mental integrity, individual freedom, right to defense, free movement, private life, the right to family and private life, inviolability of domicile.

g.3.) *Economic, social and cultural rights*. These rights guarantee: Protection of economic interests of the person, the right of everyone to social security, right of everyone to a decent living, that right of everyone to enjoy the best physical and mental health, the right of everyone to education and right to participate in cultural life.

g.4.) *Political rights*. It represents the rights that are guaranteed to citizens to participate in government, at state, local and at EU level. These rights include the *right to elect and to be elected*.

g.5.) *Social and political rights*. These rights have a complex content, social or political.

g.6.) *Rights guarantees*. These rights are at constitutional level guarantees to other rights and freedoms against their illegitimate violation.

g.7.) *The right of asylum*. In our opinion, this right may be mentioned in the catalog of classifying fundamental rights and freedoms, even if under the Constitution of Romania, it is part of the contents of Chapter II of Title II, entitled *common principles on rights and fundamental freedoms*. Furthermore, *the right of asylum is mentioned expressis verbis in article 18 of the Romanian Constitution*; it is true that it does not apply to Romanian citizens, but foreigners and stateless persons are guaranteed under the current constitution and enjoy general protection of persons and property.

Building on the above paragraphs d), e), f) and g) we observe the following aspects:

¹⁴ Pavel, Nicolae, *Constitutional Law and Political Institutions*, Volume I, General Theory. (Bucharest: România de Măine Publishing, 2004), 85.

¹⁵ Pavel, Nicolae, *Equality in Rights of the Citizens and Non-Discrimination*. (Bucharest: Universul Juridic Publishing, 2010), 235-236.

1. For classification of fundamental rights and freedoms, nominated authors use two criteria: the content of these rights and the exercise thereof.

2. Although the authors use the same criteria for classification, ie the content of rights and fundamental freedoms, their actual classifications differ, in our opinion, *because of the complex content with various interdependencies that can be analysed under different aspects.*

3.2. Classification of fundamental rights and freedoms in terms of French constitutional doctrine and the doctrine of human rights

For this study, we have chosen the French constitutional doctrine and the doctrine of human rights for the reason that, as we have mentioned in the section 3.1., it was the primary source of the Romanian constitutional doctrine.

Moreover, from the French constitutional doctrine and that of human rights, we present briefly, in a diachronic approach, the classifications of public liberties which, in our opinion, are synonymous to the classification of fundamental rights and freedoms in the Romanian constitutional doctrine, classifications proposed by various French authors.

a) A. Esmein considers that the list of individual rights was gradually completed and the theory and historical facts successively signal the importance of two major categories:¹⁶

a.1.) *civil equality* includes: equality before the law, equal justice, equal taxes, equal eligibility for functions and public office.

a.2.) *individual freedoms* includes: individual liberty, individual property, inviolability of domicile, freedom of trade, labor and industry, freedom of conscience and religious liberty, freedom of assembly and freedom of press, freedom of association and freedom of education.

b) George Burda states that public freedoms have gained the city rights (status of special privileges in legal terminology), being for individuals or groups an opportunity to request an attitude of the state, constituting an obligation to it. According to the author, public freedoms could be included in a list with two entries that can not be disputed:¹⁷

b.1.) *rights that under the classical tradition are considered inherent to human nature.* They are basically those rights through which the autonomy of individuals is stated: individual security, freedom to go and come, freedom of privacy, freedom of opinion and belief, property. To this list the author adds rights that, also from the traditional perspective, appear as an addition to the above as they allow more fully pursue: the right to join or unite with others, the right to celebrate religious cults, the right to choose education for children.

b.2.) *economic and social rights.* Given the generosity with which they are listed by the authors of the Declarations and Preambles, it is necessary to distinguish among them. There are: *the right to organize, right to strike, right to safety at work.*

Differently from public freedoms, the author considers *civil rights* as those rights through which citizens participate directly in political decision.

c) Taking into account the exercise of public freedoms, Jean Morange classifies these into two major categories:¹⁸

c.1.) *individual freedoms* rely on the individual in society, and include: *individual autonomy*: the freedom to go and come, security, privacy and *liberties of free choice*, freedom of conscience, freedom to dispose of himself.

¹⁶ A. Esmein, *Éléments de droit constitutionnel français et comparé*, septième édition, tome premier. (Paris: Librairie de la société du Recueil Sirey Paris, 1921), 553-544.

¹⁷ Georges Burdeau, *Les libertés publiques*. (Paris: Librairie générale de droit et de jurisprudence, 1972), 21-23.

¹⁸ Jean Morange, *Droits de l'homme et libertés publiques*, 2^e édition. (Paris, Presses Universitaires de France, 1985), 117- 331.

c.2.) *collective liberties*, which involve the individual's right to act with others, noting that there are no collective freedoms without individual freedoms, which is a dogma of liberal democracies. These include: freedom of association, freedom of press, freedom of broadcasting, free education, and freedom of religion.

d) Jacques Robert,¹⁹ before proceeding to the classification of public freedoms, makes the following terminological comments on the definition of freedom. When the philosopher attempts to define human freedom is tempted to research on his inner and spiritual freedom, above all. The lawyer, as he is concerned, has no access to the inner life because the right is a rule of social constraint, so external. He will consider only material freedom in its meaning, as *most of opportunities and choices left to individuals*. From this perspective, the author analyses the natural liberty and legal freedom. In a first sense, freedom is the quality of which is not subject to constraints, namely physical, psychological or moral. It is a negative quality since it results specifically from the lack of constraint. Coercion occurs when a man's actions are subject to the will of another man, serving not his own purpose but the purpose of the other. *Freedom means the guarantee of private sphere so that each is master of himself*. It follows that the freedom of a being is self-being. In a second sense, to be free to act is to have the right or power to commit an act or another.

The author also distinguishes between public freedom and private freedom. Public freedom is a freedom for all that its exercise by everyone not in any way affects the exercise of the same freedoms to another. *The criterion of public freedom is that it belongs to everyone*. Conversely, private freedom is characterized by being reserved only to some individuals. It is a privilege granted to a small number, refused to others.

Moreover, the author distinguishes between *freedom-autonomy* and *freedom-participation*. These two forms of freedom involve a distinction between rulers and ruled. Each brings a very different answer to the question raised by the relationship between the two parties. *Freedom - participation* lies in control of the ruling government, in the permanent attitude of certain rulers to become one day the ruled. *Freedom - autonomy* implies the absence of any social constraints.

It is difficult to establish a specific criterion for classifying public liberties. To establish this criterion, the author *defines public freedoms in narrow and broad sense*. In *narrow sense*, public freedoms are freedoms enshrined in the texts of Declarations of Rights, the purpose of Declarations and Preambles being certainly *to state the essential rights and freedoms*. But any public liberty is not a liberty declared constitutionally. *Broadly speaking*, would be, on the contrary, considered as public liberty any right recognized by law, this course encompassing constitutional texts and declarations of rights.

Jacques Robert, after stating that liberties have a *fundamental component when there is a coincidence between the public freedoms and human natural rights*, he propose a classification of the public liberties into two categories, *personal liberties and collective freedoms*.

d.1.) *Personal freedoms* include: d.1.1.) *physical or individual freedom*, ie freedom to move freely, not to be arbitrarily arrested or seized, to be tried with all legal guarantees, not to affect their physical integrity, their privacy. d.1.2.) *spiritual freedoms*, i.e. freedom of speech, of religion, freedom of press, freedom of education. d.1.3.) *economic freedoms* including: the right to work, freedom of trade and industry.

d.2.) *collective freedoms*, including: freedom of assembly and association, freedom of organization, right to strike.

e) Claude Albert Colliard²⁰ states that the terms *public freedoms* comes from the article 34, paragraph (2) of the French Constitution of 1958, which reserves the field of *public freedoms* to be

¹⁹ Jacques Robert, *Droits de l'homme et libertés fondamentales*. (Paris : Montchrestien, 1993), 19-21.

²⁰ Claude Albert Colliard, *Libertés publiques*, Septieme édition. (Paris, Edition Dalloz, 1989), 21-29, 230-234.

regulated exclusively by Parliament. According to the paragraph mentioned, the Law establishes the rules on *civil rights and fundamental guarantees granted to citizens to exercise the public freedoms*. The author also states that the law must define the content and the precise meaning of the concept of *public freedoms* as the *doctrinary definition is never very precise, being always based on excesses of exegesis or refinements of subtlety*.

Following these considerations, we propose a general definition of *public freedoms which are rights enjoyed by individuals and are analysed by their recognition for an area of autonomy*.

Regarding the collective character of *public freedoms*, this means that *public freedoms are individual, but when the individual acts without constraint and the action takes place in a social context in relation to other people, they can gain collective character*.

Claude-Albert Colliard proposed a classification of public freedoms on the one hand according to the opposite relationship between freedoms of economic nature and other freedoms and on the other hand, according to the character strictly individual and the collective character. Thus the author classified them into three distinct categories:

e.1.) *fundamental freedoms or individual liberties*, which include: security of person, freedom to go and come, bodies and individual freedoms, respect for personality.

e.2.) *freedom of thought or intellectual freedoms*, these include: freedom of speech, freedom of religion, freedom of education, freedom of thought, theater system and film-television broadcasting system, freedom of assembly and freedom of association.

e.3.) *freedoms of economic nature*, they include: labour freedom, right to property, freedom of trade and industry.

Building on the above, we observe the following aspects:

1. The same variety of classification of public freedoms exists also in the French literature in the field.
2. We observe that the French literature studied above addresses *human rights, public freedoms, rights and freedoms of citizens and the fundamental freedoms*.
3. We observe that the terminology is not uniform.
4. The Romanian concept of *fundamental rights and freedoms* is synonymous with the concept of *public freedoms* in the French literature.

4. Current trends on the classification of fundamental rights and freedoms

a) In our opinion, a first classification of human rights universally has been established by the personalities who participated in drafting the Universal Declaration of Human Rights. According to UN document, named *UN Activities in the Field of Human Rights*²¹ we learn the following specifications: *Universal Declaration of Human Rights consists of a preamble and 30 articles setting out the essential rights and fundamental freedoms to which without discrimination can claim all men and women around the world*. These articles concern civil and political rights (article 3 – article 21) and economic, social and cultural rights (article 22 – article 27). This universal classification includes *civil and political rights and economic, social and cultural rights*.

Often, the literature cites the definition of human rights given by the French jurist René Cassin who participated in drafting the Universal Declaration of Human Rights: *the science about human rights is defined as a distinct branch of social science and studies human relationships in accordance to human dignity to determine the rights and faculties that overall are necessary to personality development of every human being*.²²

This document, as its title indicates, is merely a declaration and not a legally binding agreement. Due to its moral status and legal and political importance acquired over time, the

²¹ *** Activités de l'ONU dans le domaine des droits de l'homme. (New York, Nations Unies, 1986), 10.

²² Apud, Yves Madiot, *Droits de l'homme et libertés publiques*. (Paris, New York, Barcelone, Milan, Edition Masson 1976), p.13.

Universal Declaration of Human Rights stands next to Magna Carta, the Declaration of Independence of America, the Bill of Rights and the French Declaration of the Rights of Man and Citizen.

Given the above, UN adopted the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights on 16 December 1966. These documents are legally binding, being ratified by the states, and *include content development of universal human rights under the Universal Declaration of Human Rights, in areas established therein.*

b.) The second current trend of classification of human rights is their *classification on generation of rights*. Of the Romanian constitutional doctrine, we observe for the present study the classification of human rights that includes four generations of rights²³. Regarding the causes of this classification, the authors point to the existence today of a whole range of legal issues in the field. One of them refers to the heterogeneity of human rights, both in terms of their origin and of the goals they declare and pursue. Also, technically speaking, *it has now become common for human rights to be presented in a classification that includes four generations*, allowing an overview with historical character which emphasizes their complementarity, both at the moment of claim and at the moment of legal recognition.

b.1.) *First generation rights encompass civil and political rights*, considered the most necessary to assert the individual against state power. Civil and political rights and especially the individual freedoms *have appeared mainly as measures to protect individuals against violence and arbitrary government*, as claims of a legal position equal before the law.

Also, *these rights are defined by the action of their owner, who draws a sphere of individual autonomy, which implies and determines a specific abstention of the state power to intervene in such protected areas*. The role of state power is reduced in this situation to protect freedoms in general, by providing guarantees of self-limitation of its action.

b.2.) *Rights of the second generation include economic, social and cultural rights*, involving state action, measures, and guarantees. These rights are recognized to all individuals, but not on the basis of their quality as human being, but as members of specific social categories based on criteria that are closely connected with the production or their social or economic status.

b.3.) *Rights of third generation* came amid increasing internationalization of the concept of human rights, *and they are called solidarity rights*, such as right to peace, right to development, right to a healthy environment etc. They express new social and political aspirations that any individual can validly oppose to public power. These rights raise many questions, because it is not clear yet whether the holder is an individual or humanity as a whole.

It is also not clear yet whether the public power is national or international. But without doubt these powers can not be achieved in their content by individual countries, but necessarily involve the cooperation of states.

b.4.) *Rights of the fourth generation*. Facing the unprecedented development of information and communication technologies, some authors have mentioned *a fourth generation of rights, which would include the right to personal data protection, right to privacy, etc.*

The analysis of the above classifications of human rights shows in our opinion that the authors took as reference the universal standards of human rights standards and the scope of human and citizen rights established in the field by these standards.

c) The third trend of classification of human rights, observed for this study, is the tendency for the classification of rights guaranteed in Europe, in European human rights law doctrine.²⁴

At the beginning of this classification, the author makes the following preliminary comments:

²³ Muraru, Ioan and Tănăsescu, Elena Simina, op. cit. 142-144.

²⁴ Renucci, Jean-François, *Treaty of European Human Rights Law*. (Bucharest: Hamangiu Publishing, 2009), 80, 85, 533-534, 843.

- Proposing distinction between human rights *can be in itself objectionable, internationally established principle is that of the indivisibility of these rights. The principle of indivisibility is, of course, important and meaningful to the extent that all human rights contribute to the development of human dignity, which is clearly not divisible.*

- However, in the positive law, *all rights enshrined in this area, although essential, can not be placed on an equal footing, and can not have the same legal status.*

- Human rights, being exclusively rights of individuals, *should be considered only individual rights, even though we can not deny the collective dimension of some of them.*

Given the indications mentioned, the author, using the criterion of protection of human rights considered fundamental rights, classifies at first these data into three categories as follows:

c.1.) *Rights of the first category:* From human rights, some are particularly important *because they form the hard core:* the right to life, the right not to be subjected to ill-treatment, the prohibition of slavery and servitude and the right to protection from retroactive criminal law or the prohibition of discrimination. *These rights, because of their importance require absolute protection.*

c.2.) *Rights of the second category:* other human rights *being conditioned,* they benefit only of a relative protection, *the state may affect them in certain conditions.*

c.3.) Rights of the third category: their protection is quasi-absolute, and can not be suspended except in time of war or other public emergency threatening the life of the nation.

The second classification proposed by the author, is *a ranking of four generations of rights:*

c.1.1.) The first generation of rights encompasses civil and political rights. Civil and political rights are essential rights: they are the backbone of the European Convention on Human Rights, its reason to exist, although the Convention has also established some economic and social rights. These rights called of the first generation, which are the most fundamental rights and freedoms appear to be resistance rights, involving freedom of choice and action of individuals, and abstention from the state. On the other hand, in this category of resistance rights, we can distinguish between the rights – freedoms, which notably includes human rights and labor rights, and rights – participation, which are those of citizens, and finally, rights-guarantees, rights of the litigants.

c.1.2.) *The second generation of rights encompasses economic and social rights.* Economic and social rights are usually presented as human rights of the second generation. *In the Council of Europe, economic and social rights are enshrined primarily but not exclusively, in two texts: on the one hand, the European Convention on Human Rights which is quite limited on this plan, and prevents a strong guarantee of some economic and social rights retained; on the other hand, the European Social Charter, a text centered specifically on these rights and, finally, completes the Convention in this regard. These rights have the following particularity: the state should play a more active and demanding role to ensure economic and social rights. Regarding the role of the EU Charter of Fundamental Rights in this matter, the author states that: the reference to the text of the Amsterdam Treaty and the Charter of Fundamental Rights can only enhance its importance.*

c.1.3.) *The rights of third generation include rights of solidarity.* These rights are: *the right to peace, development, environment and the right to respect the common heritage of humanity.* However, the problem in question is to know precisely *whether these rights of solidarity can be considered as human rights.* It is true that they are universal values. But their assimilation with human rights is not obvious, especially since the European Convention on Human Rights does not refer to them. Certainly, an extension of human rights is always possible, but it is necessary to pay attention to the potential negative impact that might weaken, ultimately, the fundamental rights.

c.1.4.) *The rights of the fourth generation.* In connection to these rights, the author states the following: *It is, however, very difficult to propose a classification of human rights universally accepted, because difficulties may arise and appearances are often misleading, especially since the fourth generation rights appeared, in order to protect human dignity from certain abuses of science. But we should also avoid too great an extension of fundamental rights; a perpetual addition of new rights would be dangerous to liberty itself.*

d) For this study, we propose to retain the current trend of classification of fundamental rights and freedoms, enshrined in the juridical content of the Constitutions of European Union member states.

d.1.) *Constitution of the Italian Republic of 1948*²⁵. Constitution of the Italian Republic in its Part I, entitled *Rights and duties of citizens*, classifies these rights and duties into four basic categories, namely: *Civil Relations* (art. 13 - art. 28), *Ethical and Social Relations* (art. 29-art. 34), *Economic Relations* (art. 35-art. 47) and *Political Relations* (art. 48-art. 54). In our opinion, the four relations mentioned in the Constitution, *put out a true classic classification of rights and duties of citizens, namely: civil rights, ethical and social rights, economic rights, and political rights.*

d.2.) *Spanish Constitution of 1978*²⁶. The Spanish Constitution in Title I, entitled *Fundamental Rights and Duties*, establishes the following principles, rights and duties grouped into five basic categories, namely: *Spaniards and Foreigners* (Art. 11-13); *Rights and Freedoms: Fundamental Rights and Public Freedoms* (art.15-art. 29), *Rights and Duties of citizens* (art. 30-art. 38), *Guiding Principles of Social and Economic Policy* (art. 39 - art. 52), *Guarantees for Fundamental Rights and Freedoms* (art. 53-art. 54), *Suspension of Rights and Freedoms* (art. 55).

d.3.) *Constitution of the Portuguese Republic*, the seventh revision of 2005.²⁷

Constitution of the Portuguese Republic in Title II, entitled *Rights, Freedoms and Guarantees*, establishes the following classifications, grouping them into three basic categories, namely: *Personality Rights* (art. 24-art. 47); *The Fundamental Rights, Freedoms and Guarantees of Political Participation* (art. 48-art. 52); *The Fundamental Rights, Freedoms and Guarantees of Workers* (art. 53-art. 57). Also, in Title III, entitled *Economic, Social and Cultural Rights and Duties*, establishes the following classifications, grouping them into three basic categories, namely: *Economic Rights and Duties* (art. 58-art. 62), *Social Rights and Duties* (art. 63-art. 72), *Cultural Rights and Duties* (art. 73-art. 79);

d.4.) *Constitution of the Slovak Republic of 1991*²⁸. In Title II establishes Human Rights and Fundamental Freedoms (art. 14-art. 65), and in Title III establishes Economic and Social Relations (art. 66-art. 79).

e.) For this study, we propose to retain *the current trend of classification of fundamental rights and freedoms by four universal and indivisible values*, proclaimed in the preamble to the Charter of Fundamental Rights of the European Union²⁹, namely: *human dignity, freedom, equality and solidarity.*

e.1.) *Dignity*. The Charter does not specify the meaning of the concept of dignity, but dignity in our opinion, is acclaimed as a genuine inviolability, *respecting and protecting the dignity as universal value and treated as indivisible.*

Also *to respect and protect the dignity as universal and indivisible value* the Charter subsumes: right to life; right to integrity of person; prohibition of torture and inhuman or degrading treatment or punishment; prohibition of slavery and forced labor.

e.2.) *Freedoms*. On *freedoms*, we find that in connection with this fundamental category, *the Charter does not establish the notion of freedom as a universal and indivisible value*, but subsumes to freedom the following components: the right to liberty and security, right to privacy and family, protection of personal data, the right to marry and right to found a family, freedom of thought, conscience and religion, freedom of expression and information, freedom of assembly and

²⁵ *** *Costituzione della Repubblica Italiana*. (Roma: Camera dei Deputati, Segreteria Generale, 1990), 189-200.

²⁶ *** *La Constitution Espagnole*. (Madrid: Publicaciones del Congreso de los Diputados, Imprime Rivadeneyra S. A.,1989), 13-28.

²⁷ *** *Constitution de la République Portugaise*, app.parlamento.pt/site.../CRP_VII.pdf.

²⁸ *** *Constitution de la République de Slovénie*, mjp.univ-perp.fr/constit/si.htm

²⁹ *** *Charter of fundamental rights of the European Union*, (2010/C 83/02) EN 30.3.2010 Official Journal of the European Union C 83/389.

association, freedom of the arts and sciences, right to education, free of choice of occupation and right to work, freedom to conduct a business, property rights, right to asylum, protection from removal, expulsion or extradition.

After listing the components of *freedom*, in our opinion, it follows that the source of inspiration for the Charter was the European Convention on Human Rights, of course taking into account the extensions introduced by it.

e.3.) Equality. On equality, we also notice that to this fundamental category the *Charter does not establish the concept of equality approached as universal and indivisible value*, but it subsumes the following components: equality before the law; non-discrimination; cultural, religious and linguistic diversity; equality between women and men; child rights; the rights of the elderly; the integration of persons with disabilities.

After listing the components of *equality*, it follows in our opinion, that the source of inspiration for the Charter was the European Convention on Human Rights, which seems substantial, but of course not exclusive.

e.4.) *Solidarity*. On *solidarity*, we notice that also to this fundamental category the Charter does not establish *the concept of solidarity approached as universal and indivisible value*, but subsumes the following components: the right of workers to information and consultation within the undertaking; the right of negotiation and collective action; right of access to placement services; protection for unjustified dismissal; fair working conditions; prohibition of child labor and protection of young people at work; family and professional life; social security and social assistance; health protection; access to services of general economic interest; environmental protection; consumer protection.

Listing the components of *solidarity*, it follows in our opinion that these components are *economic and social rights*, and draw their inspiration from the European Social Charter and the Community Charter of Fundamental Social Rights of Workers, and also from the articles on consumer and environment, namely: article 153 and article 174 of the Treaty establishing the European Community, the consolidated version³⁰. Environmental and consumer protection are new components introduced in the Charter that created controversy regarding their application.

5. Conclusions

The objective of the study on classification of rights and fundamental freedoms in diachronic and selective approach, and to identify trends of these classifications, has been achieved, in our opinion. The main directions of study for achieving the goal were the following:

1. the diachronic and selective, but not exhaustive, approach of the classification of fundamental rights and freedoms in terms of constitutional doctrine and the doctrine of human rights. This section contains two parts.

The first part of the section is dedicated to the classification of fundamental rights and freedoms from the perspective of Romanian constitutional doctrine and is systematically divided into three great periods. The first period refers to the contribution of the Romanian authors of constitutional law to the fundamental rights and freedoms up to the World War II. The second period includes the contribution of Romanian authors of constitutional law to the classification of fundamental rights and freedoms, after the installation of totalitarian regimes in Eastern Europe, including Romania; the adoption of Constitution of this period and up to the Revolution of 1989. The third period refers to the contribution of Romanian authors of constitutional law to the classification of fundamental rights and freedoms after the Revolution of December 1989, the adoption of Romanian Constitution of 1991 and its revision in 2003, up to date.

³⁰ *** *Version consolidée du Traité instituant la Communauté Européenne*, Journal officiel n°C 325 du 24 décembre 2002.

Studying the periods mentioned above, we have identified the terminology used, the criteria proposed by the mentioned authors to classify the fundamental rights and freedoms and the classifications resulting from scientific endeavor.

The second part of the section studies the classification of fundamental rights and freedoms, in terms of French constitutional doctrine and the doctrine of human rights. Throughout this section we present selectively in a diachronic approach, the classifications of public freedoms, which in our opinion, are synonymous with the classification of fundamental rights and freedoms in the Romanian constitutional doctrine. Applying the same grid, we have identified the methodological terminology used, the classification criteria proposed by the mentioned authors for grouping the civil liberties, and the classification resulting from the scientific enterprise of French authors.

2. current trends on classification of fundamental rights and freedoms, by diachronic and selective approach, in the European and international documents on human rights and citizens, starting from the Universal Declaration of Human Rights and other subsequent documents adopted at international and European level, in Romanian constitutional doctrine and the doctrine of European human rights and also in the Charter of Fundamental Rights of the European Union and in the Constitutions of European Union member states. Studying the documents and specialized doctrine, mentioned above, we have identified the development trends for the classification of human and citizen rights and freedoms.

The two parts of the study can be considered a contribution to expanding research on classification of fundamental rights and freedoms, in line with current trends in the field.

We also mention that the above study opens a complex and complete vision, but not exhaustive, in the area.

Given the selective approach of classifying fundamental rights and freedoms, the proposed key – scheme can be multiplied and extended to other studies in the field.

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