

CONSTITUTIONAL ERRORS AND OMISSIONS IN ROMANIA: IMPLICATIONS FOR NATIONAL SOVEREIGNTY AND THE DESIGN OF THE ELECTORAL PROCESS

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Abstract

Using scientific concepts from the field of management systems promoted by ISO (the International Organization for Standardization), this paper challenges and refutes the legal and political theories that excuse or justify the errors and omissions found in the text of the Romanian Constitution concerning the acquisition and retention of state power.

The methodology compares how the people—holders of national sovereignty—should act toward their representatives, who are meant to serve them, with how an owner of resources acts toward employees in an economic setting. The analysis shows that, because the system for exercising national sovereignty is incompletely designed, the people’s “employees” (their representatives) can produce “products” (laws) that run against the people’s interests. They can do so even though the people are, in principle, the owners of the decision-making process for granting and withdrawing representative legitimacy. In practice, these representatives can replace the people in the decision to withdraw legitimacy and can even alienate the people’s property, among other consequences. This is made possible because such constitutional errors and omissions are placed under the protection of the rule of law and the supremacy of law.

The study further concludes that the system for exercising national sovereignty—including the electoral process—is incomplete because it provides a mechanism for the people to grant legitimacy to representatives at fixed moments (through a positive electoral vote), but not a mechanism to withdraw that legitimacy after elections from representatives they no longer trust (through a post-electoral negative vote as a corrective action), in response to those representatives’ legislative output. As a result, the freedom of voting is only simulated in practice, and the will of the people does not in fact constitute the basis of state power.

Keywords: *Constitution, national sovereignty, electoral process, constitutional errors, constitutional omissions, legislative fraud.*

1. Introduction

What matter does the paper cover?

This paper addresses the identification—through the use of an alternative methodology—of certain errors and omissions within the text of the social contract between the governing authorities and the people, namely the Constitution. It focuses particularly on those provisions that impact the acquisition and retention of state power, as well as on the establishment of the hierarchy of powers within the overall social system.

The study points at the incomplete design of the electoral process, which fails to incorporate the expression of the will of enfranchised citizens through a post-electoral voting mechanism of a corrective nature. Such a mechanism would be applicable in situations where the outcomes of legislative activity carried out by elected

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representatives are perceived by citizens as being contrary to the public interest. This deficiency highlights the absence of a balanced delegation of power between the people and the governing authorities.

Why is the subject important?

This study is significant because political decisions that diverge from the will of the people undermine national sovereignty, subjecting the population to consequences to which they have never explicitly consented.

To illustrate this issue, we refer to a single example: the assumption by governing authorities of external public debt without the explicit consent of the people. In this regard:

- Considering the austerity measures imposed on the Romanian population between 1981 and 1989 by the political class for the repayment of previously accumulated external debt (1971–1982), which peaked at 13 billion USD in 1982 (equivalent to approximately 40 billion EUR /2026 when adjusted for cumulative inflation), a figure three times smaller than the external public debt existing at the time of writing;
- Observing the repeal of Law No. 3/1989, which had prohibited Romanian entities from contracting foreign loans, through Decree-Law No. 9 of 31 December 1989, issued by the Council of the National Salvation Front, without the explicit consent of the Romanian people;
- Noting the re-emergence, after 1992 and likewise without explicit public consent, of external public debt¹, which reached 126.4 billion EUR in January 2026 out of Romania's total external debt of 229.3 billion EUR—thus rendering the sacrifices endured by the Romanian population during 1981–1989 futile;
- Observing that experts in relevant fields (legal, political, economic, etc.) tend to regard this state of affairs as consistent with the public interest.

In order to prevent the suffering caused by the perpetuation of austerity policies and the risk of sovereign default, it has become necessary to involve other members of society—independent researchers possessing knowledge and skills from various scientific domains—capable of providing an alternative methodology for validating the legal and political concepts upon which political authorities have based decisions to incur public debt without explicit popular consent.

What is our approach?

By employing scientific concepts from the field of management systems promoted by ISO standards, the paper challenges the legal and political theories that support the identified errors and omissions concerning the acquisition and maintenance of state power in the Romanian Constitution.

The argumentation aimed at highlighting the errors and omissions in the redesign of this process in 1991 relies on publicly available concepts derived from the international field of management systems. Given that these concepts are not yet widely integrated into socio-humanistic education, it is argued that the ideas embedded in the seven constitutional articles affected by such errors and omissions were adopted—lacking Romanian origin—without fully anticipating their potential negative consequences.

(4) What is the relation between this paper and the existing specialized literature?

To the best of our knowledge, the application of ISO-promoted management systems concepts to demonstrate the incomplete design of the electoral process—as well as the argument that post-electoral voting for the withdrawal of representative legitimacy should be carried out through individual mechanisms, outside collective voting procedures—constitutes a pioneering approach.

The withdrawal of representative legitimacy is practiced in other, more advanced democratic systems under the concept known as “recall voting.” However, such mechanisms are typically exercised through collective procedures (e.g., petitions or referenda) and within fixed time intervals.

¹ A se vedea articolul <https://www.bnr.ro/25342-2026-03-17-balanta-de-plati-si-datoria-externa-ianuarie-2026>.

2. Analysis of the Articles of the Romanian Constitution Concerning the Acquisition and Retention of State Power, as well as the Establishment of the Hierarchy of Powers within the Entire Social System

The analysis simultaneously addresses a set of seven interrelated constitutional provisions, which describe the origin of power as deriving from the will of individual persons—collectively referred to as “the people”—as well as the hierarchy of powers within the overall social system. These provisions include: Article 2 – Sovereignty; Article 1 – The Romanian State; Article 80 – The Role of the President; Article 90 – The Referendum; Article 36 – The Right to Vote; Article 72 – Parliamentary Immunity; and Article 84 – Incompatibilities and Immunities.

2.1. Article 2

Current Text in the Constitution of Romania:

Table 1: Sovereignty – The Constitution of Romania

Sovereignty	ARTICLE 2 (1) National sovereignty belongs to the Romanian people, who exercise it through their representative bodies, constituted by free, periodic, and fair elections, as well as through referenda. (2) No group or individual may exercise sovereignty in their own name.
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Source: Official Website of the Chamber of Deputies of Romania ²

2.1.1. Design error 1

This design error is found in paragraph (1) of Article 2 and consists of a substitution, insofar as the Romanian people do not exercise their sovereignty through representative bodies, but rather through voting, which constitutes the actual action in objective reality. This substitution is obscured behind ambiguous wording.

Omission 1 – The substitution mentioned in Section 2.1.1 has made possible the omission of the fact that individuals holding Romanian citizenship—collectively referred to as “the Romanian people”—remain holders of sovereignty even outside the days on which elections or referenda are held, and are therefore entitled to exercise it continuously. The following consequences arise:

- The people do not transfer sovereignty through voting; rather, they temporarily transfer to their representatives the legitimacy to exercise legislative power at the level of the state³.
- The fact that the people remain holders of sovereignty even after the electoral vote does not validate the imperative⁴ mandate, which represents an alternative concept in the functioning of the electoral process.
- Only by remaining the holder of national sovereignty is it possible for the people to exercise that sovereignty through voting in referenda⁵. Otherwise, even referenda for the adoption of the Constitution would lack legitimacy, along with all the consequences that follow from this observation regarding the legitimacy of political decisions adopted after 1991.

Omission 2 – The substitution referred to in Section 2.1.1 has enabled the omission of the fact that the Parliament, as the supreme representative body of the Romanian people, has a distinct object of activity, namely that it is the sole legislative authority of the country⁶. Consequently, the will of the people cannot be exercised through Parliament, which implies that sovereignty cannot be exercised through this institution.

Legislative power is not specified in the Constitution as being a power belonging to the people. Given that legislative power is a power at the level of the state⁷, and that Parliament is defined in Article 61 of the Constitution as the supreme representative body of the people, its autonomy in relation to the state should have

² See https://www.cdep.ro/pls/dic/site2015.page?den=act2_1&par1=1#t1c0s0sba1.

³ Article 1, paragraph (4) of the Constitution of Romania.

⁴ Article 69(2) of the Constitution of Romania.

⁵ Article 90 of the Constitution of Romania.

⁶ Article 61(1) of the Constitution of Romania.

⁷ Art. 1, alineatul 3 din Constituția României

been explicitly established. In the absence of such specification, Parliament remains, in practice, an institution that conducts the legislative process as part of the public authorities, while its members are individuals vested with legitimacy through the vote of the people to exercise legislative power within that process.

This substitution of the rightful constitutional holder of national sovereignty is devoid of meaning when viewed from the perspective of the economic dimension of the social system. In economic practice, the engagement of an individual in an operational process does not imply that the employee thereby acquires ownership rights over the employer's enterprise or permanently substitutes the owner in decision-making processes.

A comparison may also be drawn between the role of the sovereign people and the shareholders of an economic organization. One might argue that the entity entitled to implement corrective actions at the national level of the social system would be considered the governing coalition, as an equivalent of the CEO, who, within an organization, has the legitimacy to make such decisions based on a management contract. In this comparative framework, the flawed design—characterized by errors and omissions—of the constitutional process for transferring legitimacy to representatives becomes even more serious. It reveals that the equivalent of a management contract, namely the electoral program, on the one hand produces no legal consequences in the event of its breach (which may constitute a form of legislative fraud). On the other hand, what is publicly presented as the program of a governing coalition often differs from what voters were aware of at the time of elections, as it emerges only after the vote.

Consequently, various governing coalitions determined the algorithmic distribution of access to positions of power within the state and the economy, as well as the associated benefits. However, these governing coalitions were never directly voted for by the people, and the government programs resulted after negotiations were neither known to the electorate at the time of voting, nor were they confirmed by the electorate. This flawed constitutional design of the process for transferring legitimacy from the people to their representatives—concealed through the two substitutions identified in Article 2 regarding national sovereignty—violates Article 21(3) of the Universal Declaration of Human Rights, as it suggests that electoral outcomes are distorted, given that the parliamentary majority imposing legislative acts was not itself directly subjected to electoral choice.

No social actor appears prepared to manage the implications of acknowledging this second comparison. No electoral majority has ever directly voted for any of the governing coalitions formed after 1991. Such are the consequences generated by the errors and omissions embedded in the higher-order concept of national sovereignty.

In summary, from a systemic point of view, errors / design deficits are legal provisions that should not exist, but they do, whereas omissions are legal provisions that should exist but do not. Both errors and omissions have been made possible by the use of ambiguous, double-meaning language in the drafting of the Constitution.

Such ambiguity is incompatible with legislative drafting standards, which require that legal texts be clear, coherent, and intelligible, free from syntactic difficulties and obscure or equivocal passages. The actual meaning conveyed by the constitutional text reveals the errors and omissions outlined above, while masking the substitution of the people's supreme authority as the continuous holder of national sovereignty. It is argued that the Romanian people would never have consented to relinquishing their own rights and freedoms had the constitutional text not relied on such ambiguity.

Table 2: Sovereignty – Expression of the Text without Ambiguity

Sovereignty	ARTICLE 2 (1) National sovereignty belongs to the Romanian people only on the days designated by the authorities for electoral elections or referenda; during the remaining days of an electoral cycle, national sovereignty is exercised by the governing coalition, which thereby becomes the supreme power within the social system. (2) Following the conclusion of elections, the people voluntarily transfer their sovereignty to the governing coalition. In doing so, the people relinquish their rights and freedoms, accepting that their representatives—who exercise legislative and executive power within the state—may establish any rules they deem appropriate, rather than those desired by the people; this being the essence of the free mandate⁸.
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⁸ Art. 16 / CDL-AD(2019)011rev-e Report on the recall of mayors and local elected representatives, adopted of by the Council for Democratic Elections, at its 65th meeting, Venice, 20 June 2019 and by the Venice Commission at its 119th Plenary Session, Venice, 21-22 June 2019 ([https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2019\)011rev-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2019)011rev-e)).

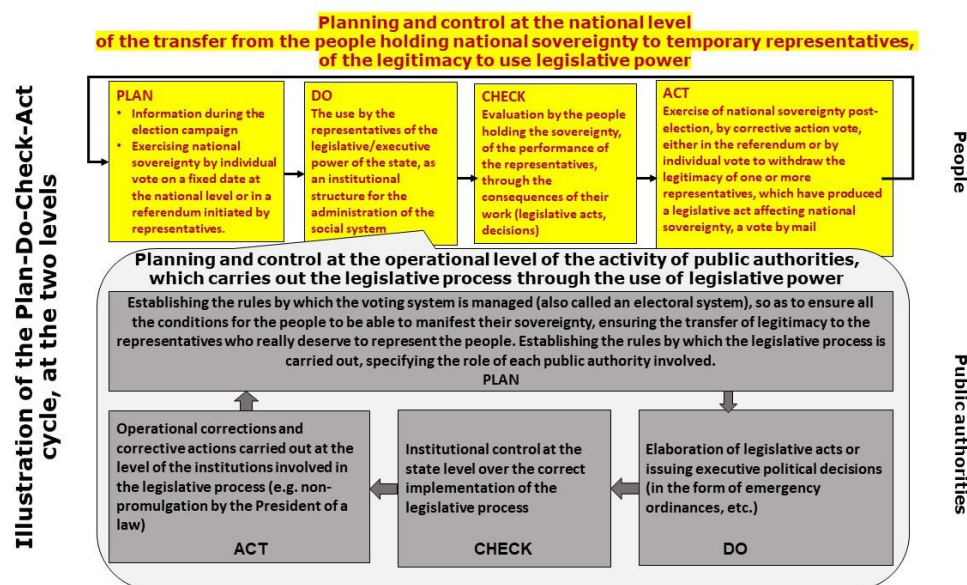


Figure 1: Illustration of the Plan–Do–Check–Act (PDCA) Cycle at Two Levels, in accordance with the concept established within management system standards⁹ used in the economic environment, which simultaneously generates effects within the social system, in contrast with the opposing concept embedded in Article 2 of the Constitution as a central element of the legislative system. This overall perspective demonstrates that the people, as the holders of national sovereignty, occupy a position of authority in relation to their representatives analogous to that of a business owner in relation to their employees.

2.1.2. Design Error 2

This error is also located in paragraph (1) of Article 2 and consists of a substitution, insofar as the Romanian people do not exercise their sovereignty through representative bodies, but rather through voting, which constitutes the actual action in objective reality. This substitution is obscured behind ambiguous, double-meaning language.

Additionally, this error lies in the use of two distinct terms to express the concept of sovereignty, namely “national sovereignty” when referring to the nation, and “sovereignty” when referring to a group or an individual. Although these terms belong to the same lexical family and are therefore equivalent, their differentiated use introduces conceptual inconsistency.

The multiplication, within the Constitution, of sovereign entities within the social system—intended to obscure the elimination of the continuous exercise of power by the people as the holders of national sovereignty—constitutes an error by substitution, given that sovereignty is, by its nature, indivisible.

Omission 3 – The previously identified errors have enabled the omission, from the voting system, of the mechanism through which the citizens may exercise their sovereignty through voting in relation to their representatives outside the days designated for elections or referenda, in a planned, collective, post-electoral manner.

This omission prevents the people from exercising their sovereignty through voting, as holders of national sovereignty (or sovereignty, as referred to in paragraph (2) of Article 2 of the Constitution), beyond the days on which elections or referenda are held.

This entails the deprivation of legal value of the possibility to exercise sovereignty post-electorally for those citizens within the people who are confronted with the consequences of legislative acts or political decisions perceived, at the individual level, as infringing upon national sovereignty.

Post-electoral voting, conceived as a corrective action, arises from the evaluation of representatives’ performance by the sovereign people and represents a vote for the withdrawal of legitimacy from one or more

⁹ Adaptation similar to Figure 1 of ISO 22000:2018.

representatives who have contributed to the adoption of a legislative act perceived—either before or after producing effects—as detrimental to the sovereignty of the people.

This omission is inconsistent with practices in the economic domain, where, upon the occurrence of a nonconformity, action is undertaken not only through corrections and corrective actions at the operational level, but also through corrective actions at the organizational level aimed at preventing recurrence (planning and control at the national level, in this case). Such measures would prevent the representative(s) responsible for the adoption of a legislative act contrary to the sovereign interest from continuing to exercise legislative power, and would implicitly prevent the respective legislative act from producing effects.

Omission 4 – As a consequence of Omission 3, it has also been omitted that post-electoral voting may be exercised individually, independently of the collective.

It is thus omitted that it is not “the people” who vote, but the individual person, the individual being the smallest entity within “the people.”

In fact, sovereignty at the level of the individual reflects the “national sovereignty that belongs to the people,” just as national sovereignty at the level of the people reflects the sovereignty expressed at the level of the individual persons who constitute it.

In reality, no vote has ever involved the entirety of “the people,” but always only parts of it, including minorities. Elections are validated regardless of the number of participants, which has enabled the transfer of legitimacy even in the absence of a majority (the smallest being a simple majority) of the people, and even by minorities (e.g., 33.24% of the total number of registered voters in the parliamentary elections of December 6, 2020). It follows that the errors and omissions identified precondition or facilitate the failure of the genuine expression of the people’s will through voting, favoring the accession to power of political parties regardless of whether they represent the will of the people. In practice, the process by which the people exercise national sovereignty through voting has been altered at all stages, not only at the moment of voting itself.

Just as any minority within the people participates in collectively scheduled voting at nationally determined moments, it equally has the right to express its will when it perceives, independently of the collective, an abuse or a deviation—through voting exercised at unscheduled moments—this being an expression of the freedom of the vote.

The fact that the people remain the holders of sovereignty even after elections does not imply that any group or individual may declare themselves sovereign independently of the nation¹⁰.

Through periodic collective elections, the expression of the voter’s will has thus been conditioned upon the agreement of other citizens, who may not have understood the abuse, may not have been affected by it, or may lack interest. In this way, the collective mechanism is used to prevent the expression of the will of those individuals who, based on personal experience, have understood the abusive consequences of the actions of an elected representative.

This results in a restriction of the freedom of non-violent expression of the will of any minority within the people, including that of a single individual, effectively compelling the population to express its will through street actions, which cannot produce legal effects upon elected representatives, as they are not recognized as legally valid forms of exercising sovereignty.

¹⁰ Article 2(2) of the Constitution of Romania

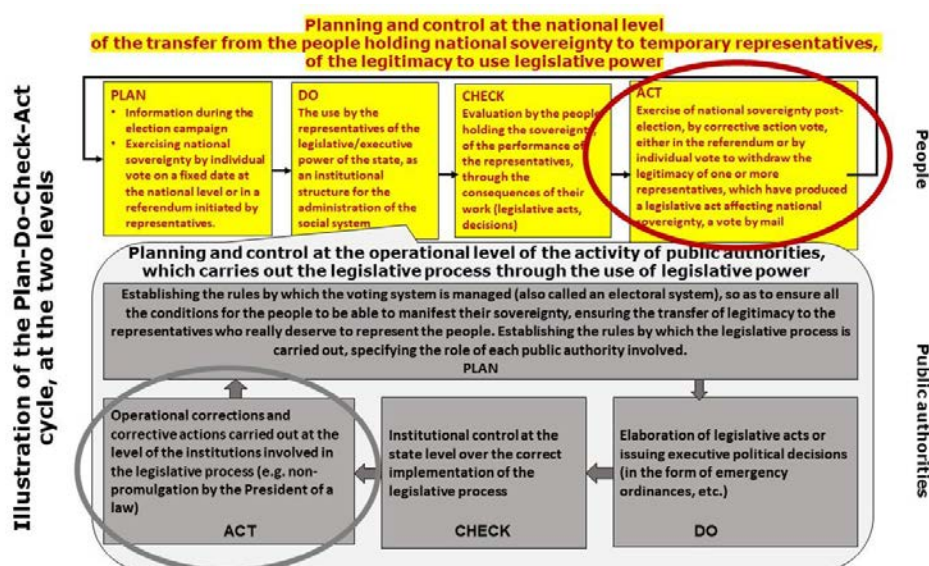


Figure 2.

Adaptation¹¹ illustrating that corrective action at the operational level of state institutions, where the legislative process is carried out, differs from corrective action at the national level, which must be exercised by the people as the holders of sovereignty. The substitution-based omission of this distinction constitutes a particularly serious deficiency due to its consequences for sovereignty. This management system concept is implemented in millions of organizations worldwide¹².

As a result of the above analysis, the proposed text for Article 1 becomes:

Table 3: Sovereignty – Revised Text

Sovereignty	ARTICLE 2 (1) National sovereignty belongs to the Romanian people. (2) The Romanian people exercise their national sovereignty through the vote of the electorate. (3) Voting may be exercised through free, periodic, and fair elections, by referendum, as well as through an individual vote for the withdrawal of legitimacy from one or more representatives prior to the legal expiration of their representative mandate, such vote being carried out by correspondence. (4) No group or individual may exercise sovereignty in their own name.
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2.2. Article 1

Current Text in the Constitution of Romania:

Table 4: The Romanian State – The Constitution of Romania

The Romanian State	ARTICLE 1 (1) Romania is a national, sovereign and independent, unitary and indivisible state. (2) The form of government of the Romanian state is the republic.
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¹¹ EN ISO 9001:2015 and ISO/DIS 9001:2025, Clause 10.2; a requirement common to all management system standards based on ISO/IEC Directives, Part 1 – Consolidated ISO Supplement, Appendix 2 (normative), Clause 10.1 – Nonconformity and Corrective Action. (<https://www.iso.org/directives-and-policies.html>)

¹² See <https://www.iso.org/the-iso-survey.html>

	(3) Romania is a state governed by the rule of law, democratic and social, in which human dignity, the rights and freedoms of citizens, the free development of human personality, justice, and political pluralism represent supreme values, in the spirit of the democratic traditions of the Romanian people and the ideals of the December 1989 Revolution, and are guaranteed. (4) The state is organized according to the principle of the separation and balance of powers—legislative, executive, and judicial—within the framework of constitutional democracy. (5) In Romania, the observance of the Constitution, its supremacy, and the laws is mandatory.
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This formulation is a consequence of Error 2.

The multiplication, within the Constitution, of sovereign entities in the social system—intended to obscure the elimination of the continuous exercise of power by the people as the holders of national sovereignty—constitutes an error by substitution, given that sovereignty is indivisible. It has already been established that two sovereigns cannot simultaneously exist within the same social system.

Omission – This also entails the omission of the recognition that individual persons—collectively referred to as “the people”—are the holders of national sovereignty / sovereignty.

As a result of the above analysis, the proposed text for Article 1 is as follows:

Table 5: The Romanian State – Revised Text

The Romanian State	ARTICLE 1 (1) Romania is a national state, sovereign in the name of the national sovereignty that belongs to the Romanian people, independent, unitary, and indivisible. (2) The form of government of the Romanian state is the republic. (3) Romania is a state governed by the rule of law, democratic and social, in which human dignity, the rights and freedoms of citizens, the free development of human personality, justice, and political pluralism represent supreme values, in the spirit of the democratic traditions of the Romanian people and the ideals of the December 1989 Revolution, and are guaranteed. (4) The state is organized according to the principle of the separation and balance of powers—legislative, executive, and judicial—within the framework of constitutional democracy.
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2.3. Article 80

Table 6: The Role of the President – The Constitution of Romania

The Role of the President	ARTICLE 80 (1) The President of Romania represents the Romanian state and is the guarantor of national independence, unity, and the territorial integrity of the country. (2) The President of Romania ensures the observance of the Constitution and the proper functioning of public authorities. For this purpose, the President exercises a mediating function between the powers of the state, as well as between the state and society.
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- Omission – This entails the omission of the recognition that individual persons—collectively referred to as “the people”—are the holders of national sovereignty / sovereignty.

Table 7: The Role of the President – revised text

The Role of the President	ARTICLE 80 (1) The President of Romania represents the Romanian state in the name of the Romanian people, the holders of
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	national sovereignty, and is the guarantor of national independence, unity, and the territorial integrity of the country. (2) The President of Romania ensures the observance of the Constitution and the proper functioning of public authorities. For this purpose, the President exercises a mediating function between the powers of the state, as well as between the state and society.
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2.4. Article 90

Table 8: The Referendum – The Constitution of Romania

The Referendum	ARTICLE 90 The President of Romania, after consulting Parliament, may request the people to express, by referendum, their will on matters of national interest.
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The substitution of the people in the post-electoral decision-making process, as well as the outcome of the present constitutional approach to sovereignty, has evidently contributed to the emergence of corruption and, implicitly, to consequences that, over a period of 36 years, have significantly affected the people as the holders of national sovereignty.

The use of the referendum mechanism to validate the loss of the fundamental right of the people—holders of national sovereignty—to freely express their will regarding the granting or withdrawal of legitimacy of their representatives throughout the entire electoral cycle represents, arguably, one of the most critical weaknesses of the legislative process, as it may be classified as a form of legislative fraud. It is argued that the elimination or restriction of fundamental rights and freedoms should not be subject to referendum.

It has also been observed that the concept of legislative fraud has not been defined within the legislative system, although the concept of fraud—understood as deception—is commonly applied in relation to any product or service that has been altered for the purpose of obtaining personal gain or causing loss to another party. In this context, legislative fraud may be defined as a legal act adopted through the exercise of legislative power by elected representatives, which constitutes a form of deception aimed at obtaining personal benefits at the expense of violating the rights of the people as holders of national sovereignty.

This concept would be applicable only in situations where, despite the communication of the conclusions resulting from the application of this alternative methodology, such conclusions are not taken into account by representatives and no public debate is initiated.

Table 8: The Referendum – the revised text

The Referendum	ARTICLE 90 (1) The President of Romania, after consulting Parliament, may request the people to express, by referendum, their will on matters of national interest. (2) The elimination or restriction of fundamental rights and freedoms may not be the subject of a referendum.
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2.5. Article 36

Table 10: The Right to Vote under the Constitution of Romania

The Right to Vote	ARTICLE 36 (1) Citizens have the right to vote from the age of 18, provided that this age is reached by or on the day of the elections. (2) Persons who are legally declared mentally incapacitated or placed under interdiction, as well as persons convicted by
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	a final judicial decision of the loss of electoral rights, shall not have the right to vote.
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Post-electoral voting for the withdrawal of the legitimacy of a representative before the expiration of the mandate is practiced, in various forms, in several states, and is already in force in Romania, at local level, for the recall of mayors, as well as at the highest level, for the position of President. However, considering the objective of placing the will of the people at the foundation of state power, in accordance with the Universal Declaration of Human Rights, it is necessary to conceptualize such a mechanism in a simple and easily applicable manner, taking into account the evolution of the social system and its current level of performance—reflected, for example, in the economic sphere through management systems implemented in all significant enterprises in Romania.

The mechanism of voting by correspondence already exists; however, respect for public authorities and for representatives would likely increase if the people were aware that they possess a legal means to halt situations in which certain power groups impose legislative acts and political behaviors that infringe upon the sovereignty of the people and, implicitly, of Romania.

It is asserted that the Romanian people, in their majority, possess the civic responsibility to use such a right only when they deem necessary, in order to produce effects that are genuinely required within society. In this way, a beneficial transformation could occur, shifting from street protests to more civilized actions with legal effect.

The proposed mechanism consists of a post-electoral corrective voting process (recall voting) exercised by the electorate—not collectively, but individually—when a citizen considers themselves directly harmed by the outcomes of the actions of one or more representatives. This mechanism is not derived from classical typologies of democracy studied in political science, but rather emerges as a necessary solution inspired by the functioning of management systems.

Social systems that lack such corrective mechanisms tend to experience periodic failure when accumulated errors render continued functioning unsustainable. In such situations, conflicts may escalate into violence at social scale, including wars. It is therefore preferable that such issues be addressed in a timely and non-violent manner, through the continuous exercise of voting.

Table 11: The Right to Vote – revised text

The Right to Vote	ARTICLE 36 (1) The will of the people constitutes the basis of state power. (2) Citizens have the right to vote from the age of 18, provided that this age is reached by or on the day of the elections. (3) Persons who are legally declared mentally incapacitated or placed under interdiction, as well as persons convicted by a final judicial decision of the loss of electoral rights, shall not have the right to vote. (4) The freedom of voting is ensured through the exercise of the right to vote throughout the entire electoral cycle, both at scheduled moments—within electoral processes or by referendum—as well as post-electorally, at unscheduled moments, through an individual vote for the withdrawal of legitimacy, carried out by correspondence. (5) Votes for the withdrawal of legitimacy of individually elected representatives shall result in the immediate withdrawal of representative legitimacy when the Permanent Electoral Authority confirms that their number exceeds by one the number of valid votes obtained by that representative in the electoral process. The vacant representative seat shall be filled by the candidate who obtained the next highest number of valid electoral votes.
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	(6) Votes for the withdrawal of legitimacy of representatives elected on party lists shall constitute dual votes, addressed both to the representatives and to the political organization to which they belong, resulting in the immediate withdrawal of representative legitimacy for the entire electoral list of the political party when the Permanent Electoral Authority confirms that their number exceeds by one the number of valid votes obtained by that political party in the electoral process. The vacant representative seats shall be filled by the party's candidates who obtained the next highest number of valid electoral votes, the process being repeated until all vacant seats are filled. (7) Within a single electoral cycle, a voter may exercise the vote for the withdrawal of legitimacy only once for each representative. (8) A member of a parliamentary political party may not vote for the withdrawal of legitimacy of representatives belonging to other parliamentary political parties, due to a conflict of interest. (9) A member of a political party that has lost its representative legitimacy as a result of votes for withdrawal of legitimacy concerning representatives elected on party lists may not, within the same electoral cycle, vote for the withdrawal of legitimacy of representatives of parliamentary political parties. (10) The Permanent Electoral Authority shall ensure the secrecy of votes cast by correspondence and shall continuously make public the status of positive votes obtained by each representative and each political party in elections, as well as the status of votes for the withdrawal of legitimacy, per representative and per political party. (11) The post-electoral vote for the withdrawal of representative legitimacy, exercised by correspondence, does not preclude the initiation of petitions, citizens' legislative initiatives, or referenda for the reasons that led to such votes, including for the purpose of revalidating the number of withdrawal votes cast, under the coordination of a joint parliamentary and citizens' committee.
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2.6. Article 84

Table 12: Incompatibilities and Immunities – The Constitution of Romania

Incompatibilities and Immunities	ARTICLE 84 (1) During the term of office, the President of Romania may not be a member of any political party and may not hold any other public or private office. (2) The President of Romania enjoys immunity. The provisions of Article 72(1) shall apply accordingly.
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As a consequence of the loss of legitimacy, the individual holding the mandate of representation as President of Romania also loses the immunity associated with that mandate.

Table 13: Incompatibilities and Immunities – revised text

Incompatibilities and Immunities	ARTICLE 84 (1) During the term of office, the President of Romania may not be a member of any political party and may not hold any other public or private office. (2) The President of Romania enjoys immunity, except in the situation where the Permanent Electoral Authority confirms
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	the loss of legitimacy as a result of the number of votes for the withdrawal of legitimacy exceeding by one the number of valid votes obtained by the President of Romania in the electoral process. The provisions of Article 72(1) shall apply accordingly.
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2.7. Article 72

Table 14: Parliamentary Immunity – The Constitution of Romania

Parliamentary Immunity	ARTICLE 72 (1) Deputies and senators shall not be held legally liable for votes cast or political opinions expressed in the exercise of their mandate. (2) Deputies and senators may be subject to criminal investigation and prosecution for acts unrelated to votes cast or political opinions expressed in the exercise of their mandate; however, they may not be searched, detained, or arrested without the approval of the Chamber to which they belong, following their hearing. Criminal investigation and prosecution may be carried out only by the Public Prosecutor's Office attached to the High Court of Cassation and Justice. Jurisdiction for trial lies with the High Court of Cassation and Justice. (3) In cases of flagrante delicto, deputies or senators may be detained and subjected to search. The Minister of Justice shall inform without delay the President of the respective Chamber of the detention and search. If the notified Chamber finds that there are no grounds for detention, it shall immediately order the revocation of this measure.
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As a consequence of the loss of legitimacy, the individual holding the mandate of representation as a senator or deputy also loses the immunity associated with that mandate.

Even though voting is secret, the most significant motivation for the withdrawal of legitimacy of an elected representative lies in the impact of the outcomes of their activity on the quality of life of individual members of the people—either through the content of the legal provisions or political decisions to which they have contributed, or through the effects produced by them.

A serious situation involving the loss of a representative mandate as a result of votes for the withdrawal of legitimacy cannot be dissociated from the outcomes of that representative's activity, which have already been the subject of petitions and/or referenda.

The remaining members of Parliament must assume responsibility for maintaining the integrity of the legislative process by revalidating all normative acts and/or political decisions that have been the subject of petitions and referenda.

Table 15: Parliamentary Immunity – Reformulated Text

Parliamentary Immunity	ARTICLE 72 (1) Deputies and senators enjoy immunity, except in cases where the Permanent Electoral Authority confirms, for any deputy or senator, the loss of legitimacy of the representative mandate, as a result of the number of votes for the withdrawal of legitimacy exceeding by one the number of valid votes obtained by that deputy or senator in the electoral process. (2) Deputies and senators shall not be held legally liable for votes cast or political opinions expressed in the exercise of their mandate.
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	(3) In the event of the withdrawal of the legitimacy of a representative mandate for any deputy or senator, Parliament shall revalidate all normative acts in which they were involved, where such acts have been the subject of petitions and/or referenda. (4) Deputies and senators may be subject to criminal investigation and prosecution for acts unrelated to votes cast or political opinions expressed in the exercise of their mandate; however, they may not be searched, detained, or arrested without the approval of the Chamber to which they belong, following their hearing. Criminal investigation and prosecution may be carried out only by the Public Prosecutor's Office attached to the High Court of Cassation and Justice. Jurisdiction for trial lies with the High Court of Cassation and Justice. (5) In cases of flagrante delicto, deputies or senators may be detained and subjected to search. The Minister of Justice shall inform without delay the President of the respective Chamber of the detention and search. If the notified Chamber finds that there are no grounds for detention, it shall immediately order the revocation of this measure.
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3. Conclusions

3.1. The paper attempts to clarify:

- the components of the system for exercising national sovereignty, namely the electoral process and the legislative process, both functioning as interface processes between the people and the institutional structure with an administrative role, referred to as the state;
- the necessity of complementing the electoral process with a post-electoral voting mechanism of a corrective nature, in order to transform the current dysfunctional electoral process into a functional one;
- the mechanism for reopening the electoral process as a result of exercising the post-electoral vote for the withdrawal of representative legitimacy;
- the mechanism for reopening the legislative process;
- the definition of legislative fraud.

3.2. Highlighting the Constitutionally Flawed Design of the Most Important Process within the Romanian Social System

Among all the processes carried out simultaneously within state, economic, religious, civil, and family institutions that constitute the social system in Romania after 1991, there exists a single process of such importance that, being designed with errors and omissions, it has had—and continues to have—the capacity to divert all other processes of the social system from their intended functioning. This process is the transfer of legitimacy to exercise legislative and executive powers at the level of the Romanian state, from the people to local and parliamentary representatives, in the exercise of sovereignty.

This legitimacy constitutes the key to the components of personal power held by individuals with representative mandates, who come to exercise state powers in accordance with their own will: access to information, access to expertise in using that information, and access to mechanisms of reward and coercion.

This represents the actual form of power targeted, which has enabled—and continues to enable—the shaping of behavior both at the level of individual persons and of the people as a whole, through legislative outputs and their implementation in social reality. This power was intended to produce beneficial effects in the interest of the people as the holders of national sovereignty.

However, as a result of the errors and omissions identified in the seven constitutional articles—which have eliminated the post-electoral direct exercise of national sovereignty by the people—this power, at the level of individuals holding local or parliamentary mandates, has acquired the characteristics of absolute power.

By employing an alternative methodology derived from International Standards for management systems and related documentation published by the International Organization for Standardization, an attempt was made to validate the legal and political concepts used to justify, within the text of the Constitution of Romania, the delegation of power from “the people” to “representatives,” as well as the acquisition and maintenance of power within the state since 1991. As a result of this approach, these legal and political concepts were found to lack validation.

The apparent legitimacy of the legislative process, through the validation by referendum of the social contract between Romanian citizens and the Romanian state—namely, the Constitution of Romania, as the most important and complex legal document within the legislative system—persists despite the fact that the majority of the population, for various reasons, was effectively placed in the position of endorsing the restriction of its own rights and freedoms. This situation is comparable to that of an individual signing a disadvantageous contract whose hidden clauses are not understood.

In fact, within the referendum process, citizens’ consent was given under conditions of vitiated consent, as defined in civil law (Article 1.214(1): consent is vitiated by fraud when a party is misled through fraudulent acts or omissions of the other party). Law No. 67 of 23 November 1991 contained no provision allowing citizens to verify the constitutional text or to challenge its content as a social contract. As a consequence of this vitiated consent, citizens—collectively referred to as “the people”—have been unable, for 36 years and continue to be unable, to exercise their sovereignty in a manner that would allow them to withdraw, post-electorally, the legitimacy of representatives in whom they no longer have confidence.

3.3. The Paper Demonstrates the Gap between Foundational Legislative Concepts (18th Century) and Operational Concepts in the Economic Environment (21st Century)

This paper explains why the design of this process constitutes a flawed construction, using, for analytical clarity, international concepts derived from management system standards developed by the International Organization for Standardization. These concepts operate simultaneously within the same social system in which constitutional provisions concerning this process are also applied, yet they are logically and fundamentally different.

On the one hand, the Constitution is structured on concepts dating back to approximately 1792, a period when the then King of France was in power—concepts that became obsolete as early as January 21, 1793, with the fall of the monarchy, more than 200 years ago. On the other hand, the global economic environment is characterized by millions of organizations operating according to fundamentally different principles than those embedded in the Constitution. Logically, therefore, it is the legislative framework — particularly the Constitution — that requires revision..

No matter how rigorous and precise implementing legislation may be, errors and omissions within the foundational constitutional concepts regarding the acquisition of state power undermine the entire system.

The socioeconomic impact, effects on the macroeconomic, business, social, and environmental spheres, as well as cost–benefit analyses and fiscal implications for the consolidated budget, are considered secondary, as they cannot justify maintaining an electoral system that is incompletely designed and functionally deficient. Among the damages incurred by the Romanian people, only the external public debt—contracted without explicit popular consent—was mentioned in Chapter 1. A loss of 126.4 billion EUR cannot be dismissed through arguments of legislative technique, particularly given that the incomplete technical design of the electoral process has been demonstrated through concepts derived from an alternative scientific framework applicable at the global level.

3.4. Conclusions

This article represents a dissemination of efforts undertaken with the aim of fostering scientific debate and integrating valuable concepts from the field of management systems into the foundational principles governing the electoral and legislative processes. In this way, democracy, Human rights and freedoms, the supremacy of law, and the rule of law may become substantive and effective values for the citizens of Romania and for the Romanian state.

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