

ASPECTS REGARDING THE FUNDAMENTAL RIGHTS OF ROMANIANS IN ITALY*

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Abstract: *An important component in the dynamics of European Union represents the priorities for the protection and respect of the rights of minorities. Post-Cold War migration required the establishment of a legislative framework favorable to the integration and respect for the values, culture and identities of ethnic groups. Between Italy and Romania, migration was marked by reciprocity. In Romania there is an important community of Italians, being represented in the Chamber of Deputies. Also, Romanians in Italy continues to represent an important community. Firstly, the fundamental rights analyzed in this article are those established by special regulations by the Parliament of Romania for protecting the constitutional rights of Romanian diaspora. The right to association, education, representation etc. of Romanians living abroad as means of constitutional rights and protection ensured by Romanian state. Also, this article wants to present some of the rights enjoyed by the Romanian community in Italy, both in terms of legislation and European values.*

Keywords: fundamental rights, diaspora, special legislation, constitutional prerogatives, legal mechanisms

In 2019, Romanians were designated on the top of the list as being the most numerous national group of mobile EU citizens aged 20-64¹. At the same time, according to the annual reports from Romania, Italy and the European

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¹ Eurostat, *EU citizens living in another Member State - statistical overview*, in <https://ec.europa.eu/eurostat/statistics-explained/pdfscache/68490.pdf>, accessed at 20.09.2020.

„Anuarul Institutului de Istorie «George Barițiu» din Cluj-Napoca. Series Historica”, LIX, 2020, Supliment, 2, *Lucrările conferinței internaționale online „ROMANIA-ITALIA-EUROPA. Evoluții istorice - Dinamici culturale - Relații internaționale”, 16-18 septembrie 2020*, p. 89-96.

Union², the Romanian community in Italy has grown steadily in recent years, currently representing an ethnic majority at the social, political and economic level in many regions of Italy. In the conditions of these statistics, an important concern is the rights that Romanians enjoy in Italy³. This interest must be analyzed both from the perspective of the Romanian national policies regarding the diaspora and of Italy in accordance with its own laws and EU legislation. The topic of this article considers the fundamental rights of Romanians in Italy. They represent a wide range of values, principles, freedoms and rights of the individual, in the field of family, education, work, security, etc., found in the Member States through EU regulations too.

Fundamental rights, according to the Universal Declaration of Human Rights, include all those prerogatives that the individual must enjoy in order to live his life and lead a decent existence. They are those rights that refer both to those regarding the physical existence of man, and to the protection of any other primary needs of the individual. Fundamental rights have developed over time, outlining an architecture of key fundamental rights in the Universal Declaration of Human Rights and found in other international or national regulations. Among many other fundamental rights, we can list: the right to life, the right to property, the right to work, the right to association, union, representation, access to education, information, etc. However, they leave room for further development, along with the social, technological and economic dynamics of the Scots. Thus, if 100 years ago the universal suffrage developed to this day in the form of a fundamental right, we can say that in a few decades access to the Internet can be considered a fundamental right in all states of the world.

Under the umbrella of international regulations ratified by Italy and Romania, and especially from the perspective of European Union legislation, it is easy to understand that Romanian citizens settled in Italy enjoy fundamental rights. We can no longer discuss in the great European family serious violations of fundamental rights. Romanian citizens enjoy rights both as Romanian and as European citizens. But through this research I want to focus on some prerogatives, tools and mechanisms offered to Romanian citizens in the diaspora under the Romanian Constitution, as an extension of rights that would enjoy in the country, but which are regulated by special

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Eurostat, *Migration and migrant population statistics*, https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Migration_and_migrant_population_statistics#Migration_flows:_Immigration_to_the_EU-27_from_non-member_countries_was_2.4_million_in_2018, accessed at 20.09.2020.

³ Istituto Nazionale di Statistica, *Popolazione e famiglie*, in <https://www.istat.it/it/popolazione-e-famiglie> accessed at 20.09.2020.

law. In this sense, I will analyze the legislation based on which the relationship of the Romanian state is organized and functions, through the Department of Romanians Everywhere, with the Romanian citizens in the diaspora and the rights they enjoy in the name of the Romanian Constitution. The right to association, representation, etc. are also fundamental rights, and the Romanian legislator has chosen to offer special provisions to support and encourage these rights outside Romania as well. in the Romanian Constitution and in the special laws intended for the diaspora.

At the same time, I will try to present the legislative evolution and the measures adopted by the Italian government to ensure respect for the fundamental rights of minorities through legislative and institutional mechanisms, if in addition to constitutional prerogatives, there are other special laws to protect migrant minorities.

Protection of Romanian citizens in Italy by the Romanian state

The Romanian Constitution guarantees fundamental rights and freedoms to its citizens, also found in national laws, in accordance with international and European Union regulations. The Constitution guarantees equality between citizens, equality in rights, the right to identity, the right to life and physical and mental integrity, the right to defense, free movement, privacy, electoral rights, the right to work, association, property, etc. Regarding the rights of Romanians with domicile, residence, work and other activities abroad, the Romanian Constitution guarantees through Article 7 the support that Romanian citizens outside the country's borders enjoy from the Romanian state in order to strengthen ties with them, acting to preserve the development and expression of their ethnic, cultural, linguistic and religious identity, in compliance with the legislation of the state of which they are citizens. Also, the Romanian Constitution in article 17 obliges the Romanian state to offer protection to Romanian citizens abroad, and they must fulfill their obligations, except for those that are not compatible with their absence from the country⁴.

Compared to the provisions of the Constitution, the Romanian citizens in Italy enjoy the protection of the Romanian Constitution in order to guarantee the fundamental rights regarding free association, the right to identity, the right to representation, electoral rights etc. In this sense, the mechanisms and instruments for the promotion and defense of these rights are established by laws meant to ensure the intention established by the Constitution.

In order to protect Romanians abroad, an important first step was taken by adopting Law no. 299/2007 of November 13, 2007 - *regarding the support granted to*

⁴ *Constitution of Romania*, 2003, Chamber of Deputies, <http://www.cdep.ro/pls/dic/site.page?id=339>, accessed at 20.09.2020.

Romanians everywhere. The normative act reviews the obligations of the Romanian state regarding the citizens located abroad, and the rights they enjoy in relation to the Romanian Constitution and to the international and European Union provisions. According to the normative act, Romanians in Italy benefit from facilities from the Romanian state for the development and implementation of educational, cultural, social, professional and cultural integration programs within the host state. According to Article 7 of Law 299/2007, the Government of Romania through the *Department of Romanians everywhere* develops partnerships with associations, religious units and organizations of Romanians living abroad, by providing non-reimbursable funding to public or private entities in the country and outside Romania, in accordance with the provisions of Law no. 321/2006 on the regime of *granting non-reimbursable financing for programs*, projects or actions regarding the support of the activity of Romanians everywhere and of their representative organizations⁵.

In this sense, Law no. 86/2016 of May 3 on the establishment of *Romanian community centers abroad* that allows, encourages and protects the establishment of community centers in states and areas where at least 5,000 Romanians are present. A first role of these centers is that of representativeness, creating a cohesion, by organizing projects and programs with cultural, educational and artistic character in order to promote historical realities, traditions, customs, national values and linguistic identity. Article 6 specifies that the Romanian community centers benefit from financial or material support for: a) the development of the actions, projects and programs initiated; b) the purchase of textbooks, specialized books, reading books or other publications in Romanian; c) conducting educational courses in Romanian; d) organizing events aimed at celebrating the main national or religious events; e) organizing artistic, religious or sports workshops⁶. Such a legislative approach has allowed the establishment and presence of numerous centers, organizations and associations that centralize, inform and protect Romanian citizens when needed⁷.

⁵ Law no. 299/2007 of November 13, 2007 - regarding the support granted to Romanians everywhere.

⁶ Law no. 86/2016 of May 3, 2016 on the establishment of Romanian community centers abroad.

⁷ In order to benefit from funds from the Romanian state, the Romanian community centers in the diaspora must be registered with the Department of Romanians Everywhere, an institution subordinated to the Romanian Government. There are over 50 Romanian associations in Italy. Among the Romanian community centers in Italy are found A.P.S. MAYA E.T.S. – Centru pentru tutelarea drepturilor cetățenilor români, F.O.R.I. Federazione delle Organizzazioni Romene in Italia, ISTITUTO CULTURALE RUMENO – ITALIANO ROON, Asociația Primo Passo din Torino-Italia, Asociația Romeni Europei Filiale di Pordenone, Associazione rumena-italiana HORA UNIRII, Associazione Italo-Romena DANUBIO, Asociația Comunitatea Românilor în Calabria „DACIA”, Sindicatul Confederației C.A.P.I.M.E.D. Romania (Italia), Government of Romania, Ministry for Romanians Everywhere <http://dprp.gov.ro/web/comunitati-romanesti/>, accessed at 20.09.2020.

Other legislative protections are found in the National Strategy for Romanians Everywhere 2017-2020, which primarily presents the difference between the historical diaspora and the emerging / mobility diaspora, emphasizing in particular that the emerging diaspora is becoming much wider. Within the Strategy, the priority remains the promotion of the Romanian culture, language and cultural values, the support of the integration processes and the defense of the rights of Romanians everywhere but also the expansion, professionalization and efficiency of the Romanian language in media. An important objective is the consolidation of the Romanian associative environment abroad by consolidating the representative organizations of Romanians everywhere and increasing the cohesion of the associative environment.

Also, an important pillar is the support of the integration processes and the defense of the rights of the Romanians from abroad, which seeks to defend the rights, freedoms and dignity of the Romanians. Supporting the integration process of Romanians in the countries where they live, study or work, increasing the capacity to capitalize on the strategic potential of Romanian communities, as a bridge with citizenship / residence and supporting the return and reintegration process. The last objective considered is the one on consolidating and institutional efficiency in the field of Romanians everywhere by adapting the legislative framework on supporting Romanians everywhere, increasing transparency and institutional efficiency, establishing an effective dialogue between Romanians everywhere and Romanian state institutions, as well as states of citizenship / residence⁸.

All these objectives of the strategy aim at providing support and assistance in accordance with the practices in the field and with the status of Romania as a member state of the European Union, supporting non-discriminatory access to the labor market, promoting the proper application of international law on the treatment of national minorities, the rights ensured in this field to the national minorities by the Romanian state and those ensured to the Romanian minority on the territory of the partner state.

It can be seen that the regulations adopted by the Romanian state seek to protect the fundamental rights offered to Romanian citizens by the Romanian Constitution in *diaspora* communities. In addition to European Union rules on the fundamental rights of European citizens, national regulations base instruments and mechanisms that focus on the protection of fundamental rights: the right to education and religion in Romanian language, the right to association, the right to representation, the right to media in Romanian language or labor security and institutional protection.

⁸ Ministry for Romanians Everywhere, National Strategy for Romanians Everywhere for the period 2017-2020, http://www.mprp.gov.ro/web/wp-content/uploads/2017/10/Strategia-Nationala-2017-2020_site.pdf, accessed at 20.09.2020.

Protection of the fundamental rights of Romanians by Italy

As a founding member of the nowadays European Union, Italy has established through its Constitution, and subsequently through various laws, instruments to protect the rights of those who live and work in the territory of the Italian state. At the constitutional level, Italy is still committed to respecting fundamental rights in accordance with European and international law. Article 10 of the Italian Constitution guaranteeing rights for foreigners on the territory of Italy, in accordance with international provisions. However, the Italian constitution does not exclude the reference to the "individual" and not the citizen in the promotion and protection of other rights: the right to representation, association, the right to work, to privacy⁹. Moreover, a clear distinction is made between the protection of historical national ethnic minorities and the protection of other minority groups consolidated as a result of migration. Another difference can be seen at the regional level, where special regulations have been established depending on the size of the communities and the needs of each.

Before 2007, when Romania became member of the European Union, confronted with numerous cases of legal or illegal migration, Italy laid the foundations of a protection of labor migrants by Law 943/1986, followed by another law, no. 40/1998 establishing three major pillars on migration: the management of illegal migration, the regulation of legal migration and the integration of immigrants. Following the law 189/2002 on immigration, we can say that at the national level in Italy, the rights of immigrants were perceived through policies limited especially to labor rights. "Immigration Act of 286/1998 includes provisions related to anti-discrimination. It defines equality of treatment between nationals and foreigners in access to employment, labour conditions, social assistance and security and protection against discrimination as an individual right"¹⁰.

The other rights of association, representation, education, culture being regained

⁹ Senato della Repubblica, Costituzione italiana, in <https://www.senato.it/application/xmanager/projects/leg18/file/Costituzione%20in%20lingua%20romena%20-%20Archivio.pdf>, accessed at 20.09.2020.

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European Commmsion, *Migrant Integration Information and good practices, Governance of Migrant Integration in Italy*, in <https://ec.europa.eu/migrant-integration/governance/italy>, accessed at 20.09.2020.

especially through the legislations of the regional administrations¹¹. Actually a major concern for the immigrants in Italy was a differentiated policies among regional administration based on different experiences, due to the lack of a national integration process. So, the regional administration remains *the key actors in planning integration policies, given their legislative and regulatory competence in the fields of social policies, education, labour market, vocational training, health and housing*. “Anti-discrimination policies were set up through Law 205/1993 which protects against any kind of discrimination based on religion, sex, race, nationality. After that legislative decrees 215 and 216 of 2003 transposed into the Italian legislation the EU directives 2000/43/CE and 2000/78/CE, respectively, on equal treatment between persons irrespective of racial or ethnic origin and on equal treatment in employment and occupation”¹².

In fact, a major criticism of the Italian state is that it protects immigrant communities from the perspective of access to work and the implications it has. But, through mechanism and legislation introduced by *Dipartimento per le Libertà civili e l’Immigrazione* rights of foreigners and protected by Italian government. In other way, European legislation, or regional regulations, remain as a protection for these communities¹³. I won’t insist on the rights of Romanians as European citizen, because these are attributed to EU legislation, and as a citizen coming from another UE Member State, all the rights established through treaties and EU regulation are being respected. In this regard, more and more immigrant associations have demanded rights, so that over time through European legislative instruments, Italy provides financial support to these communities. However, the support of the Italian state towards the Romanian communities is determined by the European Union, through regional laws, or through the Romanian state. The right to association, representation,

¹¹ Jonathan Chalof, *From Labour Emigration to Labour recruitment- The case of Italy*, in *Migration for Employment- Bilateral Agreements at a Crossroads*, 2005, OECD Publishing, Paris, 2005, pp. 55-63 Erin Tolley, *Multiculturalism Policy Index: Immigrant Minority Policies*, School of Policy Studies, Queen’s University at Kingston, Canada, 2011, in <https://www.queensu.ca/mcp/sites/webpublish.queensu.ca/mcpwww/files/files/immigrantminorities/evidence/ImmigrantMinoritiesApr12.pdf>, accessed at 21.09.2020.

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European Commmsion, *Migrant Integration Information and good practices, Governance of Migrant Integration in Italy*, in <https://ec.europa.eu/migrant-integration/governance/italy>, accessed at 20.09.2020.

¹³ Bodo Carla and Simona Bodo. 2010. *Country profile—Italy. Compendium of Cultural Policies and Trends in Europe*. 11th ed. Updated January 2010. Brussels: Council of Europe. <http://www.culturalpolicies.net/web/profiles-download.php?pcid=1140> found in Erin Tolley, *op. cit.*

education and culture is determined by the Constitution and the regulations of the European Union.

European Union is based on respect for fundamental human rights. The rule of law and the constitutional rights respected by each state, strengthen this concept at European level, by justifying the emergence throughout Europe's history of multiethnic societies, characterized by mutual respect. Active citizens, especially young people in democratic states or in the process of democratization, must understand the integrative side of fundamental rights and their consolidation. Representing the most active segment of participation at the societal level, due to information, mobility and the desire to maintain peace and stability, they must see the application of constitutional rights and obligations.

As regards the legislative framework for the protection of minorities, Italy has adopted national legislation in accordance with European and international rules. Given the size of the Romanian community in Italy, a major concern is the fundamental and constitutional rights they enjoy. In fact, it can be seen that the Romanian communities in Italy enjoy their rights as European citizens, from the perspective of Italian legislation. Or, we can say that there is another protection conferred by the Romanian legislation that ensures and supplements some of these rights: communities can be represented, can associate, can enjoy education, media and culture in the native language, through national instruments and funds provided by the Government of Romania, this does not mean that in fact they cannot benefit from other rights as European citizens.