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THE TREATY OF TRIANON

**The Fundamental Legal Instrument
that Underlies the Great Union**



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A century of international relations with ups and downs - unfortunately, sometimes tense; a continuous harassment of Romania; not always carried out in good faith within the limits of the rules of International Law - a fact which could not fail to hold the attention of mankind because of the malversations and desperate attempts of Hungary to do away with the <i>Treaty of</i> <i>Trianon, per fas et nefas</i> - the obsession to evade its provisions, or at least to reduce its effects as much as possible.	73
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Instead of a Preface

Ergo nostra suprema – sacra obligatio: defendere atque promovere, at any price; this *Treaty* had a decisive role in the accomplishment of *Greater Romania*; maintain such an unparalleled granit document, a matchless axial trunk that is essential and indispensable to the united Romanian nation in force and apply it, firmly – *secundum lege*. Having as the initial / primary reference point the delimitation of their distinct territories – the frontier – that fundamental characteristic interstate element mutually recognized and consented by a treaty that they have concluded and which has maintained their diplomatic links running, Romania and Hungary have regulated their relations. Being neighbouring countries and having ethnic minorities, they are predestined /bound to have and maintain peaceful and constructive relations. Thus, the *Treaty of Trianon* is precisely the document that was needed – a perennial instrument.

A multiple and profound element of stability mutually favorable to both countries, with its overwhelming authority due to its solid /unwavering legitimacy, the *Treaty of Trianon* has been triumphant and is forever regulating the relations between Romania and Hungary.

The significance - the *perennial value* of the *Treaty of Trianon*, as a fundamental political and legal document - as well as the line that must be considered in the future, with the necessary wisdom, consistency and responsibility cannot be detached, nor can they be formulated in full knowledge of the facts, while the teachings that should be taken into account cannot be identified, except by a careful recognition and scrutiny of the events that were taking place throughout the last century. Moreover, in their historical capacity of partners in the Euro-Atlantic structures of the two states, Romania and Hungary, and especially, their integration in the European Union - which does not aim at the dissolution and disappearance of its Member States, but on the contrary, it has in view their existence as sovereign states

which have set out to create „a deeper union between the peoples of Europe” – substantially, potentiate and perpetuate, in their turn, as a consequence, the *Treaty of Trianon*. Given that both states are bound to comply with the rules of the European Union, and are applying, at the same time, a common foreign and security policy, as a result of the established *Communitary legal order*, both Romania and Hungary - *coniuncti ratione* - have the duty to maintain those relations that cohabitation and solidarity imply in this integrationist association; so that, misunderstandings and dissensions between them, regarding the *Treaty of Trianon* be avoided and at any rate, resolved.

The message that I intend to introduce, *urbi et orbi*, from the bottom of my heart and in the most honest and responsible way, is the following: the *Treaty of Trianon* is of the greatest and vital importance and significance – it is the soul of the Romanian statehood - so that no one, not even God, could afford to touch it or decide on it, in any way.

A disquieting and delicate case: *Treaty of Trianon* versus the *Treaty of Understanding, Collaboration and Good Neighborliness between Romania and the Republic of Hungary*. Although these two international documents have been concluded between the same states and regulate the same problems (having the same object), but at a distance of over a century and under different conditions (the first was signed in the aftermath of a war, while the second one was agreed upon in time of peace), perhaps it is precisely for these reasons they are not in consonance. Unfortunately, by ignoring or avoiding any reference to the *Treaty of Trianon* the document grows confused; that way, Hungary has attempted to discard it.

Undoubtedly, both the *Treaty of Trianon* (June 4, 1920) as well as the *Treaty of Understanding, Collaboration and Good Neighbourliness between Romania and the Republic of Hungary* (Timisoara, 1996) are two international fundamental documents focusing on the established and agreed upon rules that govern the relations between Romania and Hungary, and highlight, as a whole, the nature and the limits of rapports between the two sovereign states. Consequently, any kind of state relations between Romania and Hungary evolve, and must be subdued and kept strictly within this framework of rules; any issue must be approached from the perspective of these documents; this is an indispensable and unquestable *statu quo* imposed between the two equal states in their sovereignty, Romania and Hungary, that is to say a pure and

simple normal conduct. But, in spite of their notable importance, although fundamental, when laid down face to face, it is quite obvious (leaving no room for confusion or doubt) that the two documents are comparatively, not so equal; so, the second document cannot ignore or contradict the first one – according to the *accessorium sequitur principali* rule.

The Treaty of Trianon that lies at the origin of the relations between Romania and Hungary, as being their first step - their act of birth, a first timer in their history, while the second one, must unavoidably carry on and develop exactly, on its original – fundamental line, within the same framework/limits, without contradictions or deviations; once the basis of the Peace Conference set up and the *Treaty of Trianon* signed, no unilateral changes could be conceived or admitted. What is now allowed to do with it, it is to enhance it, but not to block, change or remove it. Anything new or added to it, has to be in harmony with the *Treaty*, because the fundamental elements had been irrevocably and forever settled (such as the delimitation of the territory of the two neighbouring countries); the line of separation/frontier between the two neighbouring countries the delimitation of their territories is essential and fundamental in the construction of their relations and it is never deceiving. Since Article 45 and Article 27, Part II, of the *Treaty of Trianon* state that “Hungary renounces ... in favour of Roumania” the territory of Transylvania and lay down and trace out the common frontier between Romania and Hungary and there is another supplementary confirmation in the *Treaty of Sèvres* (Article 4-2), we have a clear delimitation of territory and jurisdiction. That decision is for good and all.

But, just because the *determined territory* constitutes, obligatorily and inevitably, the material premise of the existence of any state, the space under the jurisdiction of Romania is well known from now on, and the Hungarians living in Transylvania, not having their own state territory, since they are Romanian citizens and live on the territory of Romania and not of Hungary, they must submit to the Romanian jurisdiction and obey its laws precisely. Such essential provisions must be complied with by both parties and any other treaty concluded must be in harmony with the *Treaty of Trianon*. Undoubtedly, the *Treaty of Understanding* had to be designed clearly and unambiguously - accuracy and not confusion - in the sense of the *Treaty of Trianon*, so as not to become a source of misunderstanding and tension. In any case, the *Treaty of*

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Trianon cannot be distorted, modified or ignored. Comparing the *Treaty of Trianon* - root and trunk, with the *Treaty of Understanding* - its branch, we find that there is not the proper harmony, as there should logically be; on the contrary, there are serious discrepancies which substantially affect the main provisions of the *Treaty of Trianon*. While there is no doubt that the *Treaty of Understanding* is a useful tool, it exhibits itself though as an agglomeration / mixture of general (almost superfluous) political ideas, yet all, in favour of the Hungarian minority - a true privileged *status* of minorities. It is shocking to note that the *Treaty of Trianon* is not mentioned at all when it comes to territorial integrity, and this suggests that we might be facing a serious omission; by turning the *recommendations* into legal rules, a positive discrimination, at least, tacitly, was created special privileges for the Hungarian ethnic group. Romania accepted the extension of Hungary's jurisdiction in Transylvania - a kind of *condominium* - a humiliation for us; the Romanian institutions share their authority with Hungary - the de-sovereignization of Romania - the first step leading to the demolition of Romania as a state and therefore, I have fully explained the evolution of Hungary's undertakings. If the *Treaty of Trianon* represents Romania's resistance rock, as a whole, the *Treaty of Understanding* does not seem to be a simple error or an unfortunate confusion, but a harmful danger to the territorial integrity of Romania; it remains therefore up to the Romanians to take action and decide.

I got involved in approaching this issue *sponte mea*, and the main message that I want to result from this study, is that our fellow citizens of Hungarian ethnicity should be, essentially, in the same position of the majority population of our country, like any other Romanian citizen - without discrimination, but at the same time and by all means, without privileges (otherwise, we would return to the oppressive situation of the time of the Romanian serfs in Transylvania, that could be extended to the entire population of Romania); the Romanian-Hungarian relations should be *imperatum* subordinated to this wise command - *sapienter* wich in full legitimacy, be carried out in good faith - *bona fide serviens*.

Under this hesitation, say confused atmosphere, if not even a complicity, there is a true indisputable and encouraging evidence that there are still sincere national feelings, live devotion, as well as hopes for our future, in spite

of the miserable indifference of our governors, or of the alarming massive and harmful emigration from Romania and as a result of spectacular affirmation of European values and of unhappy throwing of national values.

With all the gratitude that we indisputably, owe to these authors, who have rigorously scrutinized the *Treaty of Trianon* - which remains Romania's most important treaty of all time, vital to our existence as a state - we realize nevertheless that we are still far behind in terms of its acquainting, domestically, but much worse, externally, and with regard to what we are undertaking in order have its dimension correctly understood by everyone.

Joining - with due modesty and the good faith which should naturally, animate us - in this important project of broadly and rigorously comprehending the *Treaty of Trianon*, I proposed to myself to focus specifically, on the *Treaty* (its text and application), remaining in the historical framework of its conclusion and application over the course of a century and evoking some crucial situations, including its violation in 1940; unforgettable remains the violation of the *Treaty of Trianon*, a territorial aggression (the rip up of a part of Transylvania, based on the abusive Vienna *arbitral award* that was abolished by the *Peace Treaty* (1947) as being null and void, *ex tunc*). The legitimacy of introducing this politico-legal document (making an analysis of the requirements that apply to any legal document) lies in the fact that I performed duties in that field (the most important segment of my entire activity was concerned with negotiating and concluding treaties) and was directly, involved as a professional in sequences of Romanian-Hungarian relations (I negotiated and signed treaties between Romania and Hungary); I was a member of the Venice Commission, where the text of the *Convention on the Protection of Minorities* was drafted etc.).

I have considered my moral obligation to tackle - *non multa sed multum* - the subject of the *Treaty of Trianon*.

It is my strong belief that I have had the wonderful chance of doing my duty as a Romanian citizen, and at the same time I am proud of such an act - my contribution to the defense of a most vital document for Romania.

Ecce hac - it comes without saying that while introducing the *Treaty of Trianon*, it is unavoidable to give an account of how it has been applied for a century.

I have to bring up at the same time, *hélas*, the notorious and defiant lack of interest from the part of the Romanian institutions.

In this context, I assessed that I have a moral obligation to submit a point of view on such an important issue for Romania.

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PEACE TREATY BETWEEN THE ALLIED AND ASSOCIATED POWERS AND HUNGARY (JUNE 4, 1920, TRIANON)¹

The contents and significance of this remarkable international document, as well as its place in the process of making the Great Union; the paradigm character and the impact it had on the Romanian-Hungarian relations during the whole century that followed; its political-legal and moral force, as well as the actuality / perennality and the imperative of its exact application - *fermiter, secundum lege*.

¹ See Ion M. Anghel, *Tratatetele de la Trianon și Paris 1920 – Documentele prin care s-a înfăptuit România Mare*, Ed. Academiei Oamenilor de Științe din România, București, 2018; *Politica externă și diplomația României pe parcursul unui secol de la înfăptuirea României Mari* – Vol. I, Ion M. Anghel coordinator, Ed. Academiei Române, București, 2018, p.18-199; *Tratate și ... tratate*, în *Pagini din diplomația României*, Vol. II, Edit. Junimea, Iași, 2010, p.135-175; *Despre perenitatea și actualitatea Tratatului de la Trianon*, Rev. Dreptul nr. 5/2020, p. 9-27; Ioan C. Popa, *Fața nevăzută a agresorului. Pactul Ribbentrop Molotov și urmările lui pentru România*, Edit. SemnE, București, 2017, p. 190-206.

Motto:

*Pacta sunt servanda*² – *bona fides exigit*
(Domitius Ulpianus)

*Fundamentum autem est iustitiae fides, id est
dictorum conventorum – quae constantia et
veritas* (Cicero)

Prima verba

▪ The *Treaty of Trianon* is still and will remain as such, of overwhelming importance and acute topicality for Romania, even if some ignore it or hinder its knowledge, and others minimize its importance or even suggest and cultivate its being ignored. It is the most important treaty in the entire history of Romania - *caput et fundamentum*, more important than any of the other *four treaties* on the basis of which *Greater Romania* was made: the *Treaty of Paris* (concerning the union of Bessarabia), the *Treaty of Saint Germain* (concerning

² By virtue of the *pacta sunt servanda* principle, the international treaty legally binds the contracting parties and must be observed precisely, fulfilling in good faith the obligations assumed; it is an international rule of compulsory conduct - *iuris vinculum*, for the contracting parties (*sanctitas pactorum gentium publicorum*). It is one of the fundamental principles of international law, being proclaimed in the most important documents of the international community (all Members "shall fulfill in good faith the obligations assumed by them" – UN Charter, Article 2.2); "Every treaty in force is binding upon the parties to it and must be performed by them in good faith" – Article 26 of the 1969 *Vienna Convention on the Law of Treaties*, *vinculum iuris* and *bona fides serviens* being incorporated into a single principle). The international treaty - as a legally binding act and the *pacta sunt servanda* - as a fundamental principle of international law are presented as elements that belong to the same whole and are organically linked to each other, so that each can have reason and meaning - motivating and potentiating each other. Thanks to the imperative that the *pacta sunt servanda* – *debet* principle entails as such, by referring it to international treaties the situation is reached where authority is given to their effects, so that their regulatory role should acquire the virtue of becoming sacred; this is exactly what the political and legal value of the international treaty consists of - it is a law for the parties. As a fundamental principle of contemporary international law, it is also a principle of *ius cogens* (Ch. Rousseau, *Droit International Public*, 3rd ed., Dalloz, 1965, p. 134; Ion M. Anghel, *Dreptul tratatelor*, ediția a II-a rev., Vol. II, Editura Lumina Lex, București, p. 706-709).

the union of Northern Bukovina), the *Treaty of Neuilly sur Seine* (for the Quadrilater) and the *Treaty of Sevres* (for delimitation from Yugoslavia), as a result of the substantial impact the unification of Transylvania with Romania has produced (representing a third of its territory and population) and because Transylvania (although part of it was occupied in 1940) has remained a component of today's Romania over a century; without the *Treaty of Trianon*, Romania would be smaller than it was in 1916, when it entered the war.

Given that the *determined / defined territory* and the *stable population* are the essential elements for the existence of Romania as a state, thus constituting the intrinsic premise of the accomplishment of *Greater Romania* and after that, of the existence of the rounded Romania (in the form it is now), and because the border which has delimited the territory of Romania from that of Hungary for a century was inscribed in this very document, the *Treaty of Trianon* remains, through what it represents, the most important treaty of Romania. The *Treaty of Trianon* - a crossroads and peerless historical document in the destiny of Romania - a touchstone - a *si aut non* of statehood on the lands inhabited by Romanians, is, indisputably, a paradigm for the whole Romanian-Hungarian relations and confirms our permanence in the area we are living in. We note the fact that while the Constitution - the fundamental law of Romania - has as object the organization and functioning of the state, the *Treaty of Trianon* ensures the very statehood of Romania as such, which is fundamental.

As a result, Romanian-Hungarian relations can only be conceived and developed within the limits and in full harmony with the *Treaty of Trianon* - which is a *conditio sine qua non*, without alternative, from which, for no reason, we cannot abdicate or take a step backwards, if we want Romania to remain in the structure it legitimately has today. In any case, the series of excessive, reckless and irresponsible concessions granted to Hungary, which create a factual situation parallel to the existing regulation, and make the *Treaty of Trianon* superfluous, must be put an end to. Apart from the premeditated ignorance or perhaps even the repudiation, which is even worse, of the *Treaty of Trianon*, which was made by the

Treaty of Understanding, Cooperation and Good Neighbourhood between Romania and the Republic of Hungary (1996), the very placing of these two documents, unequal in value and consequences, on the same plan, represents an error of an amateur or an immature and a total lack of elementary diligence;

the inept understanding of what a treaty is and what is the relationship between these two treaties concluded between the same two parties, as well as the disorder in the negotiations between two states – a complex and delicate activity with its consequences - have no place when it comes to the destiny of our nation .

It is worth mentioning that being one of the signatories of the *Treaty of Trianon*, on behalf of Romania, on June 4, 1920, our great diplomat, Nicolae Titulescu, associated his name with this document; but his work of a peerless diplomat was dedicated to saving this treaty, defending it against revisionist Hungary in the *League of Nations*, in the *trial of the Hungarian optants*, as well as by setting up the *Little Entente* and the *Balkan Entente*, in order to block irredentist actions against the Versailles system.

- But the importance and timeliness of the *Treaty of Trianon* should not only be seen in relation to Romania's position and interests, but they should also be appreciated on a European scale, especially as far as the states that have benefited from this treaty are concerned and which do not consider bringing up the issue of repudiating it. The *Treaty of Trianon*, together with the other treaties signed at the Peace Conference, make up the *Versailles system*, a system which, with minor modifications, continues to lie also at the basis of the current European political geography - thus consecrating the order of the new Europe. Becoming a landmark and the fruit of the world consensus, the *Trianonic order* has its roots in the *Westphalia system*, and together with it constitute the *Westphalian-Trianonic archetype*; a model of the integrated world and a test of Europeanism, Europe after Trianon remained a Europe of nations, which united to build up the current edifice of the European Union, so that without Trianon legacy, the European Union would not have been created³.

- Through the *Peace Treaty between the Allied and Associated Powers and Hungary* (Trianon, June 4, 1920), **Transylvania** was united with Romania. But the other Romanian provinces also entered in this process of the unification of the nation - **Bessarabia** (*the Paris Peace Treaty*, October 28, 1920), **Bukovina** (*the Saint Germain Peace Treaty with Austria*, September 10, 1919), the **Quadrilateral** (*the Neuilly sur Seine Peace Treaty with Bulgaria*, November 27,

³ Ilie Bădescu, *Trianonul în „conștiința geopolitică” a Europei*, Punctul Critic nr. 1-2/2020, p. 25-42.