Legislative inflation – an important cause of the dysfunctions existing in contemporary public administration

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Abstract

The study analyzes one of the major causes of the malfunctions currently in public administration: legislative inflation. Legislative inflation (or normative excess) should be seen as an unnatural multiplication of the norms of law, with negative consequences both for the elaboration of the normative legal act, the diminution – significant in some cases – of its quality, but also with regard to the realization of the law, especially in the enforcement of the rules of law by the competent public administration entities. The study proposes solutions to overcome these legislative dysfunctions, the most important of which refer to the rethinking of the current regulatory framework, the legislative simplification, the improvement of the quality of the law-making process, especially by complying with the legislative requirements (principles), increasing the role of the Legislative Council. The methods of scientific research used are adapted to the objectives of the study: the logical method - consisting of specific procedures and methodological and gnoseological operations, to identify the structure and dynamics of the legal system of contemporary society; the comparative method – which allows comparisons of the various legal systems presented in this study; the sociological method – which offers a new perspective on the study of the legal reality that influences society in the same way as it calls for the emergence of new legal norms; the statistical method – which allows statistical presentation of the most relevant data that configures the analyzed phenomenon. The study aims to raise awareness of the negative effects of regulatory excess. This, along with the legislative instability, as present in the current legislative landscape, not only generates a diminution in the quality of the law, but also builds the trust in its power to ensure justice, promote and protect the rights of the individual. Overproduction of laws gives rise to serious distortions in the application of the law, sometimes even to the impossibility of applying it, thus annihilating the balance that should exist between norms and their application.

Keywords*: law, inflation, public administration, normative excess, law enforcement.*

JEL Classification: K10, K23, K42

1. Introduction

Contemporary society faces, among other things, an acute crisis of law, both in terms of enacting the law and applying it.

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As the main source of law in the Roman-German law system, the law has for many years been faced with a series of problems that make it pass through a rather not so auspicious period in its multi-secular existence.

Thus, we admit that the law no longer appears – as it was considered in the nineteenth century as "the holy ark"[2] – as the normative act necessary for ordering social reality, promoting and ensuring respect for citizens' rights and freedoms; unfortunately, it has only become a solution, an element of the political program of the ruling party.

Far from being that *"normative ideal"* (Mircea Djuvara), today's law - because the legislator often makes chaotic laws - "*has become, in fact, a rite like not unlike an incantation, overloaded with details, often imprecise, which beats around the bush... and is, therefore, ineffective"*[3].

The authors J. C. Bécane and M. Coudere note the existence of a law crisis stemming from legislative inflation, the growth of the role of other formal sources of law, the unpredictability of the law, its non-intelligibility[4].

Today, the law and parliament, once magnificent in their functioning in terms of the representation of general will, cross a process of relativization, a decline in their symbolic and political roles[5].

The well-known constitutionalist George Burdeau, since the 1970s, has drawn attention to the fact that the law was beginning to lose its prestige, becoming merely the result of a ruling procedure; succeeding at a very high speed, the laws provide only temporary solutions; the law little by little begins losing its traditional features: those of the general, abstract, and permanent laws.

Finally, in a relatively recent approach it is shown that the dysfunctions of the current systems of law have more deeper causes than it was usually believed to be, this being the "*domination of some mistaken realities on the legal system, which can be translated by the almost pathological appeal to changing legislation whenever the social system faces a functional problem*[6].

Ignoring the principles of lawmaking, the inability of the rule of law to ensure the predictability and accessibility of the law, the constraint of national law by European Union law, excessive government involvement in the political use of law and its media treatment, excessive legal formalism, dilution of the concept of "solidarity" and, consequently, the amplification of individualism at all costs, all these are dimensions of the crisis in which contemporary law is.

To these can be added another major cause with undeniable consequences: **the legislative inflation**, the magnitude of the law crisis that is the subject of the

[2] For more, see: Ramona Duminică, *Criza legii contemporane (The Crisis of the Contemporary Law)*, C. H. Beck Publishing House, Bucharest, 2014.

[3] The claim belongs to Pierre Mazeaud, former President of the Constitutional Council of France (in the work of Bertrand Mathieu, *La loi*, Dalloz, Paris, 2010, p. 61).

[4] Ramona Duminică, *op. cit.*, p. 4.

[5] J. Bouland Ayoub, B. Melkevik, P. Robert, *L´amour des lois. La crise de la loi moderne dans les sociétés democratiques*, Les Presses de l´Université Laval, Quebec, 1996, p. 7-8.

[6] Dan Claudiu Dănişor, *Democraţia deconstituţionalizată,* Universul Juridic Publishing House and Universitaria of Craiova Publishing House, Bucharest, 2013, p. 9.

present study. The aim is to make a serious "radiography" of the way it is being legislated, especially in our country; to bring to light the causes and consequences of this phenomenon. And last but not least, we will propose some solutions, if not to remove the cause, at least to improve the situation.

2. Why does normative inflation appear?

Legislative inflation, excessive multiplication of normative acts is not a new issue.

We believe that there are two reasons why it exists: on the one hand, the objective element of increasing the number of normative acts is given by the evolution of society, by the growing complexity of the social reality. The more the society evolves – and this truth cannot be disputed – the more the need for law, of legal norms.

Social dynamics, the emergence of new inter-social relationships that claim protection by law, which call for the rule of law to promote them and defend their value existence, are just as many reasons to believe that from this perspective the right can not be blocked in evolution and development, including quantitatively.

But, on the other hand, legislative inflation has other causes as well. We could call them subjective. These can be "checked" as being done by the lawmaker. That is why we ask ourselves: Why is the legislator interested in adopting as many laws as possible? Why, in the act of legislating, it easily passes, if not even intentionally breaking the rules, the principles underpinning the law-making activity? Why is it not aware that the frequent legislative changes are harmful to the social balance that the legal headquarters should naturally have in law rules? Why do politicians, lawmakers or ministers have the temptation to link their name to their legislative "innovations"?

These are a few of the questions that will be addressed in what follows.

3. The virtues of the law from the perspective of the philosophy of law

Plurimae leges corruptissima respublica (the overabundance of laws disintegrates society) warned **Tacitus**[7] a long time ago; and he continued: the first laws in the history of humanity were simple, "*for the sake of some people with still unrefined minds."*

Plato[8] explained – many centuries ago – the difference that exists between what should ideally be and what is happening in reality, in life, from the point of view of the legislation. *"If in the ideal state there is no need for the law, for the law is inscribed in everyone's soul, a norm will be needed in this second state ... where an impersonal brake, equal to all, will be needed to establish and to prevent*

[7] C. Tacitus, *Anale*, (trad. Gh. DUȚU), Humanitas Publishing House, Bucharest, 1995 (quoted by Ramona Duminică, *op. cit.*, p. 39).

[8] For more, see, Plato, *The laws*, IRI, Publishing House, Bucharest, 1995.

abuses, intemperance, violence and injustice to which by their nature those called to lead a social whole are unfortunately so often inclined[9]*".*

For Plato[10]:

- the basis of law is wisdom;
- laws come from man, but not in any way, but as a reflex of the principle;
- law has its criterion in a hierarchy of values; to be respected, and for those who respect them to be content, the laws must be righteous;
- if the law is grounded in reason, the soul takes precedence over the body;
- the supremacy of the law seeks to be based on the concept of justice.

For **Aristotle,** the content of laws is justice, and its principle is equality. *"The legislator who wants to introduce perfectly just laws must take into account the public good. Justice is equality here; this equality of justice takes into account both the general interest of the state and the individual interest of the citizens"*[11]

When, in the name of certain prerogatives, each requires self-esteem and self-respect for others, there is no full justice. *"Justice is the good of another,"* Aristotle said.

If the law is not aimed at promoting virtue,[12] the state is a military alliance of distant peoples, and the law "*... from now on is a simple convention (...) it is but a guarantee of individual rights, without any disruption to the morality and personal justice of citizens*"[13]

Regarding **the stability of laws**, Aristotle declares himself an opponent of legislative innovations. *"Innovation in the law is quite different from the arts; the law to be heard has no power other than habit, and the custom is formed only with time and years; so to change lightly the current law for new ones means to weaken the law in the same measure"*[14].

In **Montesquieu's** view, the law is a universal principle, subordinate to reason. For this:

- the law is in the nature of things, so it can be said that *"there is primordial reason, and laws are the relations between it and the various entities, and the relations between these entities"*[15];
- the laws must fit in such a degree to the people they are made of, that it is a very rare occurrence if the laws of one people are suited for another[16];

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[9] Ștefan Bezdechi, *Introducere* la Platon „Legile", IRI Publishing House, Bucharest, 1999.

[10] See Mihai Bădescu, *Filosofia dreptului în România interbelică,* Sitech Publishing House, Craiova, 2015, p. 49.

[11] Aristotle, *Politics*, Antet Publishing House, Bucharest, 1996, p. 98.

[12] *"Virtue is the first concern of a state deserving of this quality and which is not only a state with the name"* (Aristotle, *op. cit*., p. 29).

[13] *Ibidem*.

[14] *Ibidem*, p. 76.

[15] Montesquieu, *Despre spiritul legilor*, Scientific Publishing House, Bucharest, 1966, p. 17.

[16] Ph. Malaurie, *Antologia gândirii juridice*, Humanitas Publishing House, 1997, p. 122.

- the law must take into account the nature, the factors that influence human life, the material and spiritual states that people are going through. *"Changing the general spirit of the people must be greatly avoided, when this spirit is not contrary to the principles of the government... for nothing works better than what we do freely and following our own nature"*[17]
- law is in general human reason... "*the political and civil laws of any people must be only the particular cases to which this human reason applies"*[18]*;*
- *„useless laws* – Montesquieu said – *weaken necessary laws"*.

To **J. J. Rousseau,** the finality of order and law is freedom. It is not the individual who was made for order to triumph, but the order is made for the individual to be free. The general will may bind; but not into a blind obedience, free of will, but to freedom[19]. *"Whoever refuses to obey the general will,"* says Rousseau, *"will be contradicted by the whole body; which means nothing but that it will be forced to be free"*[20].

On the other hand, for Rousseau, **the multitude of laws** is proof that they are **poorly edified,** which is why they are not appropriated or recognized by those who are addressed. Overproduction of laws is an obvious sign of government corruption, and the most vicious of all peoples is one that has the most laws. "Good laws attract other and better ones, and evil ones bring about even worse"[21].

Benjamin Constant appreciates that the multitude of laws constitutes a great danger that threatens the representative government, *"this is the disease of the representative states, for in these states everything is done by law, the absence of laws being the disease of limited monarchies, where everything is done by people. This imprudent multiplication of laws corresponds to the natural tendencies of the legislators, namely the need to act and the pleasure to believe that they are necessary"*[22].

"Legislative inflation," says **Jean Carbonnier,** *"results in ignorance of laws, their inefficiency leading to their devaluation in the public mindset"*[23].

There is too much law, Carbonnier said*. "There is an additional base of law injected into the body of society, which will be later found in tracing, bureaucracy, inhibitions, claims, litigations, tensions ...".*

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[17] *Ibidem*.

[18] Montesquieu, *op. cit.*,p. 12 .

[19] Nicolae Popa, Ion Dogaru, Gheorghe Dănişor, Dan Claudiu Dănişor, *Filosofia dreptului: Marile curente*, All Beck Publishing House, Bucharest, 2002, p. 177.

[20] Jean Jacques Rousseau, *Contractul social*, Scientific Publishing House, Bucharest, 1957, p. 107.

[21] *Ibidem*, p. 87 (quoted by Ramona Duminică, *op. cit.*, p. 40).

[22] B. Constant, *Principes de polithique applicables à tous les gouvernements representatif et particuliérement à la Constitution actuelle de la France*, Hachette Pluriel, Paris, 2006, p. 59 (quoted by Ramona Duminică, *op. cit.*, p. 39).

[23] Jean Carbonnier, *Droit civil Introduction, 27éme*, éd. collections Thémis, PUF Paris, 2002, p. 123.

Finally, regarding the aspects presented, we recall **Portalis** who stated that *"in history, two or three good laws are barely promulgated within a period of several centuries"*[24].

The brief narrative in the philosophy of law has a specific purpose: to place reflections on the page, conceptions and opinions of the most representative thinkers of humanity in the philosophical-legal plane, with relevance to the subject under consideration. We find, therefore, that the differences between the views of the lawmakers and the contemporary reality in law, justice and justice are immense. We believe that it would not be useless for today's legislators to find, at least by simply looking at these pages, what others have thought and written in different historical periods, all of which have a common denominator in matter, wisdom, reason, freedom, democracy, harmony, public good.

4. What are the main causes of legislative inflation?

That there is legislative inflation is a certainty. We will find it once again in the following. The question is: What are the causes of this regulatory excess? We will try to identify the most relevant ones. Thus, we talk about:

Social progress, increased complexity and diversity of social life, social evolution as a whole. It is a matter of fact that society evolves, new and new social relationships are emerging that require legal protection. This is an objective cause of multiplication of normative acts.

You can not allow society to develop without a step-by-step guarantee, expressed in the most elementary way through legislative policies. But from this necessity to normative abuse, it is a long way. Why? Because[25]:

- there is the assumption that when a social system does not work, it is the law underlying it that is at fault, and so it must be changed;
- laws never seem to be enough, which is why everybody demands change of laws every day, and those "ennobled" with normative competence do it with speed and amazing consistency.

"The violation of the law, even by state bodies, who do not know what laws apply anymore - so big and unclear is their domain - has become so commonplace that no one is surprised. Maybe only the Strasbourg Court, which condemns us for the overthrow of laws or for their inconsistency "[26]*;*

The pressure exerted on the legislator by interest groups, NGOs, civil society as a whole. The pressure groups are meant to influence as much as possible the decisions of the governors in order to promote and defend the interests of the individuals they represent. Often, they are convinced that their claims (salary in many situations) can be met by changing legislation. Faced with these claims, both the Parliament and the Government (sometimes explaining that they are in line

[24] J.-E.-M.-Portalis, *Discours préliminaire du premier projet de Code civil* (1801), Bordeaux, 2004, p. 14 (quoted by Ramona Duminică, *op. cit.*, p. 39).
[25] For more, see: Dan Claudiu Dănişor, *Democraţia deconstituţionalizată, op. cit*., p. 12.
[26] *Ibidem*.

with promises in the election campaign) frequently tend to surrender these claims, proceeding accordingly;

Multiplying reforms in important areas (justice, administration, health, education, etc.) is a new cause of legislative excess. Each party, when it comes to governance, deplored the "legacy" left by its predecessor, proclaims the beginning of new institutional reforms. But by what meansn? By those, including (or above all) normative;

Legislation to obtain political capital is a reality in the domestic legal landscape. Each parliamentarian or even minister wants to promote a law to link his name to[27]. At the same time, political alternations favor indirectly the multiplication of the rule of law. Because *"we live in a democracy, which means that political power can move from one group of politicians to another ... with another vision, with other intentions and perhaps with other interests. To promote them - and this is the rule in a democratic system - the new governors will change laws. They will rewrite them in such a way that they express their interests, goals and justice. And the greater the difference in vision between the parties, the higher the number of normative acts to be rewritten "*[28].

Thus, we can say that the law corresponds more precisely to the satisfaction of an acute need for the publicity of its initiators than to a real need for legislation[29];

A cost-effective show for politicians - involving minimal investment and maximum gains - lawmaking is one of the most profitable political activities. *"The law is a kind of electoral base that does not tend to solve anything except the image problems of its promoter"*[30].

Therefore, legislative inflation is also generated by the political spectacle produced by the media. For some of the governors, their own image or party is more important than the concern for state governance, *"the law is no longer used to regulate reality, but to improve the political image. It often legislates to pose, not to govern. This creates a new rule of law: any politician must bring about self-regulation in order to prove its effectiveness; it does not matter the requirements of reality but those of advertising "*[31].

With the thought of media benefits, the legislator often legislates non-intelligible, contradictory and unpredictable, leading to the dissolution of the law and the discrepancy of the legislative authority[32];

Romania's accession to the European Union can be considered a normative multiplication factor. Since 1993 - with the signing of the Unified Agreement - Romania has undertaken the obligation of legislative harmonization

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[27] Ramona Duminică, *op. cit.*, p. 47.

[28] Victor Babiuc, *Dialoguri despre lege. Legea în tranziție,* All Beck Publishing House, Bucharest, 2005, p. 21 (quoted by Ramona Duminică, *op. cit.*, p. 47).

[29] Ramona Dumincă, *op. cit.*, p. 47.

[30] Dan Claudiu Dănișor, *Drept constituțional și instituții politice,* vol. I, C.H. Beck Publishing House, Bucharest, 2007, p. 181.

[31] *Ibidem*, p. 183.

[32] Ramona Duminică, *op. cit.*, p. 48.

which mainly consisted in the adoption of new laws transposing the acts of the Union. Furthermore, after EU accession, EU regulations have to be transposed into national law by the adoption of new normative acts, outside EU regulations that directly fall into the national legislative "patrimony".

The new EU treaties (Maastricht - 1992, Amsterdam - 1997, Nice - 2001 and Lisbon - 2009) have given the European institutions new competences, which has also led to an increase in union rules.

We do not think we are too far from Jacques Delors' assertion that a day will come when 80% of economic, fiscal and social legislation will be decided by the European institutions, despite the fact that EU programs have been proposed to improve legislation (by simplifying legislation and reducing administrative burdens)[33].

Excessive specialization / technicization generates legislative instability. Often, the draft law (in the case of the government as initiator) or the legislative proposal (the position of the MPs) is the technical "work" of a specialist in a niche area[34]. The accessibility of the rule and, implicitly, its observance is strictly related to the possibility for its recipients to know it and to understand it; at the same time, the public character of the rule of law, regarded as an intrinsic element of its legality, as well as the clarity of its expression, which makes it intelligible to all, are imperative of the law-making activity.

In connection with the ultra-technicalness of the written laws of experts (for example, financial matters), Mervyn King points out that *"... not many people can easily understand and retain all current financial regulations, and those who try do not have the impression that they are common sense; this complexity self-generates and creates a bad reputation for the system*"[35].

Possibility of fairly free use of the right to amend and sub-modify the content of a draft law / legislative proposal, generates a decrease in the quality of the law, but also the tendency towards normative inflation. Most of the time, the time allocated to debating these amendments is inadequate and, as a result, many amendments are either easily accepted or rejected *in corpore*. We give only two examples in this respect: to the (much-disputed and controversial) draft of the National Education Law, which later became Law no. 1/2011, over 1600 amendments were tabled (!!!); in the case of the draft Law on the National Budget

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[33] J. Maïa, *La contrainte européenne sur la loi*, în"Pouvoirs",Revue Française d'études constitutionnelles et politiques, no. 114/2005, p. 54 (quoted by Ramona Duminică, *op. cit.*, p. 49).

[34] "We need laws, not just simple to understand, but also common sense laws. Being written and modified or adapted for banks and funded by the World Bank, the Civil Code not only has megalomanically incorporated commercial law but has raised the degree of technical and legalism to levels that the average man (for whom the laws, in general, but especially the Civil Code, the legal and ethical basis of the whole society) can no longer achieve them. The Civil Code, in many respects, has become incomprehensible, taking from the financial-banking field "the mark" of prolixity, exaggerated complexity and ultra-technicalness." (Gheorghe Piperea, in *Inflație și haos legislativ*, Cotidianul.ro – 20th January 2018).

[35] Mervyn King, British economist, fformer governor of the Bank of England, in*"Inflație și haos legislativ"*, in Cotidianul.ro – 20th January 2018.

for 2012, 8000 amendments were tabled to be discussed in the specialized committees in only one week[36].

Excessive Government Ordinances are another major cause of legislative inflation. The practice of lawmaking through ordinances has been and remains strong, to the detriment of Parliament's supreme legislator. The biggest drawback is the fact that, in the context of legislative lawmaking by many ordinances (whether they are ordinances or emergency ordinances), is that Parliament is blocked in the natural activity of lawmaking; it must either pass laws to approve the ordinances, or modify them, or (less often) reject them; moreover, many of the ordinances reach the parliamentary debate only after they have produced legal effects.

The so-called "aging of the social organism" can be considered another factor that determines legislative inflation. According to this factor, the social body demands impetuously a multiplication of the legal norms, which leads to the increase of the means of application, respectively to the development of the administration[37].

In an opinion present in the literature, it is appreciated that *"the true direction of the country is found in the ministerial offices. The power of supervision, firmness, the spirit of decision lacking in society, assemblies and governments find refuge in administration"[38]*.

In the same sense, Professor **Ioan Alexandru** states that *"the administrative apparatus intended in principle to execute orders and enforce the laws evades the control of representative constitutional democracy. Servants (the administration) no longer obey the master. Thus, bureaucracy takes hold of the actual power"*[39].

Moreover, the tendency of the emergence of a new power, the **administrative power,** distinct from the actual governmental power, manifests itself, *"whose partisans are praising their impartiality and stability against the hesitations, temporality and arbitrariness of the parliaments. Such power that escapes any popular control is a danger to democracy "[40]*.

Unfortunately, law enforcement abuses are becoming more and more numerous. Control within the administration creates suspicions and the need to establish "controllers of controllers and new rules limiting the powers of controllers over controlled controllers"[41].

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[36] Ramona Duminică, *op. cit.*, p. 51

[37] *Ibidem*.

[38] A. Prins, *La démocratie et le régime parlementaire* (1884), reprint by Kessinger Publishing, Montana, U.S., 2010, p. 23 (quoted by Ramona Duminică, *op. cit.*, p. 51).

[39] Ioan Alexandru, *Democrația constituțională-utopie și/sau realitate*, Universul Juridic Publishing House, Bucharest, 2012, p. 200.

[40] According to the *Report on the work of the Legislative Council in 2016.*

[41] J. P. Henry, *Vers la fin d l'État de droit?*, in "Revue du droit public de la science politique en France et à l'étranger", vol. XCIII, no. 6/1977, p. 1230.

5. Legislative inflation. Case study – Romania

In this section, we will present, in summary, figures that are not at all reassuring about the phenomenon of legislative inflation in post-December Romania. Thus:

During 2016[42], the Legislative Council was notified with 1362 draft normative acts and requests for republishing / rectification, submitted for approval, as follows:

- from the Government – 900 out of which: 86 draft laws, 33 draft ordinances, 114 draft Emergency Ordinances, 530 draft decisions, 137 requests for approval of republications / rectifications;
- from the Senate – 410 legislative proposals;
- from the Chamber of Deputies – 44: 41 legislative proposals and 3 amendments to draft laws and legislative proposals;
- from the Competition Council – 5 draft regulations and instructions;
- from the citizens – 3 citizens' legislative initiatives.

In 2017, the legislation was modified by 79,97% initiated by the Government, the Parliament's contribution being 20,03%.

Romania has the highest percentage of laws adopted by extraordinary procedure - in Central and Eastern Europe - 47%, five times higher than Slovakia, which ranks second with 9.5%.

Romania is the first in terms of legislative changes for the fourth consecutive year (280 adopted laws out of a total of 1040)[43].

The Fiscal Code (Law 571/2003) was amended:

- in the year of entry into force (2004) 10 times;
- 13 times in 2005;
- 9 times in 2006;
- 13 times in 2010;
- 11 times in 2017 (with 290 articles changed);

The situation (up until 01.09.2017)[44] of the laws and GEO adopted in each legislature is the following:

- **1990-1992 legislature:** adopted laws 212; GEO: Petre Roman (21 months of government) - 0; Theodor Stolojan (14 months) - 14;
- **1992-1996 legislature**: 522 laws; GEO: Nicolae Văcăroiu (49 months) - 19
- **1996-2000 legislature**: 925 laws; GEO: Victor Ciorbea (15 months) - 103; Radu Vasile (21 months) - 261; Mugur Isărescu (12 months) - 309;
- **2000-2004 legislature**: 2690 laws; GEO: Adrian Năstase (48 months) - 680;

[42] According to Cotidianul.ro/20.01.2018 (*Inflație și haos legislativ)*.
[43] According to the report by Ac Trend 2017 of the Grayling Organization.
[44] See also: Ștefan Deaconu, *Instituții politice,* 3rd Edition, C.H. Beck Publishing House, 2017.

- **2004-2008 legislature**: 1654 laws; GEO: Calin Popescu Tariceanu (48 months) - 730;
- **2008-2012 legislature**: 1215 laws; GEO: Emil Boc (37 months) - 378; Mihai Răzvan Ungureanu (3 months) - 13;
- **2012-2016 legislature** : 1181 laws; GEO: Victor Ponta (43 months) - 348; Dacian Cioloş (14 months) - 114;
- **2016-2020 legislature**: 495 laws; GEO: Sorin Grindeanu (6 months) - 42, Mihai Tudose (2 months - until 01.09.2017) – 19.

In the period 1990-2017 (01.09.) Most laws were adopted in the 2000-2004 legislature (56.04 / month), with most of the GEOs - Mugur Isărescu (25.75 OUG / month).

There are worrying figures that reveal the extent of the regulatory excess in Romania.

6. Instead of conclusions

The frenzy of legislative changes in Romania exposes citizens and the business environment. Legislative inflation generates, first of all, a reduction in the quality of the law and the confidence in its power to ensure the justice and rights of citizens.

The abundance of the rule of law gives rise to serious distortions in the application of the law, even leads to the impossibility of its application.

The legal uncertainty, the lack of consistency between the law and reality, the law and the expectations of individuals are the most serious consequences of the decline of the contemporary law.

What can be done? What are the possible solutions to improve (at least) the current situation?

Without detailing (due to lack of space, we will do it sometime), we will attempt to sketch some solutions/proposals. They regard[45]:

- limiting the commitment of the Government's responsibility to the adoption of a law (the explicit consecration of the procedure and the number of projects, for example, engaging the Government's responsibility on a draft law can be done in a parliamentary session, once and on a single bill);
- rethinking the institution of legislative delegation;
- the express mention in the constitutional provisions of the meaning of the phrase *"extraordinary situations whose regulation can not be postponed"* [p. (4) of art. 115];
- the explicit consecration - at the constitutional level - of the obligation to observe the normative technical norms in the normative elaboration;

[45] See also Ramona Duminică, *op. cit.*, p. 137-146.

- improving the law-making process by delimiting the fundamental functions of the Parliament: the Senate exercising predominantly the executive's control function, and the Chamber of Deputies to exercise predominantly the legislative function;
- the maintenance of bicameralism, but of an efficient, asymmetrical and incongruent bicameralism;
- imposing mandatory preliminary assessment of the impact of the regulation, irrespective of the origin of the legislative initiative, which clearly shows the necessity of adopting the new norm (at present the obligation is not imposed on legislative proposals of parliamentarians and citizens);
- reassessment of the type of opinion (currently advisory) given to the referral by the Legislative Council;
- ensuring free, unrestrained and permanent online access of any person to the Official Gazette of Romania.

We believe it is time for the law to regain its attributes of concision, clarity, accessibility and predictability, designed to guarantee the legal certainty of the person. Basically, „*to remove legislative inflation and reach that ideal of "rare law"*[46] *should be legislation to regulate the permissible limits of the action, not to fix the detailed content of the action, leaving the parties' freedom of contract. Excessive regulation leads to a social disaggregation (overlaps or only imposes a political view on culture and tradition), ultimately not imposing illegality, but impracticable justice*"[47].

Last but not least, it is necessary to return the legislator to the foundations of the act of lawmaking and to the fact that "*laws are not pure acts of power. These are acts of wisdom, justice and reason... the legislator must not lose sight of the fact that laws are made for people and not for laws, that they must be adapted to the character, habits, situations of the people for whom they are made"*[48].

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[46] See C. Courvoisier, *Idealul legii rare*, „Revista de Drept Public" no. 4/2003, p. 27-39.
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