

STUDII

TREATY RATIFICATION LAW – EMPIRICAL STUDY ON
THE TEMPORAL EFFICACY OF THE PARLIAMENTARY
PROCEDURE

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Abstract: The empirical impact of laws is seldom studied in Romania and much less studied is the impact of laws on the activity of the legislative body. This paper analyses the efficacy of the applicable law regarding the treaty ratification procedure the Parliament has to follow. The present study appeals to the quantitative method of counting and calculating the time necessary to adopt a law on an international treaty, to better observe the efficacy of the law concerning the procedure itself. Results indicate that the applicable law on the treaty adoption procedure almost halved the time required to complete the parliamentary procedure. It is considered that while the law regarding the treaty adoption procedure brought about an effective improvement in the parliamentary procedure, empirical studies about the activity of institutions like the legislative body reveal maybe better perspectives in the study of legal institutions and the impact of the law.

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Keywords: Romanian Parliament, legislative procedure, treaty ratification, empirical legal research, temporal efficacy.

LEGEA RATIFICĂRII TRATATELOR – STUDIU
EMPIRIC PRIVIND EFICIENȚA TEMPORALĂ A
PROCEDURII PARLAMENTARE

Rezumat: Impactul empiric al legilor este rareori studiat în România și mult mai puțin studiat este impactul legilor asupra activității organului legislativ. Lucrarea de față analizează eficiența legii aplicabile în ceea ce privește procedura de ratificare a tratatelor pe care Parlamentul României trebuie să o urmeze. Studiul face apel la metoda cantitativă de calculare a timpului necesar adoptării unei legi de ratificare a unui tratat internațional, pentru a observa mai bine eficiența legii privind procedura în sine. Rezultatele indică faptul că legea aplicabilă privind procedura de adoptare a tratatelor aproape a înjumătățit timpul necesar pentru finalizarea procedurii parlamentare. Se consideră că, în timp ce legea privind procedura de adoptare a tratatelor a adus o îmbunătățire efectivă a procedurii parlamentare, studiul empiric despre activitatea instituțiilor precum corpul legislativ relevă poate perspective mai bune în studiul instituțiilor juridice și impactului dreptului.

Cuvinte-cheie: Parlamentul României, procedura legislativă, ratificare tratate, cercetare juridică empirică, eficiență temporală.

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I. Introduction

From the outset it should be mentioned that the present study represents an example of a case study in which empirical research methods are used to study the law and legal institutions. That being said, this paper will evaluate the efficacy of the usual procedure for the ratification of international treaties by the Romanian Parliament through a quantitative method of analysis through which the dimension of time will be explored, to evaluate the efficacy of the procedure prescribed by Law on treaties no. 590 of 2003 and the revised Romanian Constitution.

In short, for the present study, the time needed for a ratification law to become an actual law after all the steps of the parliamentary procedure are met and the law is sent to promulgation by the President of Romania was measured.

Doctrinal research, within the study of laws and legal institutions (in Romania at least), represents an accumulation of specialist opinions belonging to people with authority/prestige in this field of studies, who in principle come from among the members of the academic world, and who only have the power to produce followers not and the power to be a source of law as is the case with laws¹.

¹ Elena Simina TĂNĂSESCU, „Relatia Dintre Curtea Constituțională Și Doctrină”, *Revista de Drept Public*, n. 1/2016, pp. 41–42.

On the other hand, empirical research methods in law involve studying legal institutions, rules, procedures, etc. directly – i.e., data analysis, rather than using secondary sources such as laws, and regulations, about which opinions can be made, to understand the effects the studied objects have in the real world².

As doctrinal scholarship is the method of study that has the monopoly in studying the law and legal institutions in Romanian legal scholarship, little emphasis is put on empirical research methods. The present paper comes to represent an example of a way of filling this gap represented by the lack of studies that use empirical methods in the legal field.

While a study that also involves data analysis is very likely to produce a more considerable impact on laws and public policies, given that such a study can be more precise about bringing about a conclusion and better measuring its uncertainty³, in other types of papers, including many law journals articles, different authors base their propositions on speculation or intuition⁴.

Also, a study in which the procedure of the parliamentary procedure regarding the adoption of treaties has not yet been done in Romania, thus, the originality of the present paper comes especially from its object of study, besides the research method used and exemplified.

The international dynamic has led to an increase in the treaties-regulated interstate relations in such a manner that today any area of

² John BALDWIN, Davis GWYNN, „Empirical Research in Law”, in TUSHNET M., P. CANE, *The Oxford Handbook of Legal Studies* (eds.), Oxford University Press, Oxford, 2005, pp. 880-900.

³ Lee EPSTEIN, Andrew MARTIN, *An Introduction to Empirical Legal Research*, Oxford University Press, Oxford, 2014, p. 15.

⁴ Brandon BARTELS, Chris BONNEAU, eds., *Making Law and Courts Research Relevant. The Normative Implications of Empirical Research*, Routledge, New York/London, 2015, p. 14.

international relations is enshrined in treaties⁵. Due to the increasing complexity of these relations, treaties are also becoming more complex. Finally, the treaties have the role of materializing the will of the states in a binding legal act, as by simple participation in negotiations or only by signing a treaty it cannot be considered that the states are bound by the obligations arising from a treaty. Thus, the need arose for the intervention of an internal act for adopting/ratifying a treaty, by which the national parliaments can decide on the obligations of the state and bring the norm with binding legal force in the domestic law.

In post-December Romania and until the revision of the 2003 Constitution, the primary acts that regulated how these internal acts of ratification of international treaties were born were the Romanian Constitution, Law no. 4 of January 11, 1991, on the conclusion and ratification of treaties⁶ and Emergency Ordinance no. 198 of December 18, 2002⁷ for the completion of Law no. 4/1991⁸. With the revision of the Constitution, it was time to replace the old law on treaties that no longer kept pace with the speed with which international law was expanding and the steps taken toward Euro-Atlantic integration⁹. Thus, in 2003 the Law on treaties

⁵ Ștefan DEACONU, Elena Simina TĂNĂSESCU, „Articolul 11. Dreptul internațional și dreptul intern. Comentariu”, in MURARU I, E. S. TĂNĂSESCU, *Constituția României. Comentariu pe articole. Ediția 2* (eds.), C.H. Beck, București, 2019, p. 114.

⁶ Published in the Romanian Official Gazette (Monitorul oficial al României) no. 5 of January 12, 1991.

⁷ Published in the Romanian Official Gazette (Monitorul oficial al României) no. 956 of December 27, 1991.

⁸ The Emergency Ordinance was approved by Law no. 87 of March 18, 2003, and published in the Romanian Official Gazette (Monitorul oficial al României) no. 196 of March 26, 2003.

⁹ In the statement of reasons to the Law on treaties from 2003 it was specified that “*In the context of the current dynamics of Romania's external relations, including from the*

no. 590 of December 22, 2003 (which repealed Law no. 4 of 1991) was adopted¹⁰, and in 2011 Law no. 276 of December 7, 2011, on the procedure by which Romania becomes a party to the treaties concluded between the European Union and the Member States, on the one hand, and third countries or international organizations, on the other hand, was adopted¹¹.

II. Theoretical framework

A. Discussion of relevant studies

In terms of international law, treaty law, and constitutional law, countless studies, textbooks, monographs, and handbooks have been written. However, for the scope of this material, I tried to strictly identify those studies and books that solely deal with the procedure of treaty ratification by the Romanian Parliament.

perspective of joining the North Atlantic Treaty Organization and the European Union and considering the regulatory needs demonstrated by the recent practice of Romanian institutions in the field of concluding treaties, the Law on treaties was adopted. This aims to introduce into the Romanian legislation a modern, up-to-date and efficient regulation of the internal procedures that the conclusion of international treaties entails, but also of other aspects related to the life of the treaties after they enter into force. [...] The adoption of the Law on Treaties will respond to the need of creating a unitary and flexible legal framework in this field, under the contemporary requirements of domestic and international law, and will also constitute an effective tool in Romania's European and Euro-Atlantic integration efforts."

¹⁰ Published in the Romanian Official Gazette (Monitorul oficial al României) no. 23 of January 12 M, 2004.

¹¹ Published in the Romanian Official Gazette (Monitorul oficial al României) no. 876 of December 12, 2011.

After the promulgation of Law no. 590 of 2003, before it entered into force, there was a period during which scholars in the field of public international law had the opportunity to examine the law and bring about their comments in the public debate. Thus, Irina Păunescu¹² took advantage of the moment and addressed the first chapter of Law no. 590 of 2003 which presents the definitions and categories of treaties, together with sections 1 and 2 of the second chapter which regulates the negotiation of treaties, bringing the legal explanations necessary to the reasoning and logic of these first parts of the Law on treaties.

One year after the revision of the Constitution, Ioan Anghel¹³ intervened with some reflections on the texts of the revised Constitution that mainly deal with international law and treaties. Thus, he dominantly presented the shortcomings, contradictions, and deficiencies that, in his opinion, article 11, 76, and 91 (along with others) of the Constitution present.

Most likely continuing the approach started before the entry into force of Law no. 590 of 2003, Irina Niță and Bogdan Aureescu continued with the comments on this law by presenting the signing and expression of consent to become a party to the treaty¹⁴, by explaining the entry into force, the registration, application, modification and termination of the validity of treaties¹⁵ and by clarifying the articles that regulate the attributions of the

¹² Irina PĂUNESCU, „Commentary on the Draft Act on Treaties”, *Romanian Journal of International Law*, n. 1/2003, pp. 309-336.

¹³ Ioan ANGHEL, „Reflecții asupra unor texte din Constituția revizuită”, *Revista de Drept Public*, n. 2/2004, pp. 51-62.

¹⁴ Bogdan AURESCU, Irina NIȚĂ, „Commentary on the Romanian Act no. 590/2003 on Treaties”, *Romanian Journal of International Law*, v. 2, n. 1/2006, pp. 137-155.

¹⁵ Bogdan AURESCU, Irina NIȚĂ, „Commentary on the Romanian Act no. 590/2003 on Treaties Continuation - Articles 25-34”, *Romanian Journal of International Law*, v. 2, n. 3/2006, pp. 207-225.

Ministry of Foreign Affairs, the publicity of the texts of the treaties before publication in the Official Gazette of Romania, the examination of the compatibility of the provisions of the treaties with the Constitution of Romania, the procedure for concluding agreements at the local level of public administration authorities with similar authorities from other states, the sanction for non-compliance with the rules regarding the conclusion of treaties, the exceptions provided by the law and its final provisions¹⁶. Through these, the two showed the reasons and offered the doctrinal explanations for why the practice reached positive results thanks to the new normative act, which, according to the authors, brought detailed clarifications to the procedures and eliminated unnecessary complications.

In his monograph on the commentary on the general principles of the Romanian Constitution, Dănișor¹⁷ exhaustively analysed article 11 of the Romanian Constitution, emphasizing the monist system adopted by Romania which gives priority to international legislation, the obligations, and limits of legislative or executive power in the matter of international treaties as well as the situation of unwritten international law concerning domestic legislation.

Also, about article 11 of the Romanian Constitution, Ionescu¹⁸ analysed the position of international law vis-à-vis the internal legal order of the states and the process by which the international treaties ratified by the Parliament are internalized in the Romanian legal order.

Augustin Fărcaș, in his reflections on the texts of the Constitution through which the powers of the Romanian state are transferred to the

¹⁶ Bogdan AURESCU, Irina NIȚĂ, „Commentary on the Romanian Act no. 590/2003 on Treaties”, *Romanian Journal of International Law*, v. 1, n. 4/2007, pp. 124-136.

¹⁷ Dan Claudiu DĂNIȘOR, *Constituția României Comentată. Titlul I. Principii generale*, Universul Juridic, București, 2009.

¹⁸ Cristian IONESCU, „Comentarii pe marginea art. 11 din Constituția României, revizuită”, *Pandectele Române*, n. 8/2015, pp. 17-25.

European institutions¹⁹, developed arguments in favour of the supremacy of the Romanian Constitution, speaking on the subject of special laws related to Euro-Atlantic integration, also dealing with the special procedural rules that stood at the basis for the ratification of Romania's accession treaties to the Euro-Atlantic space.

From the team that configured the article-by-article commentary of the Romanian Constitution, Constantin Deaconu and Elena Tănăsescu²⁰ stood out for the abundance of information with which they explained the articles of the Constitution that establish in the fundamental law the relationship between international and domestic law, treaties, the ratification procedure of treaties and the field of foreign policy, their comments also representing, like those of the other authors in the collective, an indispensable guide for understanding constitutional phenomena through the breadth of details in the matter of international treaties.

B. The procedure of adopting/ratifying treaties by the Romanian Parliament

1. General observations

The main norms that regulate the procedure of treaty ratification (as it is addressed in this material²¹) by the Parliament are art. 11, 75, and 91 of

¹⁹ Augustin FĂRCAȘ, „Opinions on the Revised 2003 Constitution Articles Which Call into Question the Transfer of Responsibilities from the National State to the EU Institutions.”, *Analele Științifice ale Universității Alexandru Ioan Cuza din Iași – Științe Juridice*, v. 62, n. 2/2016, p. 309-316.

²⁰ Ștefan DEACONU, Elena Simina TĂNĂSESCU, „Articolul 11. Dreptul ...”, pp. 106-116.

²¹ I do not analyse the procedure prescribed by art. 20 – International treaties on human rights – and art. 148-149 – Euro-Atlantic integration from the Constitution –, which represent exceptional procedures related to the rules provided in art. 11 of the Romanian Constitution.

the Romanian Constitution and Law no. 590/2003 on treaties. Before looking at how a typical treaty ratification procedure takes place, a few preliminary remarks must be made.

First of all, it should be noted that art. 11 of the Constitution regulates only the treaties that require ratification by the Parliament, regardless of their name, while the other international acts that do not require ratification by the Parliament are addressed by the law on treaties²². International acts that do not require ratification by the Parliament differ substantially in that the treaties to be ratified by the Parliament are in principle treaties concluded at the state level, while those that do not require ratification by the Parliament are concluded at the governmental level. Then, ratification is different from the approval of a treaty. While ratification takes place through the adoption of a law or of a governmental emergency ordinance, the approval of a treaty takes place through the adoption of a governmental decision²³.

Secondly, scholars speculated that the law adopted following the treaty ratification procedure is not a law in the strict sense, since social relations are not regulated following this procedure, but rather there is a diplomatic exercise and a regulation of a controlling function over the executive branch which negotiates and signs the treaties²⁴, this procedure being the way by which the Parliament expresses its political will regarding the treaty to be ratified or not²⁵.

Also, concerning art. 11 of the Constitution, it was noticed that the text of para. (2) of this article of the Constitution determines the automatic entry into domestic law of a treaty ratified by the Parliament, which can lead to a

²² Ștefan DEACONU, Elena Simina TĂNĂȘESCU, „Articolul 11. Dreptul ...”, p. 111.

²³ Irina PĂUNESCU, „Commentary on the Draft...”, p. 314.

²⁴ Dan Claudiu DĂNIȘOR, *Constituția României...*, p. 317.

²⁵ Cristian IONESCU, „Comentarii pe marginea ...”, p. 21.

paradox: although Romania would end up being bound by the obligations imposed by the treaty, it is possible that the treaty has not yet entered into force by international law rules or has not yet been applied by the other parties²⁶. However, this deficiency seems partially resolved by international law and Law no. 590 of 2003, which leads to the idea that the Romanian state will be bound by the obligations assumed by the treaty only after the other parties also fulfil the procedure for entry into force of said treaty²⁷.

2. The procedure *per se*

Article 19 of Law no. 590 of 2003 is the “key provision” of this law²⁸, a norm that compels the rule of ratification by law, the exception being given by extraordinary situations in which an emergency ordinance would be needed, but there being no possibility to adopt emergency ordinances for the ratification of treaties concluded at the state level and also no possibility to ratify through simple governmental ordinances.

Despite the doctrinal thought which concludes that the Parliament should have exclusive competence regarding the ratification of treaties²⁹, Law no. 590 of 2003 regulates the possibility of treaty ratification by emergency ordinance, through article 19 para. (3) in conjunction with art. 22 para. (2). Moreover, even though article 11 of the Constitution suggests that treaties would only be ratified by Parliament, the practice has shown that there must be a response to situations that cannot be postponed³⁰, a response that

²⁶ Ioan ANGHEL, „Reflecții asupra ...”, p. 52.

²⁷ Bogdan AURESCU, Irina NIȚĂ, „Commentary on the Romanian...”, n. 1/2006, p. 146.

²⁸ Bogdan AURESCU, Irina NIȚĂ, „Commentary on the Romanian...”, n. 1/2006, pp. 143-145.

²⁹ Dan Claudiu DĂNIȘOR, *Constituția României...*, p. 318; Cristian IONESCU, „Comentarii pe marginea ...”, p. 23.

³⁰ Ștefan DEACONU, Elena Simina TĂNĂSESCU, „Articolul 11. Dreptul ...”, pp. 111-112.

materializes through emergency ordinances for ratification of some treaties – those treaties that are concluded at the governmental level.

Returning to the procedure of ratification by the Parliament, delineating the ratification procedure by the Parliament from that of ratification/approval that can be done by the Government, regarding the treaties at the state level Law no. 590 of 2003 says that these types of treaties cannot be concluded in the simplified form of the exchange of verbal notes or letters, as it happens in the case of governmental treaties, as follows from the corroborated interpretation of para. (4) and (5) of article 29 of Law no. 590 of 2003³¹.

Following the approval of the initiation of negotiations, the conduct of negotiations and the signing of treaties subject to ratification by the Parliament³², the Parliament is referred to ratify the international treaty. If

³¹ Bogdan AURESCU, Irina NIȚĂ, „Commentary on the Romanian...”, n. 3/2006, pp. 218.

³² Art. 19 para. (1) of Law no. 590 of 2003 specifies: *“The following categories of treaties are submitted to the Parliament for ratification by law: a) treaties at the state level, regardless of their regulatory field; b) treaties at governmental level that refer to political cooperation or that involve commitments of a political nature; c) governmental level treaties that refer to military cooperation; d) governmental level treaties that refer to the state territory, including the legal regime of the state border, as well as to the areas over which Romania exercises sovereign rights and jurisdiction; e) treaties at governmental level that refer to the status of persons, fundamental human rights and freedoms; f) treaties at governmental level that refer to participation as a member of international intergovernmental organizations; g) treaties at the governmental level that refer to the assumption of a financial commitment that would impose additional burdens on the state budget; h) treaties at governmental level whose provisions make it necessary, for application, the adoption of new normative provisions having the legal force of law or of new laws or the amendment of laws in force and those which expressly provide for the requirement of their ratification. (2) The treaties provided for in para. (1) is not ratified by Government ordinances. (3) In extraordinary situations, the treaties provided for in para. (1) lit. b) - h), the regulation of which cannot be postponed will*

the President notifies the Parliament for the ratification of a treaty concluded by its office, the President must submit the treaty for ratification by the Parliament within a reasonable time, according to article 91 of the Constitution. This obligation established by article 91 of the Constitution, which stipulates that the President submits the international treaty concluded by him to the Parliament for ratification, is considered³³ to be irrational, since it is possible that, due to a current situation, the treaty signed by the President to no longer correspond with the interests of the country, so it would be inappropriate for the Parliament to end up ratifying such a treaty.

In any case, regardless of the institution that notifies the Parliament, according to art. 75 of the Constitution, the first Chamber referred to is the Chamber of Deputies, which makes the Senate the decision-making Chamber of the Parliament in every situation.

The specific procedural aspects regarding the ratification of international treaties by the Parliament are detailed in particular in article 22 *et seq.* of Law no. 590 of 2003, in which both the rules of legislative technique and the particularities of treaties are taken into account³⁴. Within this context, it must be specified that para. (12) of article 22 of Law no. 590 of 2003 derogates from the rules regarding the adoption of normative acts provided by Law no. 24 of 2000 regarding the rules of legislative technique for the elaboration of normative acts³⁵ in the case of the procedure for the ratification

be able to be ratified by emergency ordinances of the Government, under the condition of the thorough justification of the urgency of the ratification.” Art. 20 clarifies: *“Treaties signed at governmental level that do not fall under the provisions of art. 19, as well as the treaties signed at the departmental level, are submitted to the Government for approval by decision”.*

³³ Ioan ANGHEL, „Reflecții asupra ...”, p. 56.

³⁴ Bogdan AURESCU, Irina NIȚĂ, „Commentary on the Romanian...”, n. 1/2006, p. 147.

³⁵ Bogdan AURESCU, Irina NIȚĂ, „Commentary on the Romanian...”, n. 1/2006, pp. 151-152; Cristian IONESCU, „Comentarii pe marginea ...”, pp. 23-24.

of an international treaty by the Parliament, in that it is established that the text of the law ratifying a treaty cannot be amended, except for technical, formal purposes. Anyhow, the most important common procedural elements are related to the statement of reasons, the content of the ratification law, the opinions, and approvals it receives, the vote, and the involvement of the Ministry of Foreign Affairs³⁶.

The draft of the ratification law is accompanied by the statement of reasons, which will include mentions of the need for adoption, the purpose of the conclusion of the treaty, the history of negotiations, the relevant provisions and legal obligations and other commitments, and other technical elements related to the circumstances of the conclusion of the treaty and the impact on legislation.

Then, the draft will have to contain the express mention of the ratification, the full title of the treaty, and the other identifying elements of the treaty. The law usually contains a single article, with predetermined text, with the mention “The following is to be ratified...”, followed by the full title of the treaty, accompanied by the date and place of signing in the case of bilateral treaties or the date and place of adoption with the date of entry into force in the case of multilateral treaties.

Also, the draft is approved by different institutions depending on the object of the treaty: ministries, the Government, the President of Romania, or in some cases the Supreme Defense Council of Romania through the President Romania, the Ministry of Justice being the last in the order of approvals, but the main pawn is at all times the Ministry of Foreign Affairs.

Regarding the type of ratification law and the number of votes required for the adoption of the ratification law by the Parliament, within the

³⁶ As it they are enshrined in Law no. 590 of 2003, articles 3, 4, 22 paras. (3), (4), (12), and article 23.

framework of article 73 para. (3) of the Constitution, which lists the cases in which the Parliament adopts an organic law, the international treaty ratification law is also missing, which would lead to the interpretation that the ratification law would be an ordinary law. However, it is considered that if it is still a matter of social relations from those listed in article 73 of the Constitution, the law that ratifies international treaties that have such relations as their object should be considered an organic law³⁷. Also, from the interpretation of Law no. 590 of 2003, which enumerates in article 19 the categories of treaties that are subject to ratification by the Parliament, although it is not expressly specified, it can be considered that if the treaty is subject to ratification by the Parliament regulates relations that belong to the field of organic laws, the law of ratification must be an organic one³⁸. For example, in the case of treaties that relate to state territory, including the legal regime of the border, treaties that relate to elements of fundamental human rights and freedoms, such as citizenship, asylum, extradition, and expulsion, there will be organic laws³⁹.

The involvement of the Ministry of Foreign Affairs is probably best summarized by para. (4) of article 25 of the law of treaties which establishes the formal aspects regarding the drafting and authentication of the instruments of ratification of international treaties, as they have evolved according to diplomatic practice⁴⁰. Moreover, in general, the powers of initiating or approving draft treaties or ratification laws of the Ministry of Foreign Affairs derive from its quality as an institution that ensures the

³⁷ Ioan ANGHEL, „Reflectii asupra ...”, p. 54.

³⁸ Cristian IONESCU, „Comentarii pe marginea ...”, p. 23.

³⁹ Bogdan AURESCU, Irina NIȚĂ, „Commentary on the Romanian...”, n. 1/2006, p. 151.

⁴⁰ Bogdan AURESCU, Irina NIȚĂ, „Commentary on the Romanian...”, n. 3/2006, p. 209.

execution of Romania's foreign policy, but also has the practical role of ensuring there is a record of treaties to which Romania is a party to kept⁴¹.

Finally, the parliamentary procedure takes generally 4 steps:

Step 1 – The executive power negotiates the treaty;

Step 2 – The executive power notices the Chamber of Deputies with the ratification law project;

Between Step 2 and Step 3 the ratification law project is approved by different institutions;

Step 3 – The voting in the Chamber of Deputies and the Senate takes place; the majority of votes needed depend on the object of the treaty;

Step 4 – The adopted ratification law is sent to the President of Romania for promulgation;

After the promulgation, the ratification law is published in the Official Gazette of Romania, and after that, the law comes into force.

III. Methodology

The time needed for a ratification law to become an actual law after all the steps of the parliamentary procedure are met and the law is sent to promulgation by the President of Romania was measured, basically meaning that the number of days between Step 2 and Step 4 was counted.

These days were counted to see whether Law no. 590 of 2003 brought a change in terms of the time needed to complete the whole parliamentary procedure for adopting a ratifying law of an international treaty.

⁴¹ Bogdan AURESCU, Irina NIȚĂ, „Commentary on the Romanian...”, n. 4/2007, p. 125.

The time required to complete a legislative procedure is appreciated as an indicator of its efficiency or lack thereof, since a decision made in a shorter time implies lower costs and higher efficiency of the procedure in question⁴².

Even though it is taken into consideration that a certain length of time cannot be considered as the most optimal for the adoption of a law by a parliament and that it is difficult to identify a limit after which the passage of additional time would involve additional and unjustified costs⁴³, I believe that the efficacy of the procedure for adopting a ratification law, as prescribed by the revised Constitution and Law no. 590 of 2003, must be seen in comparison with the efficacy of the procedure prescribed by the old law, Law no. 4 of 1991.

Thus, the time required to adopt a ratification law based on the old procedure and the time required to adopt a ratification law based on the new procedure was analysed to see if the new procedure is more efficient than the old procedure, especially from this point of view.

A total of 234 ratification laws were researched, using the search engine available on the official page of the Chamber of Deputies⁴⁴, which shows the entire itinerary of the legislative project of each ratification law separately. The laws confirming the governmental ordinances (emergency ordinances or “simple” ones) were not taken into account, since in those cases we cannot speak of a genuine parliamentary procedure for the ratification of the treaty, but rather of a “ratification of the ratification”.

⁴² Ani MATEI, Cristina CIORA, Adrian DUMITRU, Reli CECHE, „Efficiency and Effectiveness of the European Parliament under the Ordinary Legislative Procedure”, *Administrative Sciences*, v. 9, n. 3/2019, p. 73.

⁴³ Ani MATEI, Cristina CIORA, Adrian DUMITRU, Reli CECHE, „Efficiency and Effectiveness of the European Parliament under the Ordinary Legislative Procedure”, *Administrative Sciences*, v. 9, n. 3/2019, p. 80.

⁴⁴ Available online at: http://www.cdep.ro/pls/proiecte/upl_pck2015.home (Accessed 24th of May 2023).

All laws adopted since February 12, 2002, and the entry into force of Law no. 590 of 2003 – February 12, 2004 – were investigated to see the efficiency of the procedure for adopting a ratification law based on Law 4/1991. Also, all laws adopted with the procedure prescribed by Law no. 590 of 2003, after the entry into force of said law, and until the end of 2005 were examined to explore the efficiency of the procedure for adopting a ratification law based on Law no. 590 of 2003. Approximately, 2 years of adopting a ratification law based on the old law and 2 years of adopting a ratification law based on the new law were put into parallel analysis.

The parliamentary procedural time was calculated as the time between the first registration of the draft law in the Parliament (Step 2) and the date of sending the draft law adopted by the Parliament to the President to promulgate the law (Step 4).

A table with the tracked laws can be seen in Appendix 1, which includes the relevant temporal data, personally collected by the author, using the website of the Chamber of Deputies, regarding all the laws ratifying an international treaty between February 12, 2002, and the end of 2005 (4 years).

On the other hand, this study will not deal with laws adopted with the procedure for adopting ratification laws that refer to the Euro-Atlantic integration, as that is regulated by art. 20, 148, and 149 of the Romanian Constitution and Law no. 276 of 2011. Also, norms that were born by the procedure for approving the treaties signed at the governmental level, by the decision of the Government are not considered. Thus, this study is strictly analysing the laws adopted with the treaty ratification procedure exactly as it

is mainly regulated by art. 11⁴⁵, 75⁴⁶, 91⁴⁷ of the Constitution and Law no. 590 of 2003.

IV. Results and discussions

The main results that must be highlighted are those related to the mean (average) number of days needed to complete the treaty ratification procedure, from the registration of the project in Parliament to the sending of the adopted law for promulgation to the President – see Table 1. Thus, based on Law no. 4 of 1991, a law ratifying an international treaty was adopted in Parliament, on average, in 80-81 days. The shortest time a ratification law was passed in this time frame was 12 days. In contrast, the longest duration of the parliamentary procedure for the ratification of an international treaty, following which a ratification law was adopted during the years 2003-2004, was 527 days.

⁴⁵ Article 11. International law and domestic law. (1) *The Romanian state undertakes to fulfil exactly and in good faith its obligations from the treaties to which it is a party.* (2) *Treaties ratified by Parliament, according to the law, are part of domestic law.* (3) *If a treaty to which Romania is to become a party contains provisions contrary to the Constitution, its ratification can only take place after the revision of the Constitution.*

⁴⁶ Article 75. Notification of the Chambers. (1) *Draft laws and legislative proposals for the ratification of treaties or other international agreements and legislative measures resulting from the application of these treaties or agreements are submitted for debate and adoption to the Chamber of Deputies, as the first Chamber referred to them...*

⁴⁷ Article 91. Assignments in the field of foreign policy. (1) *The President concludes international treaties on behalf of Romania, negotiated by the Government, and submits them for ratification to the Parliament, within a reasonable period. The other treaties and international agreements are concluded, approved, or ratified according to the procedure established by law...*

Year	2002	2003 ⁴⁸	2004	2005
Mean number of days necessary for adoption	80.45	80.25	44	60
Mean days necessary – Law no. 4 of 1991	80.32			
Mean days necessary – Law no. 590 of 2003			52.21	

Table 1. Mean number of days necessary for adopting a treaty ratification law, years 2002-2005.

On the other hand, based on Law no. 590 of 2003, the duration of the procedure to ratify an international treaty became 52 days on average. Thus, a decrease in the required time of approximately one month can be observed. The shortest duration during this period was 8 days, and the longest was 252 days.

However, other factors that would influence the time it takes to pass a ratification law must be considered, such as differences in parliamentary majorities, the number of laws passed before 2004 and after that year, and others. The impact of such factors is beyond the scope of this study.

V. Conclusions

Finally, in a sense, we can say that the current procedure of ratifying an international treaty has become almost twice as efficient compared to the old procedure with the entry into force of Law no. 590 of 2003 and the revision

⁴⁸ Including the laws adopted until the entry into force of Law no. 590 of 2003 on February 12, 2004.

of the Constitution. It appears that Law no. 590 of 2003 established an efficient and clear ratification parliamentary procedure.

Moreover, I believe that even simple quantitative measurements and research methods can make scholars and practitioners able to make judgments about laws. Thus, empirical legal analysis, though rare in Romanian (legal) literature, should prove to be extremely useful.

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VII. Appendix 1 – The laws ratifying an international treaty adopted by the Parliament between 2002 and 2005

Ratif. law	Step 2	Step 4	No. of days	Year of adopt.	Procedure
110	25.11.2001	11.03.2002	106	2002	Law 4/1991
111	18.12.2001	12.03.2002	84	2002	Law 4/1991
115	17.01.2002	11.03.2002	53	2002	Law 4/1991
123	27.11.2001	11.03.2002	104	2002	Law 4/1991
124	10.12.2001	11.03.2002	91	2002	Law 4/1991
147	22.10.2001	25.03.2002	154	2002	Law 4/1991
188	21.01.2002	09.04.2002	78	2002	Law 4/1991
260	13.02.2002	24.04.2002	70	2002	Law 4/1991
263	27.02.2002	07.05.2002	69	2002	Law 4/1991
276	06.03.2002	07.05.2002	62	2002	Law 4/1991
278	12.03.2002	07.05.2002	56	2002	Law 4/1991
279	12.03.2002	07.05.2002	56	2002	Law 4/1991
297	12.03.2002	07.05.2002	56	2002	Law 4/1991
305	23.10.2001	13.05.2002	202	2002	Law 4/1991
306	05.03.2002	13.05.2002	69	2002	Law 4/1991
320	14.03.2002	20.05.2002	67	2002	Law 4/1991
367	20.03.2002	04.06.2002	76	2002	Law 4/1991
369	26.03.2002	04.06.2002	70	2002	Law 4/1991
394	20.03.2002	11.06.2002	83	2002	Law 4/1991
396	01.04.2002	11.06.2002	71	2002	Law 4/1991
397	01.04.2002	11.06.2002	71	2002	Law 4/1991
416	17.04.2002	21.06.2002	65	2002	Law 4/1991

Ratif. law	Step 2	Step 4	No. of days	Year of adopt.	Procedure
433	30.04.2002	21.06.2002	52	2002	Law 4/1991
438	16.04.2002	21.06.2002	66	2002	Law 4/1991
439	11.04.2002	21.06.2002	71	2002	Law 4/1991
451	23.04.2002	28.06.2002	66	2002	Law 4/1991
452	08.05.2002	28.06.2002	51	2002	Law 4/1991
464	23.04.2002	01.07.2002	69	2002	Law 4/1991
465	10.05.2002	01.07.2002	52	2002	Law 4/1991
473	17.05.2002	08.07.2002	52	2002	Law 4/1991
474	17.05.2002	08.07.2002	52	2002	Law 4/1991
475	23.05.2002	08.07.2002	46	2002	Law 4/1991
477	01.05.2002	08.07.2002	68	2002	Law 4/1991
529	23.05.2002	17.09.2002	117	2002	Law 4/1991
551	10.06.2002	04.10.2002	116	2002	Law 4/1991
553	20.06.2002	04.10.2002	106	2002	Law 4/1991
565	18.07.2002	11.10.2002	85	2002	Law 4/1991
572	15.07.2002	11.10.2002	88	2002	Law 4/1991
582	22.07.2002	11.10.2002	81	2002	Law 4/1991
583	04.07.2002	11.10.2002	99	2002	Law 4/1991
606	09.07.2002	01.11.2002	115	2002	Law 4/1991
607	22.08.2002	01.11.2002	71	2002	Law 4/1991
610	22.08.2002	01.11.2002	71	2002	Law 4/1991
613	14.06.2002	08.11.2002	147	2002	Law 4/1991
623	16.09.2002	13.11.2002	58	2002	Law 4/1991
626	16.09.2002	13.11.2002	58	2002	Law 4/1991
635	01.08.2002	02.12.2002	123	2002	Law 4/1991
651	25.09.2002	03.12.2002	69	2002	Law 4/1991
7	08.10.2002	06.01.2003	90	2003	Law 4/1991
20	10.10.2002	06.01.2003	88	2003	Law 4/1991
23	23.10.2002	06.01.2003	75	2003	Law 4/1991

Ratif. law	Step 2	Step 4	No. of days	Year of adopt.	Procedure
26	23.10.2002	06.01.2003	75	2003	Law 4/1991
55	23.10.2002	06.01.2003	75	2003	Law 4/1991
56	28.08.2001	06.02.2003	527	2003	Law 4/1991
59	20.01.2002	03.03.2003	407	2003	Law 4/1991
69	21.11.2002	03.03.2003	102	2003	Law 4/1991
70	21.11.2002	03.03.2003	102	2003	Law 4/1991
73	11.02.2003	07.03.2003	24	2003	Law 4/1991
112	08.01.2003	28.03.2003	79	2003	Law 4/1991
113	08.01.2003	28.03.2003	79	2003	Law 4/1991
125	17.12.2002	09.04.2003	113	2003	Law 4/1991
126	07.01.2003	09.04.2003	92	2003	Law 4/1991
127	07.01.2003	09.04.2003	92	2003	Law 4/1991
128	15.01.2003	09.04.2003	84	2003	Law 4/1991
147	07.01.2003	09.04.2003	92	2003	Law 4/1991
152	07.01.2003	09.04.2003	92	2003	Law 4/1991
153	07.01.2003	09.04.2003	92	2003	Law 4/1991
154	07.01.2003	09.04.2003	92	2003	Law 4/1991
155	16.01.2003	09.04.2003	83	2003	Law 4/1991
157	16.01.2003	09.04.2003	83	2003	Law 4/1991
159	28.01.2003	09.04.2003	71	2003	Law 4/1991
160	16.01.2003	09.04.2003	83	2003	Law 4/1991
162	05.02.2003	09.04.2003	63	2003	Law 4/1991
164	24.01.2003	09.04.2003	75	2003	Law 4/1991
176	25.02.2003	25.04.2003	59	2003	Law 4/1991
213	27.02.2003	16.05.2003	78	2003	Law 4/1991
214	24.03.2003	16.05.2003	53	2003	Law 4/1991
223	10.03.2003	16.05.2003	67	2003	Law 4/1991
226	16.01.2003	16.05.2003	120	2003	Law 4/1991
257	03.04.2003	03.06.2003	61	2003	Law 4/1991

Ratif. law	Step 2	Step 4	No. of days	Year of adopt.	Procedure
271	14.04.2003	16.06.2003	63	2003	Law 4/1991
283	14.05.2003	24.06.2003	41	2003	Law 4/1991
284	23.04.2003	24.06.2003	62	2003	Law 4/1991
298	18.06.2003	28.06.2003	10	2003	Law 4/1991
300	09.05.2003	24.06.2003	46	2003	Law 4/1991
302	18.04.2003	24.06.2003	67	2003	Law 4/1991
345	19.05.2003	03.07.2003	45	2003	Law 4/1991
365	13.06.2003	12.09.2003	91	2003	Law 4/1991
366	10.06.2003	12.09.2003	94	2003	Law 4/1991
367	06.06.2003	12.09.2003	98	2003	Law 4/1991
368	27.05.2003	16.09.2003	112	2003	Law 4/1991
369	06.06.2003	16.09.2003	102	2003	Law 4/1991
371	16.06.2003	12.09.2003	88	2003	Law 4/1991
372	13.06.2003	12.09.2003	91	2003	Law 4/1991
373	13.06.2003	12.09.2003	91	2003	Law 4/1991
374	06.06.2003	16.09.2003	102	2003	Law 4/1991
394	04.07.2003	02.10.2003	90	2003	Law 4/1991
395	11.07.2003	02.10.2003	83	2003	Law 4/1991
396	23.06.2003	02.10.2003	101	2003	Law 4/1991
397	23.06.2003	02.10.2003	101	2003	Law 4/1991
398	23.06.2003	02.10.2003	101	2003	Law 4/1991
400	23.06.2003	02.10.2003	101	2003	Law 4/1991
411	11.07.2003	15.10.2003	96	2003	Law 4/1991
412	11.07.2003	15.10.2003	96	2003	Law 4/1991
414	11.07.2003	15.10.2003	96	2003	Law 4/1991
415	11.07.2003	15.10.2003	96	2003	Law 4/1991
416	15.07.2003	15.10.2003	92	2003	Law 4/1991
417	16.06.2003	15.10.2003	121	2003	Law 4/1991
418	13.06.2003	15.10.2003	124	2003	Law 4/1991

Ratif. law	Step 2	Step 4	No. of days	Year of adopt.	Procedure
419	11.07.2003	15.10.2003	96	2003	Law 4/1991
421	16.07.2003	15.10.2003	91	2003	Law 4/1991
439	15.09.2003	21.10.2003	36	2003	Law 4/1991
440	15.09.2003	21.10.2003	36	2003	Law 4/1991
441	15.09.2003	21.10.2003	36	2003	Law 4/1991
442	31.07.2003	21.10.2003	82	2003	Law 4/1991
446	19.08.2003	01.11.2003	74	2003	Law 4/1991
482	17.07.2003	17.11.2003	123	2003	Law 4/1991
483	24.09.2003	17.11.2003	54	2003	Law 4/1991
494	09.09.2003	17.11.2003	69	2003	Law 4/1991
495	09.09.2003	17.11.2003	69	2003	Law 4/1991
496	04.09.2003	17.11.2003	74	2003	Law 4/1991
497	19.09.2003	17.11.2003	59	2003	Law 4/1991
498	24.09.2003	22.11.2003	59	2003	Law 4/1991
499	24.09.2003	22.11.2003	59	2003	Law 4/1991
508	13.10.2003	25.11.2003	43	2003	Law 4/1991
509	13.10.2003	25.11.2003	43	2003	Law 4/1991
521	17.11.2003	05.12.2003	18	2003	Law 4/1991
549	21.10.2003	15.12.2003	55	2003	Law 4/1991
573	24.11.2003	17.12.2003	23	2003	Law 4/1991
574	24.11.2003	17.12.2003	23	2003	Law 4/1991
587	17.11.2003	17.12.2003	30	2003	Law 4/1991
588	10.12.2003	22.12.2003	12	2003	Law 4/1991
3	08.12.2003	13.02.2004	67	2004	Law 4/1991
4	15.12.2003	13.02.2004	60	2004	Law 4/1991
5	10.12.2003	13.02.2004	65	2004	Law 4/1991
6	08.12.2003	13.02.2004	67	2004	Law 4/1991
24	09.09.2003	02.03.2004	175	2004	Law 4/1991
44	02.02.2004	13.03.2004	40	2004	Law 4/1991

RATIF. LAW	STEP 2	STEP 4	NO. OF DAYS	YEAR OF ADOPT.	PROCEDURE
57	02.02.2004	19.03.2004	46	2004	Law 4/1991
58	02.02.2004	19.03.2004	46	2004	Law 4/1991
59	02.02.2004	19.03.2004	46	2004	Law 4/1991
60	02.02.2004	19.03.2004	46	2004	Law 4/1991
61	06.02.2004	19.03.2004	42	2004	Law 4/1991
62	02.02.2004	19.03.2004	46	2004	Law 4/1991
63	02.02.2004	19.03.2004	46	2004	Law 4/1991
64	02.02.2004	19.03.2004	46	2004	Law 4/1991
65	02.02.2004	19.03.2004	46	2004	Law 4/1991
68	02.02.2004	22.03.2004	49	2004	Law 4/1991
69	11.02.2004	22.03.2004	40	2004	Law 4/1991
93	17.02.2004	26.03.2004	38	2004	Law 590/2003
133	18.02.2004	19.04.2004	61	2004	Law 590/2003
143	08.03.2004	26.04.2004	49	2004	Law 590/2003
188	24.03.2004	14.05.2004	51	2004	Law 590/2003
192	15.03.2004	18.05.2004	64	2004	Law 590/2003
193	19.04.2004	20.05.2004	31	2004	Law 590/2003
197	19.04.2004	20.05.2004	31	2004	Law 590/2003
202	31.03.2004	14.05.2004	44	2004	Law 590/2003
247	19.04.2004	04.06.2004	46	2004	Law 590/2003
250	26.04.2004	04.06.2004	39	2004	Law 590/2003
257	03.05.2004	10.06.2004	38	2004	Law 590/2003
258	12.05.2004	10.06.2004	29	2004	Law 590/2003
259	03.05.2004	10.06.2004	38	2004	Law 590/2003
260	10.05.2004	10.06.2004	31	2004	Law 590/2003
261	26.04.2004	07.06.2004	42	2004	Law 590/2003
262	12.05.2004	10.06.2004	29	2004	Law 590/2003
283	12.05.2004	17.06.2004	36	2004	Law 590/2003
284	12.05.2004	17.06.2004	36	2004	Law 590/2003

Ratif. law	Step 2	Step 4	No. of days	Year of adopt.	Procedure
356	21.06.2004	03.09.2004	74	2004	Law 590/2003
363	08.06.2004	03.09.2004	87	2004	Law 590/2003
365	30.06.2004	11.09.2004	73	2004	Law 590/2003
366	24.08.2004	11.09.2004	18	2004	Law 590/2003
367	24.08.2004	11.09.2004	18	2004	Law 590/2003
368	24.08.2004	11.09.2004	18	2004	Law 590/2003
372	09.06.2004	03.09.2004	86	2004	Law 590/2003
375	24.08.2004	17.09.2004	24	2004	Law 590/2003
383	26.05.2004	17.09.2004	114	2004	Law 590/2003
389	30.08.2004	23.09.2004	24	2004	Law 590/2003
424	30.08.2004	12.10.2004	43	2004	Law 590/2003
429	01.09.2004	12.10.2004	41	2004	Law 590/2003
446	30.08.2004	15.10.2004	46	2004	Law 590/2003
448	13.09.2004	22.10.2004	39	2004	Law 590/2003
449	13.09.2004	22.10.2004	39	2004	Law 590/2003
450	13.09.2004	22.10.2004	39	2004	Law 590/2003
456	30.08.2004	15.10.2004	46	2004	Law 590/2003
458	30.08.2004	15.10.2004	46	2004	Law 590/2003
468	08.09.2004	22.10.2004	44	2004	Law 590/2003
532	11.10.2004	15.11.2004	35	2004	Law 590/2003
537	22.09.2004	15.11.2004	54	2004	Law 590/2003
540	13.10.2004	15.11.2004	33	2004	Law 590/2003
584	20.10.2004	10.12.2004	51	2004	Law 590/2003
586	25.10.2004	10.12.2004	46	2004	Law 590/2003
587	20.10.2004	10.12.2004	51	2004	Law 590/2003
2	08.11.2004	18.02.2005	102	2005	Law 590/2003
3	14.06.2004	21.02.2005	252	2005	Law 590/2003
8	08.11.2004	11.02.2005	95	2005	Law 590/2003
39	28.12.2004	07.03.2005	69	2005	Law 590/2003

Ratif. law	Step 2	Step 4	No. of days	Year of adopt.	Procedure
40	22.11.2004	07.03.2005	105	2005	Law 590/2003
41	30.11.2004	07.03.2005	97	2005	Law 590/2003
55	28.12.2004	07.03.2005	69	2005	Law 590/2003
86	07.03.2005	02.04.2005	26	2005	Law 590/2003
87	07.03.2005	02.04.2005	26	2005	Law 590/2003
104	14.03.2005	15.04.2005	32	2005	Law 590/2003
105	28.02.2005	18.04.2005	49	2005	Law 590/2003
157	04.05.2005	20.05.2005	16	2005	Law 590/2003
165	04.05.2005	01.06.2005	28	2005	Law 590/2003
166	22.04.2005	03.06.2005	42	2005	Law 590/2003
167	22.04.2005	01.06.2005	40	2005	Law 590/2003
168	11.04.2005	27.05.2005	46	2005	Law 590/2003
170	18.04.2005	27.05.2005	39	2005	Law 590/2003
171	18.04.2005	27.05.2005	39	2005	Law 590/2003
172	30.03.2005	20.05.2005	51	2005	Law 590/2003
173	30.03.2005	20.05.2005	51	2005	Law 590/2003
174	30.03.2005	20.05.2005	51	2005	Law 590/2003
175	30.03.2005	20.05.2005	51	2005	Law 590/2003
191	09.05.2005	17.06.2005	39	2005	Law 590/2003
199	04.05.2005	17.06.2005	44	2005	Law 590/2003
203	18.04.2005	27.06.2005	70	2005	Law 590/2003
204	09.05.2005	27.06.2005	49	2005	Law 590/2003
220	20.06.2005	05.07.2005	15	2005	Law 590/2003
257	20.06.2005	17.09.2005	89	2005	Law 590/2003
258	15.06.2005	17.09.2005	94	2005	Law 590/2003
265	05.09.2005	03.10.2005	28	2005	Law 590/2003
267	30.06.2005	03.10.2005	95	2005	Law 590/2003
268	22.06.2005	30.09.2005	100	2005	Law 590/2003
269	15.06.2005	30.09.2005	107	2005	Law 590/2003

Ratif. law	Step 2	Step 4	No. of days	Year of adopt.	Procedure
295	05.09.2005	10.10.2005	35	2005	Law 590/2003
298	19.07.2005	10.10.2005	83	2005	Law 590/2003
303	05.09.2005	24.10.2005	49	2005	Law 590/2003
304	05.09.2005	24.10.2005	49	2005	Law 590/2003
332	05.09.2005	10.11.2005	66	2005	Law 590/2003
333	05.09.2005	10.11.2005	66	2005	Law 590/2003
356	10.10.2005	25.11.2005	46	2005	Law 590/2003
405	19.12.2005	27.12.2005	8	2005	Law 590/2003
406	19.12.2005	27.12.2005	8	2005	Law 590/2003