



Constitutional role of President of Romania and its relations with Parliament and Government

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presidential Institution, constitutional powers, democratic government, bicameral parliament, executive bicefalic.

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ABSTRACT *In Romanian constitutional system the presidential institution is part of the executive and so it holds the crucial position which enshrines the balance between government and parliament. Thanks to becefalic organizer of the executive power, the constitutional prerogatives established between the president and prime minister are different, the goal being that there are no conflicts of executive skills in politics.*

The topic so approached will reveal a number of attributes that are conferred to presidential institution in relation to other bodies of power of Parliament and Government.

It should be appreciated that in the Romanian constitutional system presidential institution and the Government institution have different legitimacy, because they come from different political wills. Thus, the President of Romania - is the result of popular elections as electoral body while the government is formed after the appointment of the Prime Minister by the President and strengthened by the vote of investiture of Parliament.

In this context we motivate dominant position enjoyed by Institute president.

INTRODUCTION

The theses regarding the institution of the President of Romania implemented in the constitution of 1991 which was further revised, highlights some ideas that call for comments on the role of President and specific powers conferred upon it by default, powers that are defined in the context of its relations with Parliament and Government.

The analysis of parliamentary debate with reference to presidential institution identified a framework under which the presidential role in the development of democracy have shaped:

- it was considered that after the totalitarian experience it is necessary for the President to be a genuine guarantor of respect for democratic principles and fundamental rights of citizens;

- the President was in that position that through its legitimacy fits in relations between Parliament and Government,

- internally President has a role in ensuring the democratic functioning of state mechanisms, the guarantor of these principles,

- the principle of separation of powers is a prerequisite in developing democratic state, the president is the supreme guarantor of this principle,

- President of the Republic is under the control of Parliament, as a way of limiting its powers.

In this context it was considered that the President is a symbol of unity, a guarantor of national independence, a referee and a moderator in the political life of the country. (Romanian Constitution, 2003)

After parliamentary debates, it was proposed that the constitution with reference to presidential institution to impose

a series of tasks and characteristics in order to maintain a democratic framework, allowing its exercise of the powers according to law, without exceptions or overlaps with other institutions. (A. Iorgovan, 2001)

INSTITUTIONAL RELATIONS OF THE PRESIDENT OF ROMANIA WITH PARLIAMENT AND GOVERNMENT

Constitutional text assigns to the President of Romania a double image that of the head of state as the President of Romania, with authority to represent the Romanian State in internal and international relations and to mediate between state powers and as a public authority as top exponent of executive power. (T. Dr. ganu, 1998.)

One of its main tasks is established on the idea that the President should be the factor that discourages the excess of power of Parliament, but which also limits the exercise of government. Thus, from this point of view the perspective of President of the State may be considered to be an effective management tool or involvement in government decision making.

The mediator role of the President impose him a number of restrictions including:

- the President can not be a member of any political party during its mandate;

- it does not have any legislative initiative with ordinary or organic nature, but it has the constitutional right to address Parliament messages which may include suggestions for legislative proposals,

- it may address letters, requests or demands including the exercise of its powers, (Opinion of the Constitutional Court no. 1 of 5 April 2007).

- it does not have powers under Art. 102 para. 1 of the

Constitution, but it has the right to take part in meetings of the Government when there are discussed urgent issues of particular importance; (Cristian Ionescu, 2014)

- it does not have the possibility to impose on Parliament's legislative work, but it has the constitutional right to ask the people, after consulting the legislature to express their will by referendum on issues of national interest,

-it has the constitutional right to contribute to the formation of a parliamentary majority that will shape and support the Government during its mandate.

Here there are some examples of counterweight to the power Parliament and the Government, which demonstrate that the presidential institution is a real tool for maintaining the balance of power.

The power of a public authority and its prerogatives amplitude in relation to other authorities is given by its legitimacy and representativeness, issued by the electorate vote conferring it the position of political power.

A president elected by the electoral body defined by people enjoy broad support. Citizens turnout is an essential condition for the legitimacy of the president elected by direct universal suffrage.

The direct election of the president expresses the agreement of citizens to confer it concrete powers and important functions in the state administration and to prevent excess of power, legislator implements levers of balances which are conferred to other bodies so the power of a state to be managed in permanent balance between Government, Parliament and head of state.

Therefore, we agree the idea that Parliament and the Government should have levers that limit the power of the President and this should have effective tool to block legislative power and excess of power generated by the Office of Government.(N.Popa, 2012)

The fact that the President of Romania is elected by direct universal suffrage as members of parliament, it gives equal legitimacy of the Parliament, implying significant allocation of powers and a role in the exercise of power.

It can be said that the presidential institution is positioned at the same level with Parliamentary institution, the fact itself demonstrates mutual activity of control between the two public authorities.

The balance created by both public authorities can be changed when discussing the idea that the president is the product of a party that is in majority position in Parliament.

Taking into account that the President of Romania comes from a political party, it was proposed and supported by the campaign of this party, that usually constitutes the core of parliamentary majority that has given the vote of confidence to the Government, then we should not talk about balance between Parliament and President, there is no counterweight to power, there is no obstacle to the objectives of the parliamentary majority which may lead to a dominant atmosphere. Seen from this perspective it tends to form totalitarian government.

Two decades of perspective assessment of President of Romania, elected by direct universal suffrage, by the pres-

ence of five presidential terms, it appears that the fundamental law of the state, it is not provided strict duties of the President, this allowed the officials that have achieved this mandate through electoral body to become the source of decisions of the Government and Parliament, especially in 2008-2012. In order to regulate this situation, it should be established a balance between the direct nature of the election and powers of the President.

President of Romania express the Romanian state authority internal referred to citizens and it is qualified to ensure smooth functioning of public authorities and in the external report it is a subject of international law treaties or other international acts that it joins.

Representativeness position is underlined by art. 2 para. 1 of the Constitution, from this point of view the President of Romania ranks equal to that of Parliament.

As stated Cristian Ionescu „if we consider that those who vote for President of the Republic by direct vote form a social compact body, homogenized politically and ideologically by the campaign schedule and personality of the chosen, we can say that the President is even more representative than Parliament because it is in essence a conflicting political and ideological body”.(Cristian Ionescu, 2014)

Due to the high level of representativeness President of Romania, by its actions, through its work in accordance with the objectives of the parliamentary majority and the government supported by the majority will not be put in a position to withstand shocks of government failures because he is not involved in governance process itself, and will not get the performance of a government who will excel in governance for the same reason.

It can be seen that President is an actor which is not directly involved in politics, he does not realize the exercise of governance, this is a battle that takes place between parliament and government also a part of the executive, it is positioned somewhere in the second place in political life. In this situation it will not bear deform of its image, it will not be under the criticisms of citizens as parliamentary majority is. It is stated the passive position that President will enjoy.

Among the three political authority was made a political gear of mutual relations, thus Government has the tasks to achieve government and foreign policy and thus the general management of public administration, parliament has the powers of transposition of the Government's legislative program into mandatory rules and the President assumes powers of representation of the Romanian state, defense of independence and territorial integrity and to ensure compliance with fundamental laws of the state and to mediate conflicts between state powers or between the state and civil society.

Consequently president is not a ‚worker’, but a supervisor of the activity realized by other political authorities.

CUSTOMIZING THE POWER PRESIDENT OF ROMANIA

Customizing the power of the President is an exercise of communication and image that the public and citizen as part of the electorate perceives.

President vocation to customize its powers is an option that takes more than subjective factors.

The role of this topic is to clarify whether it can be exposed a customization of presidential institution in constitutional power. The effect of this personalizing is changing the institutional balance between the three powers of the state.

In this respect the President of Romania is in the depiction of an institution that is conferred by its popular legitimacy, that has power support but lacks it.

However, although it is powerless, the President of Romania participates in the exercise of power through constitutional attributes.

There is not a clear identification of attributes to justify direct participation in the exercise of powers of the President. In this respect, we question the right of immunity of the President of Romania, for its opinions even if these opinions mean revocation of Presidents of both Houses of Parliament and changing the purpose of parliamentary regulations.

The Constitutional Court ruled in this case it is the expression of opinions and political preferences of the president and „no acts of decision, here are the legal acts on his own initiative - such as changes by both Houses of Parliament to their regulations –President is not responsible for them as they are the act of will of the competent authorities. „

Previous exposure demonstrates that although it has limited activity in certain situations, President appears as an active participant indirectly pawn in the political and social governance. (Opinion Consultative Constitutional Court no. 1 of 6 July 2012)

Exercising an active role in political and social life requires a perpetual activity, a specialized body with a program to be carried out daily, with concrete objectives to be realized through activity, the presence of a holder to assume direct, present and supporting responsibility. We can not say that the status of the President places it in this situation.

Generally the President attributions shall be exercised in cases of conjecture.

1. art. 85 of the Constitution, the President may consult with the Government about urgent and extremely important problems;
2. art. 87 of the Constitution, the President may take part in certain meetings of the Government (non-voting);
3. art. 88 of the Constitution, the President shall address messages to Parliament regarding the main political issues of the nation;
4. Art. 89 of the Constitution, the President may dissolve the Parliament under constitutional conditions;
5. art. 90 of the Constitution, after consultation with Parliament, the President may ask the people to express their will by referendum on issues of national interest;
6. art. 91 of the Constitution, the President may conclude treaties that were negotiated with the government, and after it submits them to Parliament for rectification,

or accredits and recalls Romania's diplomatic representatives, approves the establishment or disestablishment of diplomatic missions rank;

7. art. 92 of the Constitution, the President declares with the approval of Parliament partial or total mobilization of the armed forces;
8. art. 93 of the Constitution, the President calls for state siege measures by requesting Parliament for adopted measures;
9. art. 94 of the Constitution, the President confers decorations and titles of honor, gives military ranks, appointments to public offices, grant individual pardon.
10. art. 77 of the Constitution, the President promulgates laws,
11. art. 144 letter a) of the Constitution, the President has the right to appeal to the Constitutional Court on the constitutionality of laws which he received for promulgation.

According to these tasks which reflects President's involvement in politics, we can not say that its role is of an active life with decisional character as alleged by the Constitutional Court's in the opinion discussed above.

Therefore even art. 80 of the Constitution regulates the right framework and position of President's active role in political and social life of the country, so it is a mediator between the state powers, he acts as guarantor of national independence, unity and territorial integrity of the country, is the holder of right to ensure compliance with the Constitution and the proper functioning of public authorities and state representative.

CONCLUSION

The role of president is somewhere between the Parliament and the Government, and this location allows it to oscillate in two directions.

President is unable to maintain subordinate its partners, but keeps them through a participatory dialogue, because it strengthens its position and gives an indirect activity which is influential in political and social life of the state.

The president is the one who intervenes only as an elected representative of the people to establish and formalize the balance between Parliament and Government through the importance and solemnity of its function.

Participation through messages, calls, letters to Parliament or presence on Government talks is the most open way to engage in politics, reinforcing the link between the two public authorities.

In conclusion President of the country is one of the most significant institution, relying on the connection made between Parliament and the Government as indispensable elements of exercise of mediation or guarantee of the separation of powers

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