

PRESIDENTIAL LEGITIMACY AND CONSTITUTIONAL COMPETENCES: A COMPARATIVE STUDY OF THE PRESIDENT OF THE REPUBLIC IN THE GREEK AND ROMANIAN LEGAL ORDERS

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Abstract

This study examines the institutional divergence between the parliamentary system of Greece and the semi-presidential model of Romania, focusing on the relationship between the Head of State's democratic legitimation and the constitutionally circumscribed nature of his executive powers. The central research enquiry concerns the manner in which distinct historical memory and the concept of "constitutional time" within the two jurisdictions reconfigure the functional architecture of the Executive.

Employing a comparative methodology and utilizing the institution's normative ambit as the tertium comparationis, the research adopts a functional approach to analyse how the traumas of an authoritarian past dictated distinct strategies for safeguarding democracy. Regarding the Romanian legal order, the analysis integrates the theoretical construct of "mitigated semi-presidentialism" (Iorgovan, Drăganu) and the jurisprudential acquis of the Constitutional Court (Decisions No. 70/1999 and 567/2006), which delineates the President's role as an "Active Counterweight." It argues that while the President enjoys original (direct) legitimacy, his powers, such as the consultative referendum, are strictly checked to prevent the emergence of a "bicephalous executive" deadlock.

Conversely, the Greek constitutional paradigm, shaped by the revisions of 1986 and 2019, favours derivative (indirect) legitimacy to deliberately obviate the perils of "dual legitimacy" (Venizelos). By decoupling the presidential election from parliamentary dissolution, the Greek model consolidates the Unitary Executive, rendering the President a "Dormant Regulator" in the interest of governability. In conclusion, the thesis argues that the two models should not be evaluated hierarchically but functionally, as successful adaptations to their respective national exigencies. Ultimately, the guarantee of democratic stability is not ensured exclusively by "constitutional engineering", but presupposes the constitutional maturity of political actors in managing "cohabitation" and institutional consensus.

INTRODUCTION

This study provides a comparative constitutional analysis of the Head of State in two EU Member States: the Hellenic Republic and Romania. For the academic substantiation of this analysis, the definition of the methodological tool of comparability is a requisite. The *tertium comparationis* of the present study is defined as the institutional status and the normative ambit of the Head of State within the modern European Rule of Law (*État de droit*), as well as his relationship with the Executive and the Legislature.

The two legal orders under examination share fundamental common characteristics that render the comparison valid and academically fruitful: both States completed their transition to democracy emerging from authoritarian regimes, Greece in 1974 and Romania in 1989, adopted the Republic as their form of government, and were fully integrated into Euro-Atlantic institutions (EU and NATO). However, the research hypothesis of the present thesis posits that the divergent historical trajectories and the distinct "constitutional time" of the two countries led to differing institutional choices regarding the organization of the Executive. Greece, drawing upon the institutional memory of the 1965–1974 period, arrived, particularly following the Constitutional Revision of 1986, at a purely parliamentary system, wherein the President of the Republic functions primarily as a guarantor of the institutions and regulator of the form of government.

Conversely, Romania, within the framework of the constituent process of 1991 and the necessity for institutional checks and balances, adopted a system with strong semi-presidential characteristics, recognizing the President as an active state actor with distinct executive competences. The State was defined as national, sovereign, independent, unitary and indivisible, while the separation of powers (legislative, executive, judicial) was introduced, and a broad protection of individual rights and liberties was incorporated, in accordance with international standards. Special mention must be made of the provision for the establishment of a Constitutional Court charged with the review of the constitutionality of laws (Title V, Articles 142–147). It is noteworthy that the Constitution of 1991 was radically revised in 2003 (via 79 amendments) by referendum, in order to harmonize the text with the accession requirements of the European Union and NATO, thereby strengthening the rights of minorities and the Rule of Law.

In light of the foregoing, the following question arises: How does the distinct legitimizing basis of the Head of State (Original/Direct vs. Derivative/Indirect) reconfigure the functional architecture of the Executive? The present thesis undertakes a comparative examination of the transition from the model of "Governmental Stability" (Greece) to the model of the "Institutional Counterweight" (Romania) as strategies for safeguarding democracy.

1. HISTORICAL AND INSTITUTIONAL GENESIS: THE CONFIGURATION OF THE TWO MODELS

An in-depth understanding of the institutional role of the Head of State presupposes an examination of the historical and parliamentary environment within which he is called to function. The divergent constitutional memory of the two countries constitutes the key to the interpretation of their contemporary powers.

1.1. Romania: From The "Organic Statute" To The Contemporary Semi-Presidential System

The Romanian parliamentary tradition traces its origins to May 1831 with the institutionalization of the *Organic Statute (Regulamentul Organic)*. This text functioned as a quasi-constitution in the Principalities of Wallachia and Moldavia, laying the foundations of parliamentarism. The establishment of the bicameral system (Senate and Lower House) was formalized by the Convention of Paris (1858) and ratified by the referendum of 1864, under the reign of Alexandru Ioan Cuza, consolidating the principle of national representation.

As a principal member of the drafting committee for the 1991 Constitution, Vasilescu articulates the quintessential institutional and original intent of the framers. His central thesis asserts that the constitutional framework was deliberately designed to be "semi-presidential with parliamentary tendencies."¹

Advancing this legal reasoning, he unequivocally rejects the premise that the system is conducive to authoritarianism. Conversely, he contends that this specific structural paradigm was adopted precisely to preclude totalitarianism. Within this constitutional design, the President embodies the State and serves as the symbol of the nation, bearing the primary mandate of safeguarding the equilibrium and the unimpeded operation of public authorities, consistently constrained within the strict confines of the separation of powers.²

However, the trajectory of democratic evolution was interrupted during the 20th century, initially through the monarchy of Carol II (1938). On February 10, Carol II proceeded with a so-called "self-coup", by which he suspended the Constitution of 1923, imposed martial law,

¹ F. Vasilescu, *Constituția României comentată și adnotată (The Romanian Constitution – Comments and Notes)*, Regia Autonomă Monitorul Oficial 1992, p.182.

² F.B. Vasilescu, *Geneza Constituției României 1991 (Genesis of the Romanian Constitution – The works of the Constitutional Assembly)*, Monitorul Oficial 1998, p. 511.

and dissolved Parliament. In the same context, he appointed Patriarch Miron Cristea as Prime Minister, at the head of a government that was projected as one of "national unity", but in essence constituted a vehicle for the systematic concentration of political power in the person of the Monarch. A few days later, on February 27, a new Constitution was promulgated, which enshrined the supremacy of the Throne and concentrated within it the totality of substantive state competences. Its ratification took place through a highly controversial referendum on February 24, in which participation was compulsory and voting was conducted orally, via public declaration of "yes" or "no". The official result, which recorded 99.87% in favour of the new Constitution, highlighted the authoritarian and fictitious nature of the process.

The consolidation of the regime continued with the abolition of the multi-party system. On March 30, all political parties were officially dissolved, while in December 1938, Carol II founded the National Renaissance Front (*Frontul Renașterii Naționale*), which was recognized as the sole legal party of the country and functioned as the primary mechanism of political control and ideological unification. The regime's policy towards the fascist Iron Guard was particularly repressive. In April 1938, the leader of the organization, Corneliu Codreanu, was arrested, while on the night of November 29 to 30, he and thirteen other leading cadres were assassinated by the Gendarmerie, with the official version attributing their death to an attempted escape. This event marked the definitive and violent conflict between the royal regime and the far-right movement.

In the realm of foreign policy, Carol II endeavoured to pursue a strategy of equilibrium between the Western Allies and the ascendant Axis powers, at a juncture when Nazi Germany was rapidly consolidating its international influence. In November 1938, he undertook a diplomatic tour of London and Paris, and subsequently met with Adolf Hitler, concluding economic accords that provided for the supply of oil and agricultural produce to Germany. Concurrently, in August 1938, he initiated an extensive administrative reform, reorganizing the territory into ten large administrative regions, designated as *ținuturi*. These regions were placed under the immediate supervision of Royal Residents (*Rezidenți Regali*), appointed directly by the Monarch, a measure that further reinforced the centralized and personalized character of the regime. Carol II's dictatorship endured until September 1940, when Romania's severe territorial losses compelled his abdication in favour of his son, Michael. Substantive political power was simultaneously transferred to Ion Antonescu, a development that signalled the demise of the royal dictatorship and the dawn of a new, particularly critical epoch for the Romanian State.

The subsequent Constitution of 1948 transformed the Parliament into the "Grand National Assembly" (*Marea Adunare Națională*), a body functioning as the formal ratifier of Communist Party decisions. The institution of the President of Romania itself was established in 1974 by Nicolae Ceaușescu, assuming the form of an executive presidency of a centralized nature. The Revolution of 1989 and the Constitution of 1991 (as revised in 2003) restored democratic parliamentarism and the principles of the Rule of Law. Today, the Romanian Parliament (*Parlamentul României*) is bicameral, comprising the Chamber of Deputies and the Senate, both elected for a four-year term. Operating within this bicameral framework, the President of the Republic retains robust competences, functioning as an institutional counterweight and a guarantor of constitutional balance.

1.2. Greece: The Transition From "Expanded Powers" To The Regulatory Role

Greek constitutional history is characterized by the protracted conflict between the Monarchy and the Republic (historically termed the "Crowned" and "Uncrowned" Democracy). The institution of the President first emerged during the Second Hellenic Republic (1924–1935). It re-emerged, in a distorted and authoritarian guise, during the Dictatorship of the Colonels (1967–1974), wherein the regime-imposed "Constitution" endowed the President with "Expanded powers" of an absolute nature, effectively abolishing the parliamentary principle. The historical watershed arrived with the *Metapolitefsi* (Regime Change) and the Constitution of 1975. Initially, the President of the Republic possessed significant competences (the so-called "Expanded powers" of 1975), which permitted interventions in the political process.

However, these competences were abrogated by the fundamental Revision of 1986. This revision transformed the form of government into a purely Prime-Ministerial system, divesting the President of the discretionary power to dissolve Parliament or dismiss the Government, thereby safeguarding popular sovereignty as expressed through the legislature.

The Greek Constitution is governed by Article 50, which establishes a "presumption of competence" in favour of other organs to the exclusion of the President. The President of the Republic possesses only those competences expressly conferred upon him by the Constitution and the laws. However, this provision does not establish a new, general regulatory competence for the President of the Republic, "exercised in various ways"³. On the contrary, the principle

³ „*The constitutional revision of 1986*”, Paratiritis, Thessaloniki, 1989, pp. 30-31, reprinted from issue 13-14 of Nom. Epitheorisi, Law and Politics, under the title: "The legal and political significance of the constitutional revision of 1986."

of legality, expressly enshrined specifically for the President in Article 50 of the Constitution, dictates that presidential competences must be construed as exclusively enumerated within specific constitutional provisions, thereby precluding the indirect inference of any further powers. Following the Constitutional Revision of 1986, which abrogated the "Expanded powers" (dissolution of Parliament, dismissal of the Government), the President was divested of substantive executive competences. The historical factor here is critical, as the revision was effected to obviate "royal" power and to shield the Prime-Minister-centered operation of the polity.

Today, the President of the Hellenic Republic is elected by the Hellenic Parliament (a unicameral body of 300 MPs) for a five-year term. His role, as delineated post-1986 and reaffirmed by the Revision of 2019 (specifically through the decoupling of his election from the dissolution of Parliament), is primarily symbolic, ceremonial, and regulatory. Unlike his Romanian counterpart, the Greek President does not participate in policy formulation, remaining the enduring symbol of national unity.

2. THE SOURCE OF LEGITIMACY: INDIRECT VS. DIRECT ELECTION

The distinguishing feature that determines the nature of the form of government and the dynamics of power in the two jurisdictions is located in the mode of designation of the Head of State. The election process does not constitute merely a technical regulation; on the contrary, it constitutes the generative cause of the President's political authority, producing democratic legitimacy of a distinct quality.

2.1. The Romanian Case: Original Legitimacy And The Semi-Presidential Model

According to official data provided by the Ministry of Foreign Affairs of the Hellenic Republic, Romania, as a Member State of the European Union and NATO, is constitutionally defined as a Semi-Presidential Republic. As stated in the briefing documents on bilateral relations, the country's Constitution "reserves substantive competences for the President of the Republic, who is elected directly by the people", with the presidential term set at five years. This constitutional reality is reflected in Article 81 (*Articolul 81*) of the Romanian Constitution, which mandates the election of the President by universal, equal, direct, secret, and free suffrage.

The choice of direct election confers upon the Romanian President a robust, original, and autonomous democratic legitimacy (*legitimitas*). He is rendered not a delegate of the Parliament, but a direct representative of the electorate. This popular mandate renders him politically co-equal to the Parliament, allowing him to function as an active pole of the executive power rather than a mere validator of government decisions.

2.2. The Greek Case: Derivative Legitimacy And The Regulatory Role

Conversely, Greece adheres to the pure parliamentary model. Articles 30, 32, and 33 of the Constitution expressly and invariably stipulate the indirect election of the President of the Republic by the Parliament. The President of the Hellenic Republic derives his legitimacy via the national representation and not directly from the people (derivative legitimacy). This institutional choice concurs with his role as "Regulator of the Polity" (Article 30, para. 1). The Greek President, lacking a direct popular mandate, is obliged to abstain from active political confrontation and confine himself to guaranteeing the observance of constitutional procedures.

The comparative overview of the two systems corroborates the theoretical approach of Professor of Constitutional Law Evangelos Venizelos, according to whom the choice between direct and indirect election is decisive for the stability of the polity. Direct election in a system that retains parliamentary characteristics engenders the phenomenon of "dual legitimacy": on the one hand, that of the Government, which derives its legitimacy from the confidence of the Parliament, and on the other, that of the President, who derives his legitimacy directly from the People. The aforementioned dyadic relationship of legitimacy constitutes the core differentiation between the Greek and the Romanian model of governance.⁴

⁴ E Venizelos, „*The constitutional position of the President of the Republic as an object of the revision process of the Constitution*” (2019) 1 Το Σύνταγμα (ToS) 17, available at: <https://www.evenizelos.gr/speeches/conferences-events/423-conferencespeech2018/5939-ev-venizelos-i-syntagmatiki-thesi-tou-proedrou-tis-dimokratias-os-antikeimeno-tis-diadikasias-anatheorisis-tou-syntagmatos.html>, accessed on: 13.02.2026, at 10:44.

3. THE AMBIT OF COMPETENCES: FROM "SYMBOLISM" TO "EXECUTIVE POWER"

3.1. Constitutional Competences In The Romanian Legal Order

The divergence in the legitimizing basis is directly reflected in the scope of competences conferred upon the Head of State by the two Constitutions. Conversely, the Constitution of Romania reserves robust competences for the President, which transcend mere symbolism.

Tănăsescu observes that Article 80 of the Romanian Constitution draws direct inspiration from Article 5 of the 1958 French Constitution. Under both frameworks, the office of the Head of State is legally constructed with an "intentional sense of indeterminacy," functioning concurrently as a "guarantor" and a "mediator."⁵

To illustrate the absolute authority emanating from this French paradigm, Tănăsescu cites General Charles de Gaulle's seminal declaration during his press conference on January 31, 1964: "It must unequivocally be understood that the President receives the entire and undivided authority of the State from the people who elected him, and that there exists no ministerial, civil, military, or judicial power which is not conferred or maintained by the President."⁶ Antonie Iorgovan and Genoveva Vrabie characterize the Romanian political framework as a "mitigated semi-presidential" regime.⁷ Elaborating on this position, Iorgovan argues that, in stark contrast to the French model, the Romanian President is deprived of substantive prerogatives, such as the direct adoption of legislation via referendum or the exercise of emergency powers during periods of crisis.⁸

Decision No. 70/1999 (OJ No. 221, May 19, 1999) establishes jurisprudence that serves as a definitive safeguard against presidential overreach. It is cited to categorically clarify the non-binding, plebiscitary nature of referendums called by the President. The ruling explicitly underscores that the constitutional right to hold a referendum in no way delegates the power to legislate to the Head of State, who retains the authority to initiate solely consultative, rather than legislative, referendums.

⁵ E. S. Tănăsescu, „*The President of Romania, Or: The Slippery Slope of a Political System*”, European Constitutional Law Review (*EuConst*) 4, 2008, pg 74.

⁶ Cf. Th. S. Renoux, M. de Villiers, *Code constitutionnel* (“*Constitutional Code*”), Litec Publishing, Paris 1994, p. 242.

⁷ A. Iorgovan, *Tratat de drept administrativ* (“*Treatise on Administrative Law*”), Vol. I, ALL Beck Publishing, Bucharest 2005, p. 294.

⁸ T. Drăganu, *Drept constituțional și instituții politice. Tratat elementar* (“*Constitutional Law and Political Institutions. Elementary Treatise*”), Vol. II, Lumina LEX Publishing, Bucharest 1998, p. 230.

Consequently, all significant political powers vested in the presidency are subject to a rigorous system of "checks and balances," a structural feature fundamentally more akin to purely parliamentary systems. Within this constitutional architecture, the "mediation" function of the Head of State is construed as carrying a primarily political, rather than a strictly legal or coercive, significance.⁹

Pursuant to Article 80 (*Articolul 80*), the President is not a mere regulator, but a "guarantor of national independence" and a mediator between State and society. The quintessential element of semi-presidentialism is found in Article 87 (*Articolul 87*). The President of Romania may participate in meetings of the Government (*ședințele Guvernului*) when matters of foreign policy, defence, or public order are debated. Moreover, when present, he presides (*prezidează*) over these meetings. Furthermore, Article 90 (*Articolul 90*) grants the President broad discretion to call a referendum on matters of national interest, a tool frequently utilised as a lever of pressure against the Government or Parliament.

Decision No. 567/2006 (OJ No. 554, June 27, 2006) illustrates the discretionary power vested in the President vis-à-vis the Parliament. Specifically, the Court curtailed parliamentary attempts to restrict the President's prerogative to call consultative referendums. The ruling legally substantiates that the absolute determination of what constitutes "matters of national concern" remains strictly and exclusively an attribute of the President, thereby relegating Parliament's role to mere consultation devoid of any veto power. The critical testing ground is the period of "cohabitation", namely the coexistence of a President and a parliamentary majority originating from opposing political spectra.

3.2. The Unitary Executive And The Consensus Of The Greek Legal Order

In marked contrast, the structure of the Greek polity is clearly oriented towards a Unitary Executive (Prime-Ministerial-centred), wherein the role of the President is distinct and institutionally circumscribed. The President of the Hellenic Republic, lacking substantive executive competences and direct popular legitimacy, functions as a symbol of unity rather than a competitive pole of power. In the event of institutional disagreement, the Constitution prioritises the supremacy of the Government, which enjoys the confidence of Parliament, confining the President to a review of legality rather than of the merits (*opportunité*).

⁹ A. Iorgovan, *Tratat de drept administrativ ("Treatise on Administrative Law")*, Vol. I, ALL Beck Publishing, Bucharest 2005, p. 295.

The historical experience of the Third Hellenic Republic demonstrated that political tensions were defused primarily during the process of the election of the President, rather than during the exercise of his duties. The previous constitutional provision, whereby the inability to elect a President entailed the mandatory dissolution of Parliament, functioned as a lever of pressure for broader consensus. However, as Professor Evangelos Venizelos observes, the Constitutional Revision of 2019, by decoupling the election from the dissolution of Parliament, further reinforced stability, confirming that in the Greek model, "cohabitation" constitutes a peaceful, institutional coexistence rather than a field of political contestation. Within the framework of a strictly parliamentary constitutional order, the Rule of Countersignature (Article 35) operates as its paramount institutional safeguard, insofar as no act of the President attains legal validity or enforceability in the absence of the countersignature of the competent Minister, who thereby assumes full and exclusive political responsibility therefor.¹⁰ The Constitution exhaustively enumerates the narrowly circumscribed exceptions to this rule, inter alia, the appointment of the Prime Minister, the referral of a duly enacted bill back to Parliament, and the appointment of the administrative staff of the Presidency, thus consolidating the President's function as that of a "Dormant Regulator," deprived of autonomous executive authority.

Additionally Article 90 entrusts the President with the promulgation of the Presidential Decree effecting the appointment of the President and Vice-Presidents of the three Supreme Courts, namely the Council of State, the Supreme Civil and Criminal Court, and the Court of Audit. Although the substantive discretion of selection is constitutionally vested exclusively in the Cabinet, the issuance of the relevant decree constitutes a constitutionally significant formal nexus between the Head of State and the Judicial Branch, reflecting a symbolic yet institutionally meaningful connection.

Furthermore, pursuant to Article 47, the President exercises the prerogative of mercy in the form of a pardon, subject to a prior recommendation by the Minister of Justice and the competent Pardon Council. By contrast, the Constitution rigorously delineates the limits of amnesty: it may be granted solely in respect of political offences and only by virtue of a statute enacted by the Plenary of Parliament adopted by an enhanced majority of three-fifths (3/5) of the total number of Members of Parliament. Amnesty for ordinary criminal offences is

¹⁰ E. Venizelos, *The constitutional position of the President of the Republic as an object of the revision process of the Constitution*, No. 1, To Σύνταγμα (ToS) 2019, p. 17, available at: <https://www.evenizelos.gr/speeches/conferences-events/423-conferencespeech2018/5939-ev-venizelos-i-syntagmatiki-thesi-tou-proedrou-tis-dimokratias-os-antikeimeno-tis-diadikasias-anatheorisis-tou-syntagmatos.html> accessed on 13.02.2026, at 11:58.

expressly and categorically prohibited, thereby safeguarding the principle of legality and the separation of powers.

Finally, Article 49 establishes the principle of presidential irresponsibility (immunity) as a structural counterweight to the President's lack of executive competence. The President is immune from liability for acts performed in the discharge of official duties and may be held accountable exclusively for high treason or for an intentional violation of the Constitution. Even in such exceptional circumstances, the initiation of criminal proceedings is subject to an exceptionally elevated procedural threshold, requiring a motion supported by one-third (1/3) of the Members of Parliament and a resolution adopted by a two-thirds (2/3) majority thereof, with final adjudication entrusted to a Special Court constituted in accordance with constitutional provisions.

4. THE DYNAMICS OF THE DUAL EXECUTIVE IN ROMANIAN LAW

In Romania, the constitutional legal order establishes a form of Dual executive, predicated on the equilibrium between two robust poles of legitimacy. On the one hand, the President, endowed with a direct popular mandate and the competences stipulated in Article 80 (*Articolul 80*), functions as an active guarantor of the constitutional order and foreign policy. On the other hand, the Prime Minister, deriving his mandate from the parliamentary majority pursuant to Article 102 (*Articolul 102*), exercises day-to-day governance.

Tudor Drăganu, an eminent professor and profound scholar of comparative law, offers a highly pragmatic yet rigorously academic critique of the Romanian institutional architecture. His central thesis posits that the Constitution has engendered a structural deadlock, a "bicephalous executive", by establishing two robust authorities (the President and Parliament) with minimal latitude to substantively influence one another.¹¹ Advancing this argument, he notes the conspicuous absence within the constitutional framework of institutionalized procedures for concerted action between the President and the Government. Furthermore, Drăganu characterizes the constitutional mandate for the President's partisan neutrality (Article 84) as a dead letter, bound to remain merely on paper; he elucidates that the President, invariably and inherently, functions as the "invisible guide" of their respective political sphere.

¹¹ T. Drăganu, *Drept constituțional și instituții politice. Tratat elementar* ("Constitutional Law and Political Institutions. Elementary Treatise"), Vol. II, Lumina LEX Publishing, Bucharest 1998, pg. 229–230.

Advisory Opinion No. 1/2007 (OJ No. 258, April 18, 2007) establishes several core constitutional principles regarding the presidential office. In terms of political neutrality, the opinion reasons that it is not unconstitutional for the President to maintain ideological ties and communication with their political party, given the imperative to execute the mandate for which they were elected. Furthermore, in exercising a mediatory capacity, the President's views and directives bear no decisional nature and produce no direct legal effects. The opinion also delineates the framework for impeachment by defining the "grave acts" that warrant removal from office, explicitly clarifying that an active and interventionist political role does not equate to unconstitutional conduct. Finally, concerning relations with the Government, the ruling enshrines the President's prerogative to unilaterally determine the format, subject matter, and timing of governmental consultations. It further stipulates that presidential participation in Cabinet meetings neither establishes a "shadow government" nor empowers the President to bind the Cabinet to adopt specific measures.

In periods of political "cohabitation", the Romanian system is called upon to manage the competition between these two poles. The issue does not necessarily constitute an institutional impasse, but rather a complex process of constitutional dialogue. A pertinent example, as Professor Evangelos Venizelos highlights in his comparative analysis, concerns the issue of the country's representation in European institutions (e.g., the European Council). The coexistence of two actors with strong popular mandates necessitated recourse to the Constitutional Court of Romania (*CCR*), which was called upon to delineate competences, functioning as the final arbiter. This demonstrates that the Romanian constitutional model possesses the requisite institutional mechanisms and safeguards for the resolution of disputes within the Rule of Law.

Decision No. 53/2005 (OJ No. 144, February 17, 2005) addresses the political dimension of the President's mandatory impartiality. The ruling is invoked to substantiate that the obligation to remain impartial does not deprive the President of the right to openly express a political position regarding the resolution of a crisis. Furthermore, the Court establishes that this freedom of expression is fully safeguarded under the framework of presidential immunity.

CONCLUSIONS

The comparative overview of the constitutional choices in Greece and Romania reveals not merely two divergent legal texts, but two distinct strategies of democratization and institutional safeguarding. The answer to the question "which model is more stable" is not

univocal, as stability is contingent upon the historical imperative that each constituent legislator was called upon to resolve.

In Greece, constitutional history (particularly the trauma associated with the 1965 Apostasy and the Dictatorship) dictated the necessity for a clear, undisputed hierarchy within the Executive. The choice of indirect election and the measured attenuation of the President's competences (1986, 2019) functioned as a "shield" for parliamentarism. The President of the Hellenic Republic, insulated from political competition, becomes, according to the conception of Ernst Kantorowicz cited by Professor Venizelos, the absolute "symbol of national unity". He does not govern, but guarantees the continuity of the State. The price of this choice is the forfeiture of a robust institutional counterweight against an omnipotent parliamentary majority; however, the gain is the avoidance of crises of diarchy at the apex of power.

Moreover, such 'inaction' should not be construed as a political manoeuvre subverting the primacy of the politically responsible Cabinet. The theoretical justification for the Government's pre-eminence, which inherently necessitates the President's political sidelining, lies in the former's direct democratic mandate to execute its policy programme. This mandate is secured when the electorate validates the partisan candidates who ultimately form the parliamentary majority. Nevertheless, during the run-up to an election, this governmental legitimisation arguably transitions into a purely formal state.¹²

Conversely, Romania, emerging from the regime of 1989, required institutional checks and balances to preclude the concentration of power in a single party or individual. The direct election of the President and his substantive competences (participation in the Council of Ministers, referendums) serve precisely this purpose: the creation of a robust pole to check the Government. The Romanian President is not a mere observer, but an active guardian of the Constitution and foreign policy, possessing the requisite popular legitimacy to intervene when deemed necessary.

The present comparative analysis highlights that "constitutional engineering" does not constitute a neutral mathematical equation, transferable intact from one legal order to another. On the contrary, it constitutes a dynamic process that must remain in constant dialogue with the political culture and the historical time of the respective people. The divergence between the two models is not axiological, but functional. Greece, under the weight of its historical memory, consciously favoured the sacrifice of presidential power on the altar of governmental stability

¹² G. Tasopoulos, *The institutional checks and balances of power and the revision of the Constitution*, No. 14, Sakkoulas S.A. Publishing, Athens 2007, pg. 53–63.

(governability). It opted for the security of the Unitary Executive to obviate the traumatic experiences of the past. Romania invested in presidential power as an institutional guarantee of pluralism and as a necessary counterweight to the omnipotence of the parliamentary majority. Both constitutional models are deemed functional, provided, however, that the actors respect not only the letter (*litera legis*), but also the spirit (*ratio legis*) of the Constitution. The ultimate guarantee of democratic stability is not grounded exclusively in constitutional provisions, but in the constitutional maturity of the institutions and of civil society. Vrabie espouses a functional-interpretative conception of the constitutional order, contending that the exercise of state authority is contingent not solely upon formal institutional design, but equally upon the manner in which the depositaries of power perceive and construe constitutional norms¹³

¹³ G. Vrabie, *Le régime politique de la Roumanie* (“*The Political Regime of Romania*”), in G. Vrabie (coord.), *Les régimes politiques des pays de l’Union Européenne et de la Roumanie* (“*The Political Regimes of the European Union Countries and Romania*”), Regia Autonomă Monitorul Oficial, Bucharest 2002, p. 397–398.

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