



THE ROLE OF THE PRESIDENT OF ROMANIA IN THE EXECUTIVE POWER

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Abstract. *Romanian society, the state and public administration are facing some challenges, generated by the evolution of the contemporary world. In this respect, all institutions part of this system, and including here the Head of the State had to be adapted and reformed over time, in order to face the political, economic, administrative and legal challenges. The Institution of the Head of State institution has been and it remains over time one of the central pillars of Romanian society, suffering changes and adaptation as public administration system and society in general. In Romania, the head of state has significant responsibilities within the executive power, following the constitutional consecration of the two-headed executive. Thus, the paper aimed is to analyse the importance of the institution - Head of State, President of Romania plays in the system of public administration because of the role it plays in the executive power. The research is mainly one descriptive and the analysis is a qualitative one. It consisted in study materials of specialty, administrative and constitutional laws and the jurisprudence of the Constitutional Court of Romania.*

Keywords: *head of state, dualist executive, government, public administration.*

1. INTRODUCTION

The President of Romania is one of the two heads of the executive, his powers within the executive power is exercised in relation to the Government, and mainly with its leader, the Prime Minister and then with other public administration authorities, according to constitutional and legal provisions.

Nowadays, in the constitutional Romanian regime, the central administration consists in the President, Government, specialized central bodies (ministries, other bodies subordinated to the government or ministries, autonomous administrative authorities) and central public institutions subordinated to ministries and autonomous administrative authorities (including RAs and national companies) (Apostol Tofan, 2008, pp. 127–181).

Thus, it is necessary to emphasize the study that the President of Romania, involving the exercise of functions inherent in this political and administrative institutions, does not have absolute power in carrying out its functions. These functions are individual functions of the executive, their practice is shared between the President of Romania and the Government, both authorities being under parliamentary control (Tănăsescu, 2004).

2. OVERVIEW OF EXECUTIVE POWER

The executive power or the Executive designate the function of the state involving law enforcement and implementation. This state function includes various activities, among which enters coordinating public administration actions to implement the law, carrying out direct actions of law enforcement or law enforcement organization, boost the legislative process and overall management of the state (Vida, 1994).

In structural terms, it can be distinguished between the monocratic executive and the dualist executive. In the regime of monocratic executive, the executive function is held by a single state entity, unipersonal or collegial one. The monocratic executive features contemporary presidential political regimes, which is reduced from the president.

The dualist executive is characterized by the fact that executive function is entrusted to the head state and a collegial body - the government - which has tasks they perform relatively autonomous.

Parliamentary regimes are, by their nature, dualistic, because they have a head of state, appointed by parliament and a government which has at its head a prime minister, who is now the chief executive.



In the Romanian constitutional system, the executive is dualist: Romanian president is elected by universal, equal, direct and secret suffrage and government (Article 81, para. 1, Constitution of Romania), appointed by Parliament, composed of the Prime Minister, Ministers and other members established by organic law (Article 102, Constitution of Romania).

Due to the two-headed organization of executive power, the Constitution establishes separate powers between the President and the Prime Minister, among others, to prevent a conflict of jurisdiction between them.

Thus, in terms of the constitutional President of Romania with Parliament and Government, the Constitution gives the President of Romania double role (Ionescu, 2012):

- head of state without a constitutional text expressly to use that name, it is also applying to monarchical forms of government, and for the Republican. In this role the President of Romania represents the Romanian state in national and international relations and mediates the relations between the state powers and between the State and society;
- high public authority of executive power. In this role assigned exclusive powers of the executive sphere. And some of the duties incumbent as a state representative falls under the executive power.

By its constitutional role and functions, the President of Romania shall be the factor that discourages excess power of Parliament and the Government. The President has thus had several remedies, among which we can mention the messages to Parliament, Government consultation and participation in its meetings.

In the following paragraphs, we will analyze as part of a role the President plays in executive power, its relations with the Government and the relationships it has with other government authorities. In this way we are able to outline the exact place this institution occupies in the administrative system.

3. RELATIONS BETWEEN THE GOVERNMENT AND THE PRESIDENT OF ROMANIA

In relation to the prime minister, the central political figure of the Government, which can be a politician or a personality neutral political parties (a technocrat) president has limited powers.

First, President initiates and completes the procedure for the investiture of the Government, exercising the following two functions for this purpose (Article 85, para. 1, and article 103, Constitution of Romania):

- appointment of the candidate for prime minister and
- appointment of the Government on the vote of confidence of Parliament.

Also in relation with the Government, the Constitution stipulates the following duties for the President (Article 85, para. 1 and 2, and 87, Constitution of Romania):

- revocation and appointment of members of the Government, in case of vacancy of office or government reshuffle, the Prime Minister's proposal
- consultation with the Government about urgent, extremely important and participating in meetings of the Government.

Regarding the procedure for conferring upon the Government, it involves organizing political consultations within the political party that holds the majority in Parliament or in the absence of a majority, in consultation with all political parties represented in Parliament. These consultations also aim to achieve a majority vote of confidence of the Government (Vida&Vida, 2012).

Thus, the President must call parliamentary parties to consultations, even if they refuse to appear (some or all) this obligation is fulfilled.

The appointment of the candidate for prime minister must be done by decree, and it is one of the powers of the President, and as stated in Art. 100 of the Constitution, the exercise of its functions, the President issues decrees.

If the Prime Minister is in one of the situations referred to in art. 106 of the Constitution, except revocation President shall designate another Government member as an interim Prime Minister. In this case, the President may appoint any member of the Government is to be performed for interim consultations. If the interim was ordered because of the impossibility duties, while the prime minister 45 days to return to the head of the Government.

Regarding the appointment of other members of the Government, through Decision no.356 of 5 April 2007 of the Constitutional Court of Romania (published in the Official Gazette of Romania, Part I, No. 322 from 14.05.2007) , related to the event of the president refusal to accept a proposal for the appointment of a minister for the post when it became vacant through resignation, the Court finds that *" as Parliament does not exercise a veto, but an activity of verifying the conditions of compliance, so any Romanian president has no veto right against the prime minister's proposal, but has the right to verify the compliance of the*



function of candidate and ask the Prime Minister proposes an alternative candidate. In all cases the rejection of the application must be substantiated. "

Also the Court, in the present case states that "the President of Romania reasons for the request cannot be censored by the Prime Minister, who, under the procedure of art. 85 para. (2) of the Constitution, it has only the right to propose to the President to appoint a minister and not making power. "

Concerning the possibility of the President to attend the reunions of the Government on the "main urgent important problems", it is held to have as an option by the President because it can take and only certain decisions or after consulting the Government. It is free to appreciate the importance and urgency of the matter.

The participation of the President at the Government meetings, according to Art. 87, para. 1 of the Constitution, is a way of involving the President in analyzing and solving problems of national interest, foreign policy or public order.

The president is the one who decides to participate on its own initiative or at the request of the Prime Minister. Participation in debates not entitle the President to take part in the adoption of a decision or vote on it.

4. POWERS OF THE PRESIDENT OF ROMANIA WITH RESPECT TO OTHER AUTHORITIES OF THE PUBLIC ADMINISTRATION

In the relations with the other authorities of the administrative system, the President has as main attributions:

- conducting independent administrative institutions – Supreme Council of National Defence
- appointment or appointment to public participation in exercising leadership of authorities of public administration;
- responsibilities in achieving foreign policy.

The management of autonomous administrative institutions is achieved by virtue formula according to the Constitution which provided that Romanian president is commander of the armed forces and president of the Supreme Council of National Defence, as when, according to the special law on the matter, convened works, coordinates and directs its entire business.

Also in the category of responsibilities with respect to other government authorities, Romanian President proposes to appoint directors of public administration authorities. Thus,

Parliament met in joint session, called the proposal the President of Romania, approve the nomination of the directors of the intelligence services and it controls the activity of these services (Article 65, para. 2, h, Constitution of Romania)

Thus, compared to the initial version of this constitutional provision is limited to provide attribution appointment to the President's proposal, only the Director of the Romanian Intelligence Service, the reviewed law used the plural, since this is an area in which it operates several authorities, and not just one alongside the Romanian Intelligence Service, being organized by law, the Foreign intelligence service and a service of technical information in the field of communications.

Considering all the foreign policy dimension of the executive power that regulate certain functions and head of state in this area presents the significance of his involvement in administrative decision-making process. In this respect, "*the President concludes international treaties on behalf of Romania, negotiated by the Government, and then submit them to Parliament for ratification, within a reasonable time*" (Article 81, Constitution of Romania).

Another category of powers in foreign policy, ensuring diplomatic ties with other countries through: accreditation and recall diplomatic representatives, proposed by the Government; approval of the establishment, dissolution or change in rank of diplomatic missions accredited to the Government's proposal and diplomatic representatives of other countries (one of the few presidential powers exercised unconditionally).

5. CONCLUSIONS

From the research conducted in the paper, it can be highlighted, as important role of the Romanian President in the dualist executive the following:

- it has an important role in external relations, integrated role in various degrees in business administration;
- the possibility of intervention in the legislative procedure is an essential mechanism for the law enforcement system and law implementation;
- through the stability function that it has and its moral authority, it is the commander of armed forces, the latter being one of the pillars of the state administrative apparatus.

Thus, we conclude that Romanian President - Head of State – identify itself with the Romanian State, it is part of the executive, and it is in this role, it is one of the central pillars

for achieving the rule of law, elimination of administrative centralism and achieving good governance.

All these changes and adaptation that suffered also the institutions of the President of Romania, has as final objectives not only achieving good governance and consolidating the rule of law, but also the entire institutional experience gained within the public administration should be used to achieve the ideals of development: economic, social, political etc (see Berceanu & Cărăușan, 2014), specific to the current days.

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