



**SUNICOP**

## Comparative governance in CEE



**SUNICOP**



# Romania





## The constitutional moments

- 1866: the first Romanian Constitution. Form of government: constitutional monarchy
- 1923 – democratic constitution
- 1938 – Constitution of the Royal dictatorship
- 1948 – First communist Constitution, inspired by the Soviet fundamental law of 1936
- 1952
- 1965
  
- 1991
- 2003 – revision of the 1991 Constitution

## The 2003 Constitution

- 156 articles, 8 titles:
  - General principles
  - Fundamental rights and obligations
  - Public authorities
  - Economy and public finances
  - The Constitutional Court
  - The Euro-Atlantic integration
  - The procedure of revision
  - Final dispositions

## BASIC PRINCIPLES

- principle of **sovereignty** and unitary nation;
- the **rule of law** – SUPREME VALUES;
- principle of **pluralism**;
- principle of **separation** and balance of **powers**;
- principle of **democracy**;

# TYPE OF THE GOVERNMENT

- - REPUBLIC
- - SEMI-PRESIDENTIAL SYSTEM
- BICAMERAL PARLIAMENT
- STATE STRUCTURE: communes, towns and counties

## SEPARATIONS OF POWERS

- **LEGISLATIVE POWER:** two chambers (Senate – 140, Chamber of Deputies – 346)
- **EXECUTIVE POWER:** Government and the President (two round system, 5 years)
- **JUDICIAL POWER:** High Court of Cassation and Justice and the other courts
- 33 MEPs (proportional, single constituency)

## Electoral system

- Parliament name: Parlamentul României / Parliament of Romania
  - Structure of parliament: **Bicameral**
  - Chamber names: **Camera Deputatilor** / Chamber of Deputies and Senatul / Senate
  - LEGAL FRAMEWORK: Electoral Law 15 July 1992
- 
- 315 Constituencies
  - there is one Deputy for every 70,000 inhabitants
  - Voting system: mixed member proportional

**President of RO**  
**- Traian Basescu-**



**Prime minister of RO**  
**- Emil Boc-**



## Romanian presidents, 1991-2006

- Ion Iliescu: 1990-1991; 1991-1992; 1992-1996; 2000-2004
- Emil Constantinescu: 1996-2000
- Traian Băsescu: 2004-present



## The territorial-administrative divisions

- 41 counties + 1 municipality (Bucharest)
- 8 “regions of development” with no legal status
- Local government autonomy, but with limited decentralization of budget
- The Government appoints representatives in each county (prefects)

## “*GUVERNUL*”

- ensure the **implementation** of domestic and foreign policy;
- exercise the **general management of public administration**

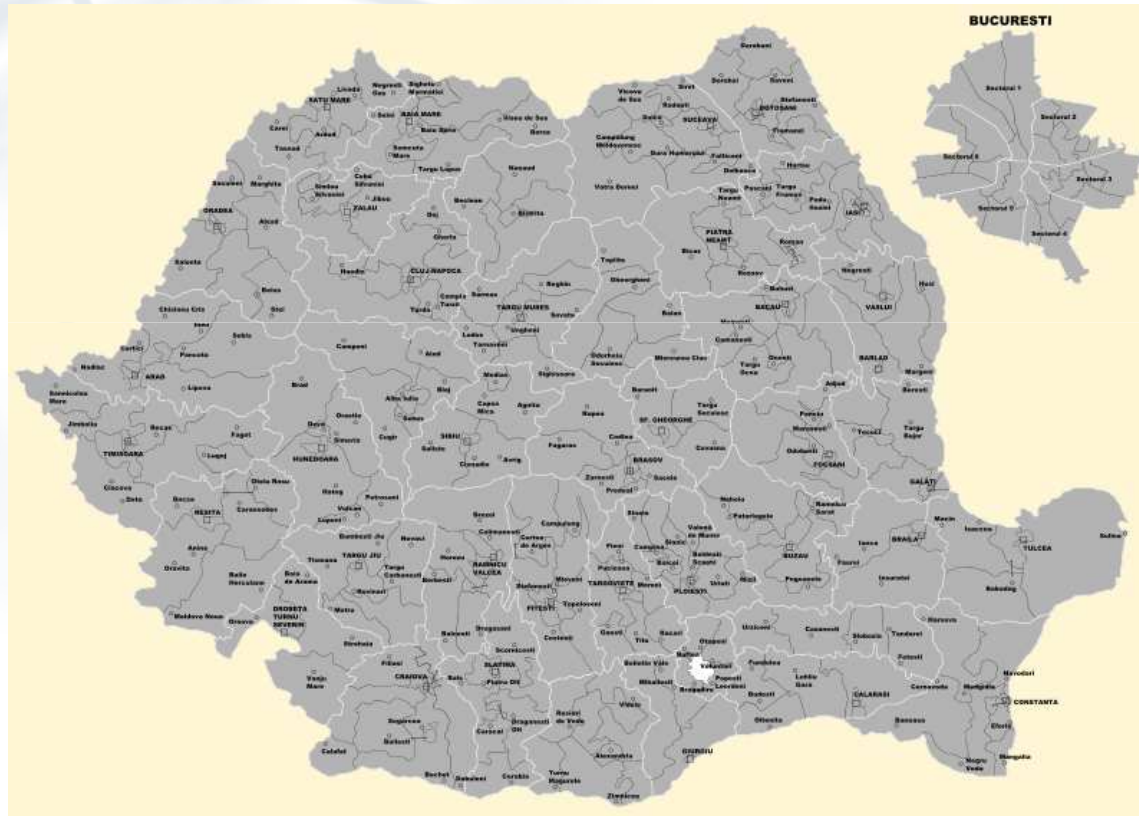
## “*PARLAMENTUL*”

- supreme legislative body:
  - 1) “*CAMERA DEPUTAȚIROL*” (346)
  - 2) “*SENAT*” (140)
- UNTIL 2008: proportional representation system;
- AFTER 2008: uninominal system with proportionalisation mechanism

# PARLIAMENT



# Constituencies for parl.election



## The territorial-administrative divisions

- 41 counties + 1 municipality (Bucharest)
- 8 “regions of development” with no legal status
- Local government autonomy, but with limited decentralization of budget
- The Government appoints representatives in each county (prefects)

## *“PREȘEDINTELE ROMÂNIE”*

- -represent the state;
- -safeguard of the national independence, unity and territorial integrity;
- -guards the observance of the Constitution and the proper functioning of the public authorities
  
- **5 YEARS** (two terms of office at the most);
  
- FIRST BALLOT (majority of voters) – SECOND BALLOT (first two candidates – the greatest number of votes)
  
- **OATH** (before two chambers in a joint sitting)

## Presidential powers vs. parliamentary powers

The President proposes a candidate for the function of Prime Minister; the latter proposes the other members of the Government

The Parliament approves or rejects the Government by a vote of confidence

**BUT**

**The President cannot revoke the Prime Minister; it is responsible only before the Parliament (art. 107.9 and 109.1)**

The President can dissolve the Parliament under certain conditions (art. 89)

The Parliament can impeach the President for breaking the Constitution or accuse him of high treason

The President has extended powers in foreign policy, defense and cases of emergency state

# DISSMISAL OF THE PRESIDENT – first situation:

- o CASE OF HAVING COMMITTED **SEVERE ACTS INFRINGING UPON CONSTITUTIONAL PROVISIONS:**

- **PROPOSAL OF SUSPENSION:** at least 1/3 of the number of Deputies and Senators
- **SUSPENSION:** majority vote of Deputies and Senators (**joint sitting**) and **after consultation with the CC**
- **IF SO:** within 30 days – **REFERENDUM**, in order to remove the President from office

# DISSMISAL OF THE PRESIDENT –

second situation:

- THE IMPEACHMENT FOR HIGH TREASON –  
decision of both chambers in a joint session –  
VOTES OF AT LEAST 2/3 OF THE NUMBERS OF  
DEPUTIES AND SENATORS
- **PROPOSAL:** majority of deputies and senators
- **JUDGING:** High Court of Cassation and Justice

# MAY THE PRESIDENT DISSOLVE THE PARLIAMENT?

- 1) **consultation** with the speakers of both chambers and the leaders of the parliamentary groups;
- 2) IF NO VOTE OF CONFIDENCE HAS BEEN OBTAINED TO FORM A GOVERNMENT WITHIN 60 DAYS after the first request was made,
- 3) during the same year – the Parliament can be dissolved only once
- 4) the Parliament **CANNOT BE DISSOLVED**:
  - a) during the **last 6 months** of the term of office of the President;
  - b) during a **state of mobilisation, war, siege or emergency**

# THE PRESIDENT ISSUES DECREES regarding:

- 1. the matters of defence
- 2. matters of foreign affairs
- 3. emergency matters
- 4. decorations
- 5. military promotions
- 6. grantee of individual pardon
- --**COUNTERSIGNED BY THE PRIME MINISTER**
- a minor share of decrees are valid without countersigning

# CONSTITUTION-MAKING

- **REVISION OF THE CONSTITUTION MAY BE INITIATED BY:**
  1. THE PRESIDENT – on the proposal of the Government
  1. AT LEAST  $\frac{1}{4}$  OF THE NUMBER OF DEPUTIES AND SENATORS
  1. AT LEAST 500,000 CITIZENS WITH THE RIGHT TO VOTE

## DRAFT PROPOSAL OF REVISION

- ADOPTED BY A MAJORITY OF AT LEAST 2/3 OF THE MEMBERS OF EACH CHAMBER
- CASE OF DIFFERENT DRAFTS: **MEDIATION PROCEDURE**
- **NO AGREEMENT – JOINT SETTING AND THE VOTE OF AT LEAST 3/4 OF THE NUMBER OF DEPUTIES AND SENATORS**
- the revision became final after APPROVAL BY A REFERENDUM (within 30 days of passing the draft)

# RESTRICTIONS TO THE REVISION OF THE CONSTITUTION

- **1. NOT SUBJECT TO REVISION – the provisions of the Constitution with regard to the:**
  - a) national, independent, unitary and indivisible character of the Romanian state;
  - b) republican form of government,
  - c) Territorial integrity;
  - d) Independence of justice;
  - e) Political pluralism and
  - f) Official language
- 2. NO REVISION IF IT RESULT IN THE SUPRESSION OF THE CITIZENS' FUNDAMENTAL RIGHTS AND FREEDOMS OR OF THE SAFEUARDS THEREOF**
- 3. NO REVISION DURING A STATE OF SIEGE OR EMERGENCY OR IN WARTIME**

## ACTS OF PARLIAMENT

- **1. THE CONSTITUTIONAL LAW** – 2/3 majority and approved subsequently by referendum;
- **2. THE TWO-THIRD MAJORITY ACTS** – regarding two domains: the accession to the EU and NATO;
- **3. THE ORGANIC LAWS** – absolute majority (regulate social relations – like the general organisation of education)
- **4. ORDINARY LAW** – simple majority

## Types of laws

- The Constitution
- The EU and NATO accession laws: a *sui generis* category
- Organic laws
- Ordinary laws

## PROCEDURE:

### **1. LEGISLATIVE INITIATIVE:**

- a) the Government
- b) deputies and senators
- c) at least 100,000 citizens entitled to vote

### **2. FIRST READING:**

**DEPENDING OF THE SUBJECT OF REGULATION –**  
when the Chamber of Deputies is the first reading chamber, the Senat takes the final decision, and inverse

**3. SECOND READING** – final decision on proposal

# GOVERNMENT'S ROLE IN LEGISLATION

- 1. DECISIONS – subordinated to laws
- 2. ORDINANCES – two types:
  - a) SIMPLE ORDINANCES:
    - have the power of ordinary laws
    - the Parliament must authorise the Government to issue them
  - b) EMERGENCY ORDINANCES:
    - have the power of organic or ordinary laws
    - only in exceptional cases
    - must be subsequently approved by the Parliament

# MANDATE OF THE GOVERNMENT

1. PARLIAMENTARY ELECTIONS
2. THE PRESIDENT – consultation with the party which has obtained absolute majority (or with all parties):
3. THE PRESIDENT – **A CANDIDATE** TO THE OFFICE OF PRIME MINISTER
4. THE CANDIDATE – within 10 days – **VOTE OF CONFIDENCE OF THE PARLIAMENT**
5. JOINT SITTING OF CHAMBERS – **DEBATED THE PROGRAMME AND COMPLETE LIST OF GOVERNMENT**
6. CONFIDENCE – **MAJORITY VOTE OF DEPUTIES AND SENATORS**
7. BASED ON THE CONFIDENCE VOTE - **THE PRESIDENT APPOINTS THE GOVERNMENT**

## GOVERNMENTAL ACTIVITY

- COORDINATED FUNCTIONING OF THE LEGISLATIVE AND THE EXECUTIVE POWERS
- ENSURE THE IMPLEMENTATION OF FOREIGN POLICY
- the President is also a “member” of Government – **BUT ONLY FOR THOSE CASES** when the President comes for the **same party** to the prime minister or the parliamentary majority

## PARLIAMENT - GOVERNMENT

- JOINT SITTING OF CHAMBERS – majority vote of deputies and senators - MOTION OF CENSURE
- **MOTION OF CENSURE MAY BE INITIATED BY:**  
at least ¼ of the total number of deputies and senators

### THE GOVERNMENT'S RESPONSIBILITY UPON A:

- a) programme
- b) general policy statement
- c) law

**-IF A MOTION OF CENSURE HAS BEEN PASSED – THE GOVERNMENT SHALL BE DISMISSED**

# EUROPEAN INTEGRATION ISSUES

- COLLABORATION OF THE GOVERNMENT AND THE PARLIAMENT
- before the **draft mandatory acts** are submitted to EU institutions for approval – THE GOVERNMENT SEND THEM TO TWO CHAMBERS

# SAFEGUARDING THE CONSTITUTION

## ○ CONSTITUTIONAL COURT:

- **nine judges** (3 – Chamber of Deputies, 3 – Senate and 3 – the President)
- **nine years** (no prolonged or renewed)
- judges – **independent and irremovable** during the term of office

CC



# COMPETENCES OF THE CC

## ○ 1. PRELIMINARY NORM CONTROL:

### A) UPON NOTIFICATION BY:

- a) the President
- b) one of speakers of the two chambers
- c) the Government
- d) at least 50 deputies or 25 senators

### B) *EX OFFICIO* – regarding initiative to revise the Constitution

### C) INTERNATIONAL TREATIES BEFORE THEIR RATIFICATION

# COMPETENCES OF THE CC

## ○ 2. SUBSEQUENT NORM CONTROL:

- A) NORMATIVE ACTS
- B) STANDING ORDERS OF THE PARLIAMENT

## 3. SOLVES LEGAL DISPUTES OF A CONSTITUTIONAL NATURE between public authorities – at the request of:

- a) the President
- b) one of the presidents of the two chambers
- c) the prime minister
- d) the president of the Superior Council of Magistracy

# COMPETENCES OF THE CC

4. DURING THE ELECTORAL PROCEDURE AND REFERENDUM – guards the observance of the procedure for the election of the President

5. WITH REGARD TO THE PRESIDENT:

- ascertains the **circumstances which justify THE INTERIM EXERCISE OF THE OFFICE OF THE PRESIDENT**
- gives **advisory opinion** on the PROPOSAL TO SUSPEND THE PRESIDENT

- **6. CONTROL OF THE CONSTITUTIONALITY OF POLITICAL PARTIES** – if requested by the Government or by the speaker of a chamber

THANK YOU FOR YOUR  
ATTENTION!