

UNION INTERPARLEMENTAIRE



INTER-PARLIAMENTARY UNION

ASSOCIATION DES SECRÉTAIRES GÉNÉRAUX DES PARLEMENTS  
ASSOCIATION OF SECRETARIES GENERAL OF PARLIAMENTS

o

*CONSTITUTIONAL*

*AND PARLIAMENTARY*

*INFORMATION*

o



**The parliamentary system  
of Romania**

**Sources of information  
for Parliament**

**The recent Constitutional  
reforms in France**

# **INTER-PARLIAMENTARY UNION**

## **Aims**

The Inter-Parliamentary Union whose international Statute is outlined in a Headquarters Agreement drawn up with the Swiss federal authorities, is the only world-wide organization of Parliaments.

The aim of the Inter-Parliamentary Union is to promote personal contacts between members of all Parliaments and to unite them in common action to secure and maintain the full participation of their respective States in the firm establishment and development of representative institutions and in the advancement of the work of international peace and co-operation, particularly by supporting the objectives of the United Nations.

In pursuance of this objective, the Union makes known its views on all international problems suitable for settlement by parliamentary action and puts forward suggestions for the development of parliamentary assemblies so as to improve the working of those institutions and increase their prestige.

## **Membership of the Union (May 1996)**

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cameroon, Canada, Cape Verde, Central African Republic, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Djibouti, Ecuador, Egypt, El Salvador, Estonia, Ethiopia, Finland, Former Yugoslav Republic of Macedonia, France, Gabon, Germany, Ghana, Greece, Guatemala, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Korea (Dem. P. R. of), Korea (Rep of), Kuwait, Laos, Latvia, Lebanon, Libya, Lithuania, Luxembourg, Malawi, Malaysia, Mali, Malta, Marshall Islands, Mauritania, Mexico, Moldova, Monaco, Mongolia, Morocco, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Russia, Rwanda, San Marino, Senegal, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Syrian Arab Republic, Tanzania, Thailand, Togo, Tunisia, Turkey, Uganda, United Arab Emirates, United Kingdom, United States of America, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe.

Associated members: Andean Parliament, Latin American Parliament, Parliamentary Assembly of the Council of Europe.

## **Structure**

The organs of the Union are:

1. *The Inter-Parliamentary Conference* which meets twice a year.
2. *The Inter-Parliamentary Council*, composed of two members from each affiliated Group. *President*: Mr. A. F. Sorour (Egypt).
3. *The Executive Committee*, composed of twelve members elected by the Conference, as well as of the Council President acting as *ex officio* President.
4. *Secretariat of the Union*, which is the international secretariat of the Organization, the headquarters being located at: Place du Petit-Saconnex, CP 438, 1211 Geneva, Switzerland. *Secretary general*: Mr. Pierre Cornillon.

## **Official publication**

The Union's official organ is the *Inter-Parliamentary Bulletin*, which appears quarterly in both English and French. This publication is indispensable in keeping posted on the activities of the Organization. Subscription can be placed with the Union's Secretariat in Geneva.

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# Constitutional and Parliamentary Information

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# I. The parliamentary system of Romania

## 1. Paper on the legislative procedure of the Romanian parliamentary system, prepared by Mr Acsinte Gaspar, Secretary General of the Chamber of Deputies, October 1995

Among the consequences of the change in political regime in Romania at the end of 1989 was the establishment of the Parliament as a fundamental institution for the rule of law. In the new political system, whose principles of organisation and operation were set out from the outburst of the Revolution (22 December 1989), Parliament was given the task of representing and expressing in a legislative form the general interests of the people, through representatives chosen at free and democratic elections. One of the main features of the new legislative forum of the country was to be its legitimacy, granted by the electorate in parliamentary elections. The legitimacy of Parliament was the essential condition for the legislative forum to be the expression of the sovereign power of the Romanian people.

The steps briefly discussed above were accomplished through the organisation of parliamentary elections in May 1990 and September 1992. The new parliament of the country elected in 1990 - which also had the role of Constituent Assembly - as well as the legislative forum beginning in 1992 can be regarded as a modern political institution whose organisation and operation correspond exactly to the theoretical model for public legislative authority in the parliamentary tradition.

At the root of the organisation and functioning of the Parliament of Romania lie the fundamental principles of any parliamentary democracy, i.e. separation of powers within the state, political pluralism, the sovereign power of the people, and the principle of representation. At the same time, general parliamentary activity is undertaken under the principle of transparency, so that the electorate and other public authorities can have a clear - and, one might say, daily - image of what happens within Parliament.

The democratic functioning of Parliament has required the adoption of a legislative procedure which sufficiently reflects these principles and which allows debate and adoption of laws with the participation of all the political

parties represented in Parliament. At this point, I must underline that within the Parliament of Romania, which has a bicameral structure, the legislative procedure is almost identical in the two chambers. At the same time each Chamber enjoys full autonomy in the formulation of its own rules of parliamentary procedure. The only requirement is that the Rules of the two chambers, which include among other provisions the procedural rules, conform to the Constitution. This is an entirely natural requirement since the Constitution lays down the main principles of the legislative process. I should mention in this context that the Rules of the Chamber of Deputies and of the Senate adopted during the current legislature were referred by the Presidents of each Chamber to the Constitutional Court for a ruling on their constitutionality. This body stated that a number of the provisions in the Rules did not conform to the Constitution.

Consequently the Chamber of Deputies, in accordance with the objections on grounds of unconstitutionality decided by the Constitutional Court, reconsidered the relevant provisions. In their present form the Rules of the Chamber of Deputies correspond to the provisions in the country's Constitution.

Within the Rules, those governing the legislative procedure occupy a prominent place. Nevertheless, their origin is to be found in the Constitution. Section 3 of Chapter 1 of Title III of the Constitution comprises the main constitutional rules governing the legislative process. In this section, the Constituent Assembly set out the categories of laws - constitutional laws, organic laws and ordinary laws - which Parliament could pass, as well as the main stages of the process.

These provisions are developed and given concrete form in the Rules of the Chamber of Deputies and of the Senate as well as in the rules governing joint meetings between the two Chambers. Study of the Rules allows certain general features of the legislative procedure to be highlighted in particular: the political role of parliamentary groups in debate and adoption of laws; the democratic play of political forces involved in the relationship between the parliamentary majority and the opposition; the identical role of the two Chambers in the process; the staged structure of the process; the public nature of the debates in plenary sittings in each Chamber and during joint sittings; the safeguards enabling interested groups and the public to express their views on bills in their various stages in each Chamber and in the parliamentary debates.

According to the Rules of the two Chambers, the legislative procedure has the following stages;

- a) legislative initiative;
- b) examination of, and opinions on, bills by the standing committees;

- c) inclusion of government and non-government bills in the orders of the day for debate in each Chamber;
- d) debate on the government or non-government bill in each Chamber;
- e) the putting of each government or non-government bill to vote in plenary sitting in each Chamber;
- f) resolution of differences between the Chamber of Deputies and the Senate by a mediation procedure, in cases where one of the two Chambers passes a bill in a form different from that approved by the other Chamber;
- g) promulgation of the law and its inclusion in the official publication "Monitorul oficial al Romanei".

These stages are not specific or exclusive to the Romanian legislative process. They are the classic stages for any bicameral Parliament. To these stages is added, where necessary, re-examination of a law by each House on request of the President of Romania in the exercise of his constitutional powers or where the Constitutional Court has declared a legal provision to be unconstitutional, before the law is promulgated by the Head of State.

As for the power of legislative initiative, this belongs under the Constitution and the Rules of Parliament, to the Government, to Members and to Senators, and also to any other group of 250,000 citizens qualified to vote. Citizens exercising their power of legislative initiative must fulfil certain formal conditions to establish the legitimacy of their initiative. The Constitution lays down that in such a situation the citizens must come from at least one quarter of the country's districts and in each of these districts, and in the municipality of Bucharest, must include at least ten thousand signatures in support of the legislative initiative. Verification of these requirements for establishing the constitutionality of a proposed legislative initiative by citizens is the responsibility of the Constitutional Court. There is no power of citizen's initiative for fiscal matters or matters relating to international affairs, or the granting of an amnesty or a pardon.

By contrast with legislative initiative, the power of initiative in respect of revision of the Constitution may be exercised by the President of Romania on a proposal from the Government. However a reform of the Constitution can also be initiated by at least one quarter of the Members or Senators, or by at least 500,000 citizens with the right to vote, coming from at least half the districts of the country and including 20,000 signatures in each of these districts and in the municipality at Bucharest.

Government bills are submitted to either House, reflecting the bicameral organisation of Parliament and the equivalence of the legislative powers of both Houses.

The rules require that private Members' bills must be accompanied by a statement on its objectives and prepared in the form required for Government bills. The rules of the two Houses provide that all bills are registered in the order in which they have been laid and are then, at the next sitting, drawn to the attention of the House by announcement of their title, of the initiating Member, and of the parliamentary committees to which it will be referred for examination or for an opinion. After this, bills are copied and distributed immediately to all Deputies or, as the case may be, Senators.

Under their right of legislative initiative, the proposers may submit - so long as they respect the conditions of admissibility imposed by the Constitution - bills seeking to achieve any purpose within the categories of laws laid down by the Constitution.

After being copied and distributed to the Members of the chamber to which they have been submitted, bills are sent to the standing committees for debate and opinion. In the committees, bills are examined in detail. The Rules provide that a given bill may be examined by two standing committees but that in such cases one single report shall be produced. A committee to which a bill has been referred may decide that it is not competent to give an opinion and may in consequence ask the Bureau of the House to refer the bill to a different parliamentary committee. Equally, two different committees may consider that they are competent to prepare the basic opinion for a given bill. In such a case, the conflict of competence is resolved by the Bureau or, if necessary, by the plenary.

At this stage, Members of Parliament are able to propose written amendments which they must table before the Bureau in the Chamber of Deputies at least six days, and in the Senate at least seven days, before the plenary debate on the bill. Amendments are submitted to the competent committees for consideration and their conclusions are included in the report prepared on the bill.

The report of the principal committee to which the bill has been referred will propose the passing of the bill without amendment, or its rejection, or its passage with amendment, and is then submitted to the Bureau. This is responsible for the reproduction of the report and its distribution to all Members of the relevant House and to the Government.

Bills on which a report has been prepared by the committee to which it has been referred are included in the Orders of the Day by each House acting autonomously. The consideration in the plenary sitting of the bills takes place in two stages; the general debate and the debate on individual articles or clauses. The aim of the general debate is to allow the principal features of the bill to be presented together with the more important provisions, and to allow each



parliamentary group to describe its position on the bill under consideration. The Rules of the Chamber of Deputies provide that in the general debate on a bill each parliamentary group can appoint one representative who will speak for the group. The Rules of the Senate have no equivalent provision, with Senators having the right to participate in the general debate without any restriction.

The general debate is opened by a statement of the objects of the bill made by the proposer of the bill and with a presentation of the report agreed by the principal committee to which the bill has been referred.

During the general debate, no amendments may be put forward. If the report of the principal committee to which the bill has been referred proposes rejection of the bill, then at the end of the general debate the President/Speaker of the relevant House will call for a vote on the bill under debate.

Once this first phase of debate has been completed, it is followed by debate on the individual articles of the bill, with the amendments proposed in the report of the specialist committee.

Examination of each article begins with the proposed amendments. In principle, at this stage it is not possible to introduce, save exceptionally, fundamental amendments or new amendments. Editorial amendments or amendments of minor importance are permitted. Such amendments can be presented orally. If during debate on certain amendments important consequences for the rest of the bill become apparent, the President/Speaker of the Chamber where debate is taking place has the power to refer, to the committee which is principally responsible for the bill, the text in question for re-examination and proposal of a solution.

Each House comes to a decision by a distinct vote on each amendment. Each article also is put to the vote in each Chamber, being regarded as adopted if it receives the votes of a majority of Members or Senators present.

The vote is personal and can be expressed directly (by raised hand, by standing and sitting, by roll call or by electronic vote) or secretly (by marbles or electronic means). Bills rejected by one House cannot be submitted for a new debate to the same House during the same session.

Bills passed by one House are signed by the President/Speaker of the House concerned and passed to the other House for debate and adoption.

Where a Bill is adopted in identical form in the two Houses, it is sent to the President of Romania for promulgation. Where this is not the case, the President/Speakers of the two Houses initiate the conciliation procedure intended to resolve the difference between the Chambers.

The process of conciliation is through a joint committee, with equal membership from the two chambers, which tries to remove the differences between the two texts by adopting a version which appears to it to be acceptable. The proposals of the mediation committee are submitted for the approval of each Chamber. If differences persist, the texts in question are debated by the two Houses in a joint sitting, following which the conflict is settled by vote.

Besides this standard parliamentary procedure, the Rules of the Chamber of Deputies and of the Senate provide for the possibility of an emergency procedure. This procedure is an exceptional one and involves certain constraints designed to guarantee speed in the legislative process such as, for example, reduced periods of notice, or the skipping of certain aspects of the normal procedure and so on.

The Constitution and the Rules lay down that where laws passed by Parliament have not yet been promulgated, they may be referred to the Constitutional Court in respect of those particular parts of their texts which may not be in conformity with the Constitution. In such a case, if the Court decides that the relevant texts are unconstitutional, the law in question is referred back to Parliament for re-examination. An objection on the grounds of unconstitutionality can be overcome if the law is approved in the same form by a majority of at least two thirds of the Members of each House, and promulgation is obligatory in such a case.

At the same time, the President of Romania has the power to ask Parliament, once only, to re-examine the bill. The purpose of the request might be, for example, to raise questions on its provisions, on whether it is opportune, or on its legality etc. In such a case, if the law is approved with the same majority as during the first debate it shall be promulgated within a maximum delay of ten days from the moment it is received.

After its promulgation, the law is published in "Monitorul oficial" of Romania and enters in force from the date of publication or from the date laid down in the bill.

## **2. Paper on the institution of the Senate of Romania and its contribution to the legislative process, prepared by Pr Constantin Ionescu. Secretary General of the Senate, October 1995**

1. The Institution of the Senate of Romania is more than 130 years old. It was created on Alexandre Ioan Cuza's initiative, a ruler who wanted a "mediator body" beside the Representative Assembly, set up by experienced people, able to ensure a balance between Powers in the State. As time went by, the Senate of Romania has proved to be a reliable parliamentary forum, with prestigious politicians. In the most important historical moments, the Senate of Romania stood for the State's independence, protection of democratic achievements and promotion of parliamentary values. Many Romanian Senators have been members of the Inter-Parliamentary Union since its creation, contributing to its work.

The institution of the Senate has been re-established after the Revolution of December 1989; the bicameral parliamentary regime has been adopted in order to have a powerful Parliament, where each of the two Chambers would be able to participate and set up an efficient legislative system.

At the present time, the Parliament of Romania, the *"supreme representative body of the Romanian people and the sole legislative authority of the State"* as it is defined in the Constitution, consists of 341 Deputies and 143 Senators. The two Chambers of Parliament have equal powers in the system of Romanian State bodies. The legislative process implies participation of both Chambers, without a special field for either of them. And yet there are some differences between the Chambers, coming from the number of voters: the norm of representation for the election to the Chamber of Deputies is one Deputy to 70,000 inhabitants, while the norm of representation for the election to the Senate is one Senator to 160,000 inhabitants. Also, the Senate has some specific attributions, as in the case of the appointment of the Advocate of the People. Only 25 *Senators* or 50 *Deputies* may notify the Constitutional Court upon the constitutionality of laws of Standing Orders, before their promulgation. In case of vacancy in the office of President of Romania, the interim devolves, in this order, on the *President of the Senate* or the *President of the Chamber of Deputies*.

The attribution of the two Chambers are essentially the same, both cooperating closely in order to carry on the legislative process and to exercise the function of control.

The *Standing Bureaux of the two Chambers* have a most important role. The Standing Bureau of the Senate consists of 11 members: a Chairman, four

Deputy Chairmen, four Secretaries and two Quaestors. Excepting the Chairman - who is elected for the Senate's term of office - the other members of the Standing Bureau are elected at the opening of each parliamentary session. The election of the members is held by secret ballot, on the proposals of Parliamentary Groups, with respect to the political spectrum resulting from elections. The Standing Bureau has important attributions: it receives and forwards bills to the Standing Committees, it sets up the draft agenda of the senate plenum sittings and established the priorities.

*The Standing Committees of the Senate* are working bodies in the most important fields of political, social and economic State activity. There are 14 such Committees: Committee on Economy; Committee on Privatization; Committee on Budget and Finance; Committee on Agriculture, Food Industry and Forestry; Foreign Policy Committee; Committee on Defence, Public Order and National Security; Committee on Human Rights; Committee on Labour, Social Protection and Unemployment problems; Committee on Education and Scientific Research; Committee on Culture, Art and Media; Committee on Public Administration and Territorial Organization; Juridical Committee on Appointment, Discipline, Immunities and Validation; Complaints Committee; Committee on Health, Environment and Sport.

The Senate may set up special committees of inquiry. For example, there is a Senate Committee for Investigation of the Events of December 1989. There are also joint committees with the Chamber of Deputies, as in the case of the Committee on European Integration and the Committee on Parliamentary Control over the Romanian Information Service, or as was the case of the Committee Against Corruption, whose report has already been debated in Parliament.

2. The legislative activity is a central element of parliamentary work, aiming to set up a coherent system of normative acts, perfectly adjustable to the great process of transformations from Romania.

Actually, after the Revolution of December 1989, the legislative process had to achieve a double objective: to set up new legislation, in perfect consonance with the transformation's evolution and, on the other hand, to modify and to adapt the old legislation to the Revolution's ideals, for this to become fully compatible with these objectives and enable the creation of institutions specific to a State governed by the rule of Law, the transition to free market economy in Romania. Since its first legislature, the Parliament of Romania passed some important laws, able to ensure the legislative framework necessary to develop the process of changes. It is enough to note just a few of them: Law on Privatization of Trading Companies, Land Law, Law on Social Protection of the

Unemployed and their Professional Reintegration, Law on Romanian Citizenship, Law on National Security, Audio-Visual Law, Education Law, Law on Judicial Organization, Law on Exercising the Profession of Advocate and many others which actually represented innovative, original solutions, drawn up by parliamentarians - with the help of experts of all fields; all these contributed to create new mechanisms, in order to protect citizens' legal rights and interests and to reshape some juridical institutions. During its first and second legislature, the Parliament considered and passed 582 laws (and the Senate 614 bills) in several fields - economy, social life, judicial organization and State administration. In the second session of 1994 there were debated and passed 90 laws: 23 on economic reform, 7 on social protection and human rights, 8 on public administration, 4 on health, 3 on culture and media, 4 on national defence and public order, 7 on environment, 2 on judicial organization and 1 on agriculture. There have been ratified 39 Conventions and international agreements.

The legislative process in itself evolved in two main directions: **the first** - submission of some *initiatives of the Government* for parliamentary debate; in many cases, these were substantially improved by the debates. **The second direction:** Senators' own initiatives; Senators drew up *legislative proposals* which, in most cases, have become laws. In the first legislature, there were submitted for debate 371 initiatives of the Government and 66 Senators' initiatives; in the second legislature, up to now there have been 413 Governmental initiatives and 84 Senators' initiatives. The explanation for the big number of initiatives coming from the Government is they actually comprise bills drawn up by all Ministries and governmental central bodies.

The Committees having subject matter jurisdiction have developed a substantial activity by drawing up reports on bills and legislative proposals. They asked for other experts' opinions, when needed. The debates in Committees have manifested themselves in amendments submitted by the Committees, contributions of substance to the normative acts.

Sometimes, there were more amendments - submitted in plenum sitting or in Committee sittings - than Articles of the bill itself. For example, at the debate on the Education Law - which has 190 Articles - there were suggested 236 amendments and 176 texts were amended. Another example: to the Law on the Statute of Military Staff - which has 113 Articles - there were 175 amendments and 85 texts were amended. To the Law on Public Notary - which has 112 Articles - there were 104 amendments and 68 Articles were amended.

If one of the Chambers has passed a bill or legislative proposal, in a different wording from that approved by the other Chamber, the Presidents of both Chambers initiate a *mediation procedure*, by a Committee consisting of

7 Senators and 7 Deputies, in order to ensure a correct representation of the entire political spectrum.

In the first legislature, among the 238 laws which have finally been passed by the Parliament, 109 entered the mediation procedure; in the present legislature, the Parliament passed 341 laws of which 130 were subject to the mediation procedure. Examples of laws which successfully passed this procedure: Law on Local Public Administration, Law on the Organization and Operation of the Constitutional Court, Audio-Visual Law, Law on Foreign Investments, Law on Public Finance, Law on Banking Activity, Law on Assessment of Profit, in the first legislature. In the present legislature: Law on Modifying and Completion of the Penal Code and Penal Procedure Code, Law on Management Contract, Law on Real Estate and Stock Exchange, Law on Quality of Constructions, Law on Social Aid, Law on Organization of Medical Activity.

In the legislative process - which, as we know, has many phases - *the co-operation between the two Chambers of Parliament* is of an extreme importance; that is why in case no agreement can be reached in the Mediation Committee, or one Chamber has not approved the Mediation Committee report, the texts in conflict are submitted for debate to the Chamber of Deputies and the Senate, assembled in a joint session. That was the case for laws such as: Law on Leasing, Law on Sponsoring, Law on Assessment of Agricultural Income, Law on the Organization and Operation of the Romanian Public Society of Radio and Television, Law on War Veterans and Rights of the War Invalids and Widows, Law on Organization and Operation of Lawyers' activity, Law on Acceleration of the Privatization, Law on Military Staff and Education Law.

3. *The Relation between the Parliament and the Government*, taking into account the separation between Powers in the State, is a dynamic, active relation, respecting the competences established by the Constitution and Laws of the State. The Government is the main "supplier" of legislative initiatives; it has the right to require the debate in priority of certain bills. Members of Government are entitled to attend the proceedings of Committees - at their initiative or invited. As initiators, the members of Government have the right to express their point of view in all phases of the debate. There is an active co-operation going on between the two Standing Bureaux and the Minister on Relations with the Parliament, who is directly responsible for the collaboration with the legislative forum.

Co-operation between the Parliament and the Government also supposes some specific aspects: members of Parliament have the right to raise *questions*

*and interpellations* to the members of Government, on different aspects of its activity. In practice, the Senate's timetable of work provides two-hour sittings, twice a month, where members of Government participate directly and answer questions or interpellations.

For example, in this legislature, Senators asked 1409 questions and interpellations and they received 1342 answers. In the previous session which ended in June, Senators asked 471 questions and interpellations: 84 concerning social assistance and protection; 64 concerning education, culture and matters relating to the National Council of Audio-Visual; 47 concerning local administration, 41 concerning taxes, finance and duties; 35 concerning land problems, etc. The answers to questions and interpellations raised by Senators may be oral or written.

The most important juridical aspect of the legislative process is the *adoption and submission for approval of some Orders* of the Government. In Romania - like in other democratic countries - the Constitution allows a certain competency of the Government to issue Orders by means of legislative delegation, under a special enabling law, within the limits and in conformity with the provisions thereof and only in fields outside the scope of organic laws (such excepted fundamental fields are; defence, regime of assistance, general regime concerning work relations, offences, penalties and the regime of their execution, and others).

Orders are submitted to Parliament for approval, "according to the legislative procedure, until expiration of the enabling term". We stress that the Constitution does not specify the duration of the enabling term. In the parliamentary practice of the first legislature, such Orders — in the wording adopted by the Government and submitted to Parliament for approval - could only be *approved* or *rejected*, considering that a modification in these Orders would run counter to the Constitution's provisions. A more flexible point of view has been adopted in the second legislature, namely the Orders were debated in the same way as the laws. This gave the opportunity for ample discussions and, as a result, Orders were substantially improved. In this respect we would note Order No 39/1994 on the improvement of the coefficient of wages' hierarchic differentiation of budgetary personnel, with many adjustments during its debate. The adjustments actually concerned the emoluments for functions or responsibility and the coefficient of wages' hierarchic differentiation of teachers. Also, the Government was charged with the obligation to draw up and submit to Parliament a bill on the improvement of the basis coefficients of wages' hierarchic differentiation of budgetary personnel, after a complete evaluation of its role, complexity and responsibility.

Obviously, the most severe form of parliamentary control over the Government's activity is the *motion of censure*. Up to now there were debated 3 such motions, in accordance with the Constitution and the Standing Orders. Although all of them failed to pass, they were subject to substantial debates and the Government gave all relevant information and explanations to questions raised by members of Parliament. The same happens in case of simple motions. To give only one example, the motion carried by 37 Senators, on 7 June 1995, concerning Romania's integration in the Euro-Atlantic structures was followed by an extensive debate in which members of Government presented and distributed a document supporting its point of view; finally, the proceedings ended with the Declaration of the Senate on Romania's integration in the political, economic and strategic Euro-Atlantic structures, adopted on June 15, 1995.

4. Another relevant aspect is the relationship between the Senate and the *Constitutional Court*. In accordance with the provisions of the Constitution, the Constitutional Court - the sole authority of constitutional jurisdiction in Romania - has the power to adjudicate on the constitutionality of laws, before promulgation, upon notification by the the President of Romania, by the President of either Chamber of Parliament, by the Government, the Supreme Court of Justice, by at least 50 Deputies or at least 25 Senators.

There were situations when the Constitutional Court has been notified by Senators: 26 Senators notified the Constitutional Court on the unconstitutionality of the Law on Prolongation or Renewal of Rent Contracts on Lodgings; Senators considered this Law violated the principle of non-retroactivity of law and the principle of separation between powers in the State. The Court decided the Law is constitutional. 28 Senators and 66 Deputies notified the Constitutional Court, considering the Law on Approval of Governmental Order No 50/12 August 1994 to be unconstitutional; this Order provided for a tax on frontier passage in order to raise financial resources of the State. In this case, the Constitutional Court assessed the Law as unconstitutional.

According to the provisions of Law No 47/18 May 1992, the date on which a law has been handed in to the Secretary General of the Senate is brought to the notice of the plenum of the Senate within 24 hours from its registration. The handing in and the notification are made only on the days in which the Chambers of Parliament sit in plenum. When a case is submitted to the Court by Senators, the act on the respective case shall be sent to the Constitutional Court on the same day as it was received by the Secretary General of the Senate.

In accordance with the legal provisions, notifications on unconstitutionality are communicated within 24 hours from their registration to the Presidents of



both Chambers, who may present their point of view in writing, by the date of the debates. As a rule, the opinion of the President of the Senate in matters of unconstitutionality is drawn up by taking into account the report of the Juridical Committee on Appointments, Discipline, Immunities and Validation. If the Constitutional Court decides upon unconstitutionality of certain provisions of the respective law, both Chambers separately debate the texts declared unconstitutional. According to Article 145 from the Constitution, there is the possibility that the objection of unconstitutionality is withdrawn and the law adopted in the same wording - with a majority of at least two thirds of the members of each Chamber. If the notification of unconstitutionality refers to certain provisions of the Standing Orders, "the Chamber whom the case was submitted to shall reexamine these provisions, in order to bring them in agreement with the stipulations of the Constitution" (according to Law No 47/18 May 1992). So, the possibility of non-conformity with the decision of the Constitutional Court does not exist.

At the present moment, pursuant to the notifications of unconstitutionality admitted by the Constitutional Court, both Chambers are re-examining the Law on interpretation of Articles 21 paragraph (1) and (2) from Law No 53/1991 concerning emoluments and other rights of Senators and Deputies, as well as the wages for the personnel of the Parliament, Law on Reglementation of legal situation of some lodgings which belong to the State and some Articles of the Senate's Standing Orders.

5. *The relations with the institution of Presidency* has a specific characteristic in the legislative process because, in accordance with the provisions of the Constitution, the President of Romania may return the Law to the Parliament for reconsideration before promulgation, and he may do so only once. Where the President has requested that a law be reconsidered, promulgation shall be made within ten days from receiving the law passed after its reconsideration. This prerogative of the President, to return the law for reconsideration instead of promulgating it, is an extraordinary prerogative, because the President is not entitled to legislative initiative. According to the Constitution of Romania, the President represents the Romanian State and is the safeguard of the national independence, unity and territorial integrity of the country. He must guard the observance of the Constitution and the proper functioning of the public authorities. To this effect, he shall act as a mediator between the powers in the State, as well as between State and society. In these conditions, the participation of the President in the legislative process is an exceptional one, arising only in those cases when certain normative acts could affect the balance between the powers in the State. At the present moment, the Senate is re-examining - pursuant to the

request of the President of Romania - the Law on rights of ex-members of Parliament, those whose capacity as a Deputy or Senator ceased in circumstances legally provided, and the Law on approval of Orders No 27 and 47, which were adopted in accordance to Law No 72/1994 (Enabling Law for the Government to issue Orders).

6. Parliamentary Groups also have an important role in Senate activity. According to the Standing Orders, a Parliamentary Group may consist of at least five Senators who were elected on the list of the same party or political formation. A Senator can be member of only one Parliamentary Group. The organization of Parliamentary Groups by a political party or formation which did not participate in general elections or did not obtain seats in the Senate after elections is forbidden.

In order to respect the political spectrum of the Senate, as resulted from the elections of 1992, there are eight Parliamentary Groups in the Senate, as following: PDSR (48 Senators), PNTCD (21 Senators), PD(FSN) (16 Senators), PUNR (12 Senators), UDMR (12 Senators), National Party (9 Senators), PAC (5 Senators), PDAR (5 Senators). There is one Senator seat vacant. During the present legislature, 16 Senators left formations on the lists they were elected and declared themselves independent Senators. The Senate has not accepted derogations from the provisions of its Standing Orders which could modify the balance that existed between political forces before the elections of 1992, considering that Parliamentary Groups must respect the will of electorate; if there are Senators who consider their initial political option has changed, they may continue their activity as independent Senators.

7. Regarding the *statute of Senators*, compared with that of Deputies, it must be stressed that-according to Law No 68 of July 15, 1992, concerning the Election of the Chamber of Deputies and of the Senate - the norm of representation for a Deputy's election is 70,000 inhabitants, while it is 160,000 inhabitants for a Senator. So there are some differences between the statute of Senators and Deputies. In the Senate's case, there is a specific element represented by the organization, in election constituencies, for each Senator, of a *Senatorial Office*, with its own staff: a Head of Office, a driver and a secretary. The staff belongs to the Senate Apparatus and its activity ceases at the same time as the Senator's term of office. While accomplishing this job, the staff is considered as detached or, in other cases, transferred in the service's interest, under provisions of the Labour Law. Senatorial Offices are provided with a car - by the Senate - and all expenses (material ones or services) are also supported by the Senate.

The Prefectures, County Councils or Local Councils ensure each Senator the space which is necessary to set up the Senatorial Office and the furniture enclosed. Regarding the statute of Senators and Deputies, the Senate prepares a bill with a detailed reglementation of all related aspects.

Concerning the co-operation between Senators themselves, freedom of expression and parliamentary immunity: on March 29, 1994, at the initiative of the lamented Senator Ion Aurel Stoica, the Senate decided to include in its Standing Orders a provision on parliamentary deontology, in the spirit of Oxford's Rules validated by the British Parliament after a long experience. Among Senators of different parties or political formations there is an effective co-operation, especially at the Committees' level. The reason is that, in plenum sittings, it is the political aspect which prevails and there is too much emphasis on personal conceptions and orientations, but the situation changes in the Standing Committees - real "laboratories" for law drafting. In this case, it is the practical, functional, professional, aspect that prevails and many documents are prepared this way, serving the legislative process.

We hope the Legislative Council - an advisory expert body of Parliament, that initials draft normative acts for the purpose of a systematic unification and coordination of the whole body of laws and which has not begun yet to function - will prove its utility.

8. *The Senate Apparatus* is managed by the Secretary General and comprises 358 employees - 135 with university degrees, whose functions are mainly of parliamentary experts and counsellors. The Senate Apparatus is made up of three Departments: the Parliamentary Proceedings Department, the Foreign Parliamentary Relations Department and the Technical-Administrative Activities Department.

*The Parliamentary Proceedings Department* is made up of: the Senate Proceedings Unit, the Standing Committees Proceedings Unit, the Technical-Legislative Unit, the Legislative Information and Legislation Drafting Unit, the Press and Information Unit, the Public Relations Unit and the Parliamentary Information and Documentation Office. The Department has the following functions: it organizes and ensures the conditions for workings in the plenum of the Senate and in Committees, it finalizes the draft laws, according to the norms of technical legislation, it ensures the link with media as well as with specialized directions from other central institutions.

*The Foreign Parliamentary Relations Department* assists in the implementation of the Romanian Parliament foreign relations with foreign States' institutions, co-operating closely in this respect with the Senate Foreign Policy

Committee. This Department is made up of: the Analysis Unit, the Bilateral Parliamentary Relations Unit, the Inter-Parliamentary Union Romanian Group Unit and the Protocol Unit.

The *Technical-Administrative Activities Department* is made up of: the Treasury-Accounting Unit, the General Services Unit, the Technical-Administrative Unit, the Transports Unit, a Copying Section and Archives.

The Senate also has a *Personnel Unit*, directly subordinated to the Secretary General of the Senate apparatus. This Unit organizes and ensures the implementation of the law on wages and personnel activities. It draws up the documentation on the employment on the basis of qualification, professional grades and gradations and forwards it for approval to the Secretary General; it is responsible for organizing the examinations and contents for employment and promotion of personnel; it draws up the works on the record and movement of personnel. It is responsible for drafting, filling up, keeping and recording of the work cards in keeping with the legal provisions; it works out the nominal organization record according to post, professional grades and scales for the execution personnel and the wage levels for the specific staff, in order to employ them according to the professional grades and scales and grant them, under the law, higher grades and wage increases.

This structure of the Senate Apparatus was created in order to have the proper conditions for an efficient activity, in all fields, of the Senate and its members.

### **3. Extracts from the Minutes off the Bucharest session, October 1995**

Mr GASPAR, Secretary General of the Chamber of Deputies of Romania, and Mr IONESCU, the Secretary General of the Senate of Romania, summarised the papers they had submitted. The PRESIDENT thanked the Secretaries General for their presentations and invited questions on the Romanian parliamentary system.

Mr BOSTEELS (Belgium) asked whether Parliament had any role to play in the process of formation of a Government and if there was a procedure for confirmation of a Government by Parliament. Mr GASPASPAR replied that under the terms of articles 85 and 102 of the Constitution, confirmation by Parliament constituted an indispensable stage of the formation of a Government. This must reflect the state of political forces in the country as indicated in the legislative elections. In a parliamentary regime, a Government could not subsist without parliamentary support. In reality the President of the Republic always consulted the party or parties having a majority of votes in the elections before appointing a Prime Minister. The Prime Minister chose the other Members of the Government. The Parliament voted its confidence in the Government presented to it. This investiture took place before both Houses. As for Members of Government who were chosen from amongst Members of Parliament, they retained their status as a Member of Parliament. The incompatibility which existed under the first legislature was no longer the case under the second (current) legislature. He emphasised the necessity for the Government to reflect the cultural diversity which constituted a characteristic trait of Romania. As the protector of diverse cultures in Romania, the Parliament was anxious to express its confidence in a Government which reflected this diversity in its composition.

Mr KHATRI CHHETRE (Nepal) asked about the degree of independence which the two Houses enjoyed with respect to each other in the scheduling of sessions. Mr GASPASPAR and Mr IONESCU indicated that the two Houses sat for the same periods, from February to the end of June, and then from the beginning of September to the end of December. Between these sessions, extraordinary sessions could be summoned by the President of the Republic, the Bureau of each House or one-third of Deputies or Senators.

Mr MOUFONDA (Congo) asked to what extent the fact that a Member of the Government could be at the same time a Member of Parliament made it impossible for Members of Parliament to exercise control over Government. Mr IONESCU replied that this characteristic, which did not prevent an effective separation of powers, did not obstruct parliamentary control over the Executive power.

Mr HAYTER (United Kingdom) asked whether more Ministers came from the Chamber of Deputies than from the Senate. Mr IONESCU explained that in replying to this question note should be taken of the differences in number between Senators and Deputies. As of 9 October 1995, the Ministers of Health, Social Protection and the Interior were Senators. Mr GASPASPAR indicated that the Ministers of Agriculture and of Tourism were Members of the Chamber of Deputies.

Mr BENVENUTO (Italy) asked about the financial autonomy of each House. Mr GASPAR replied that each House had its own budget, which was then integrated in the general state budget. This budget was published in the official journal, the "Monitorul oficial". Mr IONESCU added that there was a control over the budget of Parliament exercised by the audit Court established in 1992.

*ANNEX: Question and answer sessions during a tour of the Chamber of Deputies and the Senate, on the morning of Wednesday 11 October*

### **a) Chamber of Deputies**

Mr GASPAR (Secretary General of the Chamber of Deputies of Romania) explained that the Chamber of Deputies building was the seat not only for the Chamber but also for joint meetings of both Houses and for certain ceremonial occasions. There were 341 Deputies in all, organised into 10 parliamentary groups with 26 independents. Seating in the Chamber was arranged by the President and party leaders, with the majority sitting on one side and the opposition on the other. The minimum size for a parliamentary group was 10. Deputies and parliamentary groups were given assistance in respect of staff and transport costs in proportion to the size of the group, in addition to offices. A bench was reserved for government ministers when they were taking part in proceedings.

The Chamber was governed by the Standing Bureau comprising the President, 4 Vice-Presidents, 4 Secretaries and 4 Questeurs. The President was elected for four years while the other members were elected at the beginning of each session. The two parliamentary sessions ran from January to June and from September to December. Extraordinary sessions could also be held. The committees of the House ranged in size from 13 to 40, with their composition negotiated by the parties and ratified by the Chamber. Question Time was held every Monday. There was a public gallery, together with a further gallery which was reserved for the Senate at joint sessions and for use by guests at other occasions.

Ms Ioana BORACAN (Head of the Library of the Chamber of Deputies) said that previous assemblies, under various different titles, had sat at the site of the current Chamber of Deputies building since the first half of the nineteenth century. The present building had been built at the beginning of the twentieth century. It was a 4-storey building and had 7,000 m<sup>2</sup> of floor space. The

transitional and legislative assemblies had sat in the building since the Revolution of 1989.

Mr GASPAS explained further that although the conference centre was called the Palace of Parliament neither Chamber currently met there. The Chamber of Deputies would in due course move to the Palace and certain offices were already there. It would be possible to provide better facilities in the Palace than in the current building. It had not yet been decided what would be done with the current building after the move.

Mr NDIAYE (President) (Senegal) asked how the administration of the Chamber was structured. Mr GASPAS replied that the various services of the House came under the authority of the Secretary General, who was elected by the Plenary. The Standing Bureau was responsible for the overall governing of the Chamber. There were a total of 1,585 staff of which 441 were graduate staff. The number of staff was high because it included staff related to the maintenance of the Palace of Parliament. The various services included: a legislative department (which served both the committees and the plenary), an external relations department, a library, a computer and data processing department, a department responsible for buildings and general services, a personnel department and a publications and printing department. The Chamber was also responsible for the international conference centre in the Palace. Each House had a separate autonomous budget.

Mr MOUFONDA (Congo) asked whether the move to the Palace of Parliament would involve an increase in costs and about the assistance which was given to Deputies. In reply to the first point, Mr GASPAS indicated that the costs of the Palace would fall to the Chamber of Deputies but that they would be shared proportionately with the other house, should the Senate decide to move to the Palace as well. On the second point, he reported that Deputies had offices, IT equipment and staff. They received a monthly allowance to help with work in the constituency. Deputies who lived outside Bucharest received a housing allowance.

Mrs RAMA DEVI (India) asked about the arrangements on the rostrum of the Chamber. Mr GASPAS replied that the seats either side of the President were occupied by the Secretaries. If there was a joint session then the two Chambers shared the task of presiding.

Mr MAVOUNGOU (Congo) asked about the role of Secretary General. Mr GASPAS replied that he was responsible for the services of the Chamber. He took part in the meetings of the Standing Bureau, though of course he had no vote, and was responsible for advising on and implementing the decisions of the Bureau.

### b) Senate

Mr IONESCU (Secretary General of the Senate of Romania) said that work had commenced on the current building in 1937 and that it had been in full use since 1945. It had housed the organs of the communist party of Romania between 1958 and 1989, when it was at the centre of the events of the Revolution. There was a monument outside the entrance to the building in memory of those who had been killed.

The Senate had used the building since 1990 and had found it to be perfect for its purposes. It housed committee rooms, Senators' offices and staff offices as well as large meeting rooms for receptions and press conferences etc, a library, a garage, a medical unit and refreshment facilities. The Omnia Hall, in which plenary sittings were held, had seating for 500, allowing for seating for the press and for visitors. An electronic voting system had recently been introduced.

Mr TIEMOGO (Niger), noting the cross on the wall of the hall, asked about the religious composition of the country. Mr IONESCU replied that approximately 80% were Orthodox, with most of the rest being Roman Catholic, with smaller numbers of Muslims and other denominations.

Mr KHATRI CHHETRI (Nepal) asked about the political neutrality of the staff of the Senate. Mr IONESCU stressed that the staff operated firmly on the principle that they must not have a political commitment to any one party, though of course this did not prevent individual members of staff having their own opinions.

Mr GUCATAN (Philippines) asked about the seating arrangement on the rostrum and about the role of the Secretary General. Mr IONESCU replied that the services run by the Secretary General assured the efficient progress of legislation and other proceedings and that the Secretary General was responsible for expenditure. There was seating on the rostrum for the Senator(s) principally responsible for the matter under discussion, and for representatives of the government and the relevant committee, as well as for the presiding officers.

Mr OLLÉ-LAPRUNE (France) enquired as to which House had the final word if the conciliation procedure over legislation failed to resolve differences between the two. Mr IONESCU, noting that the conciliation procedure was heavily used, with half of all bills requiring it, said that the final stage was for a joint meeting of both Houses to take place. If that meeting failed to agree on a bill then it was sent back to the original chamber.



Mr MAVOUNGOU (Congo) asked whether the Secretary General of the Senate, like that of the Chamber of Deputies, was elected and about the consequences of this for the way the Secretary General was regarded by Senators. Mr IONESCU replied that while he was indeed elected by the plenary, the process had not been contentious and that he regarded himself above all as a public official owing the same duty to all political groups in the Senate.