

# **THE PITFALLS OF MOLDOVAN PARLIAMENTARISM: CONSTITUTION MAKING AND REGIME CHANGE**

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## **Abstract**

This thesis has to be placed within the realm of comparative politics, namely the debate over political regimes and their estimated outcomes. Although the climax of this particular academic dispute was reached in the '90s, the case of Moldova represents a useful and unique tool for challenging its main conclusions, in the context of the constitutional reform operated in 2000, which allegedly transformed Moldova from a semi-presidential into a parliamentary republic. After April 2009, the mechanism failed constantly and politicians invoke the possibility of returning to the previous constitutional design of the political regime. In turn, this thesis aims at explaining that the country's current regime is distorted and that the reform initiated eleven years ago should be further consolidated.

**Key words:** political regime, parliamentarism, semi-presidentialism, constitution making, constitutional reform.

## Table of Contents

<b>Abstract .....</b>	<b>i</b>
<b>Table of Contents.....</b>	<b>ii</b>
<b>List of Abbreviations .....</b>	<b>iii</b>
<b>Introduction .....</b>	<b>4</b>
<b>Chapter 1: What is a <i>good</i> political regime? .....</b>	<b>5</b>
1.1 <i>Good</i> is stable .....	5
1.2 <i>Good</i> is efficient.....	8
1.3 <i>Good</i> is flexible.....	11
1.4 Conclusion.....	12
<b>Chapter 2: Moldova: From Semi-presidentialism to Parliamentarism? .....</b>	<b>14</b>
2.1 Post-soviet constitutional engineering: Moldova's Constitution of 1994 ....	14
2.2 The constitutional amendment of 2000 and the Kozak Memorandum.....	17
2.3 Moldova under crisis: April 2009 and the aftermath .....	20
2.4 Conclusion.....	21
<b>Chapter 3: Options for Constitutional Reform .....</b>	<b>23</b>
3.1 Interview with Professor Nicolae Osmochescu, PhD, former Judge at the Constitutional Court.....	23
3.2 Interview with Professor Ion Guceac, PhD, and member of the Academy of Sciences of Moldova. ....	26
3.3 Interview with Mr Iurie Rosca, former MP, and Chair of the Christian Democratic People's Party. ....	29
3.4 Conclusion.....	31
<b>Conclusion .....</b>	<b>33</b>
<b>List of References.....</b>	<b>34</b>

## **List of Abbreviations**

AEI - Alliance for European Integration

CCR - Commission for Constitutional Reform

CDPP - Christian Democrat People's Party

LDPM - Liberal Democrat Party from Moldova

PCRM - Party of Communists from the Republic of Moldova

## Introduction

If we consider Denmark standing for a country with ‘well-functioning state institutions’, to what extent are these ‘transferable to countries as far away historically and culturally from Denmark as Somalia or Moldova?’, asks Francis Fukuyama in his book on governance in the 21<sup>st</sup> century. ‘To what extent is there and can there be a theory of institutions that can be generalized and that will provide the basis for policy guidance to poor countries?’ (Fukuyama 2004, 22). Poorer than Somalia or not, we know that Moldova has been at least having a central government during the past two decades. But this is where problems started arising.

This thesis is about government crisis and its sources. Of course, importing institutional models from established democracies to emerging ones is not in itself an issue. It is choosing among the existent options and then making them work properly. Despite the fact that the experience of post-soviet states acquired much attention, we are about to see that there hardly can be found a generalized theory of institutions, able to fit polities with apparently similar historical backgrounds. Baring the faith of countries with no democratic tradition and culture, some of them ended back into authoritarianism, some are still struggling towards becoming consolidated democracies. Moldova is definitely one such case.

In the first chapter, we will review the existent literature on the outcomes of three democratic political regimes: parliamentarism, presidentialism, and semi-presidentialism. For this purpose, I have put forward three proxies of a good regime: cabinet stability, policy efficiency and policy flexibility.

Major theoretical findings will be tested with the help of the Moldovan example. First, the inappropriateness of opting for semi-presidentialism during transition; second, the fact that regime deadlock can also originate in non-institutional factors. Last, this thesis will advocate in favour of further constitutional reform, which would repair the country’s truncated political regime toward a pure parliamentary one. The thesis also contains three interviews, which aim at illustrating from primary sources the arguments made by the author.

## Chapter 1: What is a *good* political regime?

As the main focus of our endeavour is finding the sources of government crisis, unfolding for two years in Moldova, this first chapter will propose an excursion into the literature on political regimes, their afferent institutional features and their outcomes in terms of government functionality. We will look into a substantial body of scholarly work, termed as the ‘new institutionalism’<sup>1</sup>, emerging in the early 1980s, which aims at establishing causal relationships between the choices for certain core institutional settings, i.e. political regimes, and the incentives these create for democratization and policy-making. Among various correlations between regimes and outcomes, I found three major interpretations of what a *good* political regime should ensure: cabinet stability, policy efficiency and policy flexibility. Simultaneously, we will confront a theoretical debate on the typology and characteristics of political regimes.

The purpose of this chapter is to show that institutional design alone cannot account for government deadlock, therefore contributing to the argument that Moldova is facing first and foremost a political crisis, unlikely to be overcome through mere institutional reform.

### 1.1 *Good* is stable

The wave of new democracies, emerging after the collapse of the Soviet Union, as well as the diverse political developments occurring in Latin America, has sparked at the beginning of the 1990s an increasing academic interest in studying political regimes, from the viewpoint of their contribution to democratization. The broadly agreed upon types of regimes within ‘electoral democracies’<sup>2</sup> were presidentialism, parliamentarism and semi-presidentialism, with the latter causing the most controversy. The debate herein has ranged from what features should be assigned to each of the regimes and how to label them, to even recently questioning the meaningfulness of distinguishing between regimes in general<sup>3</sup>. For

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<sup>1</sup> For a detailed description of the various schools of thought belonging to this particular approach in political science, see Peter Hall and Rosemary Taylor, ‘Political science and the three new institutionalisms’, *Political Studies*, 64 (1996), 936-957. One important, founding work in this sense is considered that of Maurice Duverger, *Political Parties*, Wiley, 1954.

<sup>2</sup> According to the definition of Freedom House, an electoral democracy involves a competitive multiparty political system, universal adult suffrage, contestable elections and access of political parties to media. For details, as well as the distinction between ‘electoral’ and ‘liberal’ democracies, see ‘Freedom in the World’ Report, available at [http://freedomhouse.org/template.cfm?page=351&ana\\_page=354&year=2009](http://freedomhouse.org/template.cfm?page=351&ana_page=354&year=2009) [accessed May 13<sup>th</sup>, 2011].

<sup>3</sup> For a systematic attempt at distinguishing among types of political regimes and their variations, see Alan Siaroff, ‘Comparative presidencies: the inadequacy of the presidential, semi-presidential and parliamentary distinction’, *European Journal of Political Research*, 42 (2003), 287-312.

now, it is nonetheless necessary to lay out some initial definitions, which have foremost a theoretical importance and highlight key differences, in terms of power relationships between the legislative and the executive branches, and their sources of democratic legitimacy. Thus, a parliamentary form of government implies an executive power (president and/or prime minister), produced and dependent on a popularly elected legislative majority (Linz, 1990a: 51). In contrast, a presidential regime requires that the head of state (president) be popularly elected for a fixed term; he is independent of the legislative, names the cabinet and, optionally, shares executive power with a prime minister (Lijphart 1992, 2-3; Sartori 1994a, 84; 1994b, 106). The concept of semi-presidentialism, one of particular interest for this thesis, has been first proposed by Maurice Duverger<sup>4</sup> and later promoted intensively by Giovanni Sartori. The scheme presupposes a structure of ‘governmental diarchy’ (Duverger 1980, 173), in which the president, elected popularly for a fixed term, is independent from parliament, but dependent on the cabinet. In turn, the government is dependent on parliament, through the possibility of a vote of no confidence or because it needs the support of a parliamentary majority in order to be invested.

Beyond the definitional and conceptual debate regarding the institutional peculiarities of these regimes, what constituted an important advancement was the attempt to predict the outcomes of adopting a certain regime. In this respect, the works of Yale professor Juan Linz marked the beginning of a new stage in studying political regimes and offered one first interpretation of what a *good* such regime should render: *survival and preservation of democracy*. In his view, parliamentarism is intrinsically more likely to conduce to a *stable* and durable government<sup>5</sup>, since it confers more flexibility to the political process, by avoiding regime breakdown even when a prime minister ought to be changed. Moreover, a parliamentary regime is recommended for countries in transition or affected by social cleavages, for it provides space of action for a multiplicity of political actors, unlike presidentialism, which enforces the ‘rule of winner-take-all’ (Linz 1990a, 56). The disadvantages of parliamentarism are partially acknowledged, in that the author only mentions that it could also produce uncertainty and instability. Thus, it seems that Linz’s main argument on the merits of

<sup>4</sup> For a detailed account of the way in which the concept of semi-presidentialism has evolved ever since Duverger’s first proposal, see Robert Elgie (ed.), *Semi-presidentialism in Europe*, Cambridge University Press, 1999, 1-21.

<sup>5</sup> This proxy was later divided into two distinct concepts: regime stability and cabinet stability. See Scott Mainwaring, ‘Presidentialism, Multipartyism, and Democracy: The Difficult Combination’, *Comparative Political Studies*, 26, (1993), 198-228: 208.]

parliamentarism derives rather from a series of severe drawbacks he identified within presidentialism. This regime is thought to create high incentives for political conflict, for at least three reasons. First, the president represents both the entire nation and a certain political party and this situation could prove too difficult to manage. Second, offering too many powers to a single person, along with a symbolic image of a national leader, creates risks of populist or even authoritarian politics. Last, but definitely not least, Linz emphasizes the fact that there is no democratic tool for solving the issue of ‘dual legitimacy’, arising between the executive and legislative branches on which of the branches represents the ‘will of the people’ (Linz 1990a, 63). This important argument - ‘the problem of divided government’, weakened considerably after Linz had received several critiques, which forced him a step backwards into stressing that the possibility of a ‘stable and strong’ presidential regime cannot be excluded, should the president enjoy the support of an elected legislative majority (Linz 1990b, 89-90).

The discussion has advanced in the following years, but the focus remained the same: finding the institutional framework, foreseen essentially in the constitution of a country, which is more conducive to stable regimes, and thus to consolidated democracies. Alfred Stepan, first Rector of Central European University, has contributed to collecting necessary data, showing that parliamentary democracies have a higher rate of survival than the presidential ones, and therefore strengthening the argument previously made by Linz. Because parliamentarism is a system of ‘mutual dependence’ between the executive and legislative branches, it contains ‘deadlock-breaking’ tools, such as reformation of cabinet (Stepan & Skatch 1993, 18). This study revealed that presidential democracies between 1973 and 1987 have rendered legislative majorities to support cabinets in less than half of the cases, thus creating government blockages, which threatened democracy itself. Thus, authors concluded that parliamentary democracies are systemically more favourable to solving government crises, before they become regime crises, warning that a presidential scheme is especially risky for countries in transition from totalitarian regimes.

A more sophisticated level of argumentation has been reached by Shugart and Carey, who have also considered electoral systems, cycles and party systems into their comparisons between political regimes. The authors further elaborate on the notion of semi-presidential government, proposing two sub-types of such regimes: premier-presidentialism, which coincides with what Duverger had previously defined as semi-



presidentialism, and president-parliamentary regimes, where both the president and the legislature have significant authority over cabinets (Shugart & Carey 1992, 18-27). Having made this specification, the authors argue that premier-presidentialism addresses the criticisms brought to presidentialism, temporal rigidity, majoritarianism, dual legitimacy among them, and that there could be crafted institutional schemes to make it a durable regime. They contend that semi-presidentialism is able to provide with the key elements for conflict resolution: (1) the power of the representative legislature to dismiss and replace the cabinet, and (2) the conditional power of the president to dissolve the parliament and call early elections. We will later see how have these worked for Moldova.

## 1.2 *Good is efficient*

The first stage of the institutional debate on the desirable effects of political regimes seems to conduct us to no precise answer: there haven't been found any definite grounds in order to assert that any of the three regimes is clearly more conducive to durable democracies. Moreover, although Linz's works had a significant impact on academic research, they didn't influence the actual constitution designers, since the majority of countries declaring independence from the Soviet Union, for instance, including Moldova, have opted for semi-presidential constitutions (Elgie 1999, 281).

Either because preservation of democracy wasn't representing a major issue anymore, or because the terms of the debate were no longer seen as satisfactory, some scholars have considered analyzing what incentives do political regimes create for policy-making. In the light of this, I found that a *good* political regime was foremost expected to produce '*effective governance*', that is to be functional and able to ensure a fruitful process of debating and adopting legislation (Cheibub et al. 2004, 565).

This approach resulted from one previous conclusion, which this group of academics had reached: the durability of democracy is conditioned by the economic performance of a country to a much greater extent than by basic institutional choices, i.e. political regime (Przeworski et al. 1996). Their research reveals that, at low levels of economic development, neither presidentialism, nor parliamentarism have chances to survive, whereas at higher levels of economic performance, parliamentarism indeed seems more likely to ensure continuation of democracy (Cheibub and Limongi 2002). The question therefore became:

does this latter finding occur due to those systemic advantages, previously advocated by proponents of parliamentarism? Namely: higher probability to render legislative majorities, higher incentives for political cooperation and unity of government, achieved through the mechanism of mutual dependence between the legislative and the executive. With regards to the first ‘virtue’ of parliamentarism, authors emphasize that legislative majority is by no means its ‘imperative’, and thus it doesn’t even constitute a basis to differentiate among political regimes (Cheibub and Limongi 2002, 153). An earlier argument, made by Kaare Strom, is also reinforced here: a series of complex institutional factors actually contribute to party leaders deciding whether to enter the government. Thus, minority governments are not a sign of regime instability and they do not threaten democracy (Strom 1990, 237-244). What Linz preferred to avoid acknowledging about parliamentarism is now clearly revealed: this regime type can be conducive to even recurrent government deadlocks, due to unstable or inefficient majorities, and to subsequent legislative elections. As to what favours political cooperation, authors extensively introduce the analysis of two other crucial institutional factors contributing herein: party discipline and coalition government. They dismantle previous assertions that incentives for disciplined party members are higher within parliamentary regimes, and they also show that, under high degrees of party fragmentation, coalitions are likely to form disregarding the regime type. Last, authors come up with the fact that a unified government, which supposedly characterizes parliamentary regimes, does not necessarily render efficient policy-making: the ways in which legislatures are organized vary among countries and influence greatly the decision-making process, as well as ‘the weight’ of MPs within it. Their conclusion is by far striking: ‘if parliamentary regimes have a better record of survival than presidential regimes, it is not because they are parliamentary’ (Cheibub and Limongi 2002, 176).

Particularly, the same group of scholars has focused on studying coalition formation, questioning whether it qualifies as a proxy for evaluating policy effectiveness, as well as whether institutional rules alone support or discourage coalitions (Cheibub et al. 2004). Although this study excludes semi-presidential regimes, it manages to show the great variety of situations, which could occur under both pure presidentialism and pure parliamentarism, therefore advancing the argument that the difference between the two is merely technical. Authors claim that minority governments do not represent a failure of governance and, if these benefit the support of legislative majorities, they should be successful in proposing

legislation under both political regimes. Moreover, they find that minority governments have the potential to legislate just as well as majority coalitions, therefore refuting the assumption that coalition formation is the key to efficient policy-making. Also, with regards to the previous stage of the debate, authors show that, in terms of chances to survive, presidentialism could even score higher, because certain minority governments which would be dissolved under parliamentarism, could survive under presidentialism, should the president wish or be forced to keep the status quo.

Among others, the finding valuable for our further consideration of the Alliance for European Integration from Moldova is that, indeed, whenever policy preferences of parties within a coalition do not differ much, the ‘formateur’ party (in our case, LDPM) will govern as a minority, having to make certain concessions to its coalition partners (Cheibub et al. 2004, 566). Quantitative analysis in the study reveals that the frequency of coalition formation under parliamentarism is not much higher compared to that under presidentialism, which allows the authors to argue that coalitions are very contextual and do not necessarily lead to effective law-making. They second Linz in that there must be ‘something wrong with presidentialism’, but they admit that they couldn’t find the real reason among the many existent (Cheibub et al. 2004, 580).

Giovanni Sartori’s pleading in favour of mixed regimes should be included in this same vision of a *good* political regime, namely of one that must provide with *efficient policy-making*. He defies the previous approach in this debate, emphasizing (1) the lack of clarity in distinguishing between regime and cabinet stability, and (2) the fact that unstable governments do not necessarily lead to unstable democracies. ‘Thus the problem is not longevity, how long governments last, but whether governments *govern* [...] *stable* government is not a sufficient condition for *effective* government [...]’ (Sartori 1994b, 111-112). This line of reasoning begins with the arguments against both parliamentarism and presidentialism, while a mixed regime is perceived as the golden middle between the two extremes. Such a regime could be either semi-presidentialism, as previously defined, or ‘semi-parliamentarism’, the term with which the author names premierships schemes as the one in Germany (Sartori 1994b, 110). The choice among these two should be ultimately based on the context of the country: the electoral and the party systems, as well as the ‘political culture and the level of polarization’. As we will see in the following chapters, the choice for electoral systems is deemed equally important, and Sartori rightly emphasizes the different

incentives created by majoritarian and proportional systems, as well as by person voting opposed to party list voting (Sartori 1994a, 3-52). Interestingly, the author situates himself between two opposed approaches in political science, as well, dismissing both behavioralism and institutionalism. He argues in favour of an ‘institutional consequentialism’, which must not avoid taking into account non-institutional factors, such as corruption, ‘democratic primitivism’ and ‘video-politics’ (Sartori 1994a, 143-151, 197-204). Such an approach will prove extremely useful for understanding politics in Moldova.

### 1.3 *Good is flexible*

It is a complicated picture that we’re viewing at the moment. On one hand, we observe that the debate over predictable outcomes of the three types of political regimes is conducted at various levels of analysis, which transforms the whole endeavour into a confusing and incomplete one. Scholars have understood that they have to consider many other factors, including institutional, alongside with the basic features of regimes, but no one could possibly come up with an exhaustive list. On the other hand, their studies compared so many situational examples, with peculiar combinations of factors, that it seemed almost meaningless to talk about any certain consequences of regimes whatsoever.

I contend that this theoretic impasse has been to a great extent overcome by George Tsebelis’ theory of ‘veto players’, which provides a framework for analyzing the decision-making process entirely, across countries and time. It keeps account of the distinctions between political regimes, electoral and party systems, and other features, in a structured and constructive way, so that various polities can be compared in terms of their possibility to produce ‘*policy change*’ (Tsebelis 1995, 289). Thus, the discussion about a good political regime, which might have already turned into a more general discussion about *good governance*, finally distinguishes clearly between policy, regime and cabinet stability. Tsebelis defines his central concept of ‘veto player’ as ‘an individual or collective actor, whose agreement is required for a policy decision’, and shows that potential for policy change decreases under three situations: a high number of veto players, a high degree of incongruence between them and an advanced level of cohesion of each of the veto players (Tsebelis 1995, 293). Another meaningful distinction herein is made between institutional and partisan veto players: veto players foreseen by the constitution, and, respectively, parties that form the government coalition. Even if *de jure*, only the agreement of institutional veto players is both necessary

and sufficient for producing policy change, including partisan veto players into the framework allows for considering contextual particularities of various countries. Tsebelis also emphasizes the fact that the number, congruence and cohesion of veto players are subject to continuous change: depending on the policy area and the decision to be made, there could appear such veto players as judicial or constitutional courts, the military, certain interest groups, referenda or super majorities.

I find this theory to allow for well-structured analysis of individual polities and cross-country comparisons, and to reveal one much avoided truth about the study of politics and policies: universal arguments of the kind ‘parliamentarism is better than presidentialism’ cannot be sustained by either qualitative or quantitative research<sup>6</sup>; political scientists’ aim of launching predictions should materialize into conceptual schemes, that provide space for considering as many situational features of various polities as possible. We will use it in presenting the potential scenarios for operating constitutional reform in Moldova.

#### 1.4 Conclusion

The distinction between regimes, which has initiated this debate, still holds true, but it seems to be kept as an assumption for labelling purposes only: parliamentarism stands as a label for centralized or ‘fused’ power, while presidentialism – for decentralized and ‘separated’ power (Eaton 2000, 372). Thus, any attempt to compare outcomes of political regimes as mere labels turned into a poorly relevant discussion, with little, if any, practical implications for constitutional designers and reformers. Scholars became increasingly preoccupied with the unfolding of the policy process as such, identifying its components way beyond the regime type. In this respect, they emphasize the importance of lower-level institutional arrangements (such as the electoral system, the structure of the legislature, powers of the judiciary), as well as of non-institutional factors, that account for policy variation.

What happened within the definitional debate in the mean time? Not too much, but there are two more developments worth mentioning here, with regards to regime typology and semi-presidentialism, in particular. The concept has found a new scholar in the person

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<sup>6</sup> For a short analysis of political system design as an aspect of ‘stateness’, arriving at the same conclusion, see Francis Fukuyama, *State-building: Governance and world order in the 21<sup>st</sup> century*, Cornell University Press, 2004, 24-25.

of Dublin City University professor Robert Elgie<sup>7</sup>, who has clarified a confusion that had been troubling the course of semi-presidential studies. In their attempt at defining semi-presidentialism, various authors were looking at differently stipulated powers of state branches: (1) actual or ‘relational’ powers, (2) formal powers, as described by the constitution or ‘dispositional’ features, and (3) a combination of the two (Elgie 2004, 316-317). Elgie proposes that we should adopt the second approach, as it avoids subjective judgements while categorizing countries as semi-presidential democracies. An excellent clarification, but an unfruitful proposal: if we ignore the powers possessed *de facto* by political actors, our accurate cross-constitution comparisons will render no relevance for actual policy-makers.

In contrast, Alan Siaroff argues that the notion of semi-presidentialism should be rejected completely, as there are less confusing labels for regime types. Inspired from Shugart & Carey’s earlier made suggestion, he puts forward four regime types: presidentialism, parliamentarism with presidential dominance, parliamentarism with presidential corrective and parliamentarism with figurehead presidents (Siaroff 2003, 287). Such a distinction stems from his argument that what matters in comparing political regimes are foremost presidential powers. According to his measurement, Moldova is characterized as a semi-presidential republic during 1994-2000, and as a parliamentary regime with a figurehead president, starting with 2000. Also, Moldova is cited as curious example of a country to renounce at direct presidential elections, since previous studies contended that once adopted, this formula is not easily abandoned (Siaroff 2003, 303). Whether this is entirely correct and, moreover, what did exactly happen in 2000 in Moldova, we shall see in the chapters to follow.

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<sup>7</sup> His publications include two extensive comparative studies of semi-presidentialism across the world. For details, see Robert Elgie and Sophia Moestrup (eds.), *Semi-presidentialism outside Europe*, Routledge, 2007 and Robert Elgie (ed.), *Semi-presidentialism in Europe*, Cambridge University Press, 1999.

## Chapter 2: Moldova: From Semi-presidentialism to Parliamentarism?

Most of the countries from the former Soviet Union have adopted semi-presidential regimes, following the collapse of the USSR and their subsequent declarations of sovereignty and independency (Frison-Roche 2007, 56). But the processes of ‘constitution making’ have arguably represented actual ‘institutional transformations’ and clear commitments to consolidate democracy (Pogany 1996). Beyond the powerful legacy of the Soviet era, these countries did not represent democratic polities in their pre-communist history either and lacked institutional capacity to enforce rule of law. Therefore, it is believed that the semi-presidential scheme has been chosen, because it maintained in the best way the features of political power and domination from the Soviet system. Neither the communist elites, nor the newly emerging democratic forces considered a pure parliamentary regime to be a *good* option, because they both wanted to avoid the possibility of majoritarian control (Frison-Roche 2007, 57-59).

However, at the beginning of the 1990s, Moldova ‘had the most robustly democratic polity in the former Soviet Union outside of the Baltic republics and has come very close to meeting standard minimum definitions of democracy’ (Way 2002, 130). This chapter will illustrate how did the political scene in Moldova evolve in contrast to other former Soviet countries. We will first look at the process of constitution making and the performance of the semi-presidential scheme, which functioned from 1991 until 2000. We will seek to explain why the regime entered crisis and how was it resolved: an alleged transformation of the country into a parliamentary republic. This will enable us to analyze another government deadlock, unfolding since 2009. As the crisis is ongoing, we will seek to identify its main sources, either political or institutional, and present options for its resolution.

### 2.1 Post-soviet constitutional engineering: Moldova’s Constitution of 1994

Moldova’s independence was declared by a democratically elected Parliament, chaired by Mircea Snegur, on the 27<sup>th</sup> of August, 1991<sup>8</sup>. The same legislature, known as ‘The Parliament of ’90’, created a commission for elaborating the country’s Constitution, which prepared the draft until 1994, after having held series of consultations with European

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<sup>8</sup> The period between the formation of the Parliament in 1990 and the Declaration of Independence in 1991 could be considered a short of experience of parliamentarism. For details, see Steven Roper, ‘From semi-presidentialism to parliamentarism: regime change and presidential power in Moldova’, *Europe-Asia Studies* 1 (2008), 113-126.

experts. But following the parliamentary elections in that same year, legislative majority is acquired by the Agrarian Party, which significantly modified the initial draft, and adopted it on the 29<sup>th</sup> of July, 1994.

Not only that the new Constitution did not automatically ensure a societal transformation, as Pogany rightly argued, but the adopting process *per se* revealed the deep fragmentations among political elites of the time and their worrying lack of accountability. A work group, designated by acting President Mihai Ghimpu in 2009, provided that the newly formed Parliament of 1994 ‘didn’t have a direct popular empowerment in order to transform itself into a constituent power, with the right of adopting and revising constitutions’ (CCR Working Papers 2009). Thus, they contend that the Constitution was adopted in an undemocratic way: the final draft wasn’t published or subjected to public debates; it hasn’t received proper academic or international expertise. The researchers found, among other irregularities, 21 articles with imprecise provisions, 6 articles with incorrect provisions, and 13 articles that need the insertion of additional regulation. The imperfections of the document are likely to have accounted for a high level of activism of the Moldovan Constitutional Court during the first decade of transition.

Moreover, because the Constitution wasn’t subjected to people’s approval through referendum, its supreme judicial force and legitimacy were considerably diminished. This might be a starting point in explaining the high willingness of Moldovan politicians to change the supreme law whenever deadlock occurs, as well as the low interest of the population toward constitutional matters.

What Snegur and his constitutional designers were aiming at was a president-parliamentary semi-presidential scheme, which would have offered the president significant powers over the legislative. In contrast, the new speaker of the Parliament, Petru Lucinschi, who replaced Snegur as chair of the Commission, managed to reduce them and establish rather a premier-presidential regime. The president was not given the right to call for plebiscites or amend the supreme law by means of referenda. Unfortunately for Lucinschi, who became President in 1996, these provisions worked against him later.

As we’ve learned, advocates of mixed regime types argued that a *good* political regime should ensure *policy efficiency* and that the question of *cabinet stability* is irrelevant for pursuing this goal. At first sight, the performance of the semi-presidential scheme in Moldova seems to prove its advocates wrong. Not only that there have been six cabinets in office during six



years (Sangheli, Ciubuc – two times, Urechean – acting, Sturza, Braghis), but also, this situation prevented the implementation of much needed economic reforms and impoverished the country to an unprecedented extent<sup>9</sup>. Linz's recommendation of stable governments for countries in transition, which we presented in the previous chapter, appears to find its confirmation.

Notwithstanding, it is worth asking whether the design of the regime alone accounted for such developments. I believe that the answer is no and that a better explanation is what Lucan Way called 'pluralism by default', which illustrates the state of political elites after the Soviet breakdown. It occurs not because political actors are strong, but rather because the polity is too fragmented and the state – 'too weak to impose authoritarian rule in a democratic international context' (Way 2002, 127). To this, in the case of Moldovan politics, we must add the deep political divergences related to national identity, the separatist republic of Transnistria and the orientation of foreign policy<sup>10</sup>.

Therefore, both Snegur and Lucinschi attempted at strengthening the institution of the presidency and their subsequent executive power. This is where the never-ending conflicts between the legislature and the two presidents resulted from. These tendencies culminated with Lucinschi pushing for a regime change towards pure presidentialism within a consultative referendum in May 1999<sup>11</sup>. Its legitimacy was massively rejected by the Parliament.

One year earlier, the parliamentary elections revealed a successful comeback of the Party of Communists<sup>12</sup> (PCRM), who managed to occupy 40 seats in the legislature of 101. In response, the other three parliamentary parties formed the Alliance for Democracy and Reforms, but their only incentive to cooperate – forcing the communists into opposition – has proven too weak. In a move aimed at further undermining Lucinschi's authority, a faction of the ruling coalition – the Christian Democratic People's Party (CDPP), voted,

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<sup>9</sup> For details on political confrontations of the time and the economic state of affairs at the end of the 1990s, see William Crowther, 'Development of the Moldovan Parliament one decade after independence: slow going', *Journal of Legislative Studies* 1 (2007), 99-120, and Paul Quinlan, 'Moldova under Lucinschi', *Demokratizatsiya*, 1 (2002), 83-102.

<sup>10</sup> For further explanations on these complex issues, see Charles King, 'Eurasia letter: Moldova with a Russian face', *Foreign Policy* 97 (1994/1995), 106-111, and 'Marking time in the middle ground: contested identities and Moldovan foreign policy', *Journal of Communist Studies & Transition Politics* 4 (2000), 741-757.

<sup>11</sup> The Venice Commission has 'expressed the concern that the presidential draft would concentrate too much power in the hands of the President'. See 'Final Report of the Constitutional Reform in Moldova' (2000) [http://www.venice.coe.int/docs/2000/CDL\(2000\)095-e.asp](http://www.venice.coe.int/docs/2000/CDL(2000)095-e.asp) [accessed May 25th, 2011].

<sup>12</sup> The party was banned between 1991 and 1994.

together with the PCRM, the dismissal of Sturza cabinet on the 9<sup>th</sup> of November 1999. This contributed to a critical political isolation of President Lucinshi, whose draft for redesigning the Constitution turned into a completely opposite, ‘parliamentary’ scheme, on the 5<sup>th</sup> of May 2000<sup>13</sup>.

## 2.2 The constitutional amendment of 2000 and the Kozak Memorandum

The solution of a ‘parliamentary republic’ came from CDPP and quickly gained the support of PCRM. The most important intervention was made upon the mode of designating the president of the country: instead of direct popular elections, the head of state would be elected by at least three fifths (61 out of 101) of elected legislators<sup>14</sup>:

‘(1) The President of the Republic of Moldova is elected by the Parliament by secret vote.’ and

‘(3) The candidate obtaining 3/5 of the votes of the elected deputies is elected. If none of the candidates obtained the necessary number of votes, a second ballot shall be held between the first two candidates established in the order of the diminution of the number of obtained votes in the first ballot.

(4) If in the second ballot none of the candidates does obtain the necessary number of votes, repeated elections are organized.

(5) If after the repeated elections the President of the Republic of Moldova is not elected, the President in exercise dissolves the Parliament and establishes the date of the elections in the new Parliament.

(6) Organic law establishes the procedure of election of the President of the Republic of Moldova.’ (Constitution of the Republic of Moldova, Article 78).

Undoubtedly, 3/5 is a skyrocket threshold, but there is an explanation for that: the powers of the president were not changed to the extent of fulfilling the minimal requirements of a parliamentary regime, which we reviewed in Chapter 1. The only right that the president was deprived of was that of directly appointing two judges to the Constitutional Court (modification of Article 136). However, as we will learn from the

<sup>13</sup> For a detailed description of the events in 1999 and 2000, see Steven Roper, ‘From semi-presidentialism to parliamentarism: regime change and presidential power in Moldova’, *Europe-Asia Studies* 1 (2008), 113-126, and Kimitaka Matsuzato, ‘Differing dynamics of semipresidentialism across Euro/Euroasian borders: Ukraine, Lithuania, Poland, Moldova, and Armenia’, *Demokratizatsiya* 3 (2006), 329-336.

<sup>14</sup> Law no. 1115 of 05.07.2000 on the modification and completion of the Constitution of Moldova. Published in the Official Monitor no. 088, on 29.07.2000. Promulgated on 27.07.2000. Available in Romanian at [http://lex.justice.md/document\\_rom.php?id=77DAC2CD:869480F5](http://lex.justice.md/document_rom.php?id=77DAC2CD:869480F5) [Accessed June 9<sup>th</sup>, 2011].

interviews in the following chapter, the president kept their power over the judiciary, through the right of designating the prosecutor general (Article 125).

We come here to a major finding in explaining the sources of the current government deadlock in Moldova. As exposed in the literature review, a parliamentary scheme should foremost presuppose the dependency of the executive power on the legislature. The Moldovan Constitution, in turn, continued to allow the president to dissolve the legislature, ‘in cases where impossibility has been reached to form the cabinet’ or whenever ‘the passing of new legislation has been deadlocked for three consecutive months’ (Article 85).

Indeed, the work group of constitutionalists established that in 2000 none of the power relations between the president and other public authorities of the state were accordingly adjusted, which conduced to the instalment of a ‘Moldovan’ model of government - a hybrid regime that hadn’t been tested elsewhere before and whose societal impact was unknown. In Chapter 3, former MP Iurie Rosca of CDPP will confirm that these modifications represented only an initial stage of a larger reform. This is a crucial detail that most of the commentators, such as Way, Roper and Elgie, missed, together with most of the country’s politicians, making them wrongly stress that Moldova is one of the few post-communist states to adopt parliamentarism (Neukirch 2001). Soon after passing the amendment, the Parliament also voted in favour of shifting the necessary threshold for parties to obtain parliamentary mandates from 4% to 6%<sup>15</sup>. CDPP and PCRM followed, of course, different interests in cooperating for these modifications: while the first justified its decision with a strong belief in the idea of developing the emerging culture of Moldovan parliamentarism<sup>16</sup>, the latter pursued the mere elimination of Lucinschi from the arena.

Rather than enforcing a thorough regime change, the amendment served PCRM’s interests more than anyone would have expected. The new electing mechanism soon failed and, upon a decision of the Constitutional Court, Lucinschi was forced to dissolve the legislature and call for early parliamentary elections. They were held in February 2001, with

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<sup>15</sup> The communists have later lowered the threshold back, in change for MP support for Voronin’s presidential candidacy in 2005. For details, see Ion Marandici, ‘Recent changes of the electoral laws and their possible political consequences’, *IDSI Viitorul*, [http://www.viitorul.org/public/1216/en/Marandici\\_eng\\_0.pdf](http://www.viitorul.org/public/1216/en/Marandici_eng_0.pdf) [accessed June 1st, 2011].

<sup>16</sup> As Lucan Way (2002, 130-131) rightly appreciated, Moldovan legislatures have represented much more consistent and powerful forums than those of Moldova’s post-soviet neighbours.

only three parties making it to the legislature: PCRM (71 seats), Braghis Alliance (19 seats) and CDPP (11 seats). Presidential elections within the legislature took place on the 4<sup>th</sup> of April and PCRM leader Vladimir Voronin encountered no problems in securing the position. In order to avoid being associated with the deal, CDPP boycotted that plenary session.

The era of *unstable* governments ended and Voronin maintained power for eight consecutive years. Although it is beyond the purposes of this thesis to evaluate the outcomes of PCRM's economic reforms, what we can certainly stress is that they were pursued in a consistent and systematic manner. Moreover, in the aftermath of the 2001 elections, legislating *efficiency* increased significantly (Crowther 2007, 117). It looks like parliamentarism indeed produced *stable* cabinets and *centralized* policy-making, just as the PCRM was trying to promote itself in the campaign for 2009 elections, with the slogan 'For the *stability* of Moldova!' All these came at the cost of several infringements brought to freedom of speech, independency of the judiciary and pluralism<sup>17</sup>, as powerfully signalized by the street protests organized in 2002 by CDPP.

The country and its Constitution found themselves under threat again in 2003, when Russian attempts at resolving the Transnistrian conflict proposed an asymmetric federal scheme for Moldova and the self-proclaimed republic of Transnistria – an initiative known as the Kozak Memorandum<sup>18</sup>. The plan implied the establishment of a bicameral legislature, with the upper house consisting of 13 seats, reserved for Transnistria and Gagauz Yeri. Its broad veto powers meant that the two autonomous regions would be able to block the appropriate functioning of the federal government (Roper 2004, 536). Without any clear explanation, Voronin did not sign the Memorandum, just hours ahead Putin's arrival in Chisinau, on the 24<sup>th</sup> of November 2003 (Quinlan 2008, 131). This event accounted heavily for PCRM's U-turn shift at the next parliamentary elections: promoting Moldova's closeness to the European Union<sup>19</sup>.

<sup>17</sup> For detailed descriptions of the course of Voronin's two mandates, see Paul Quinlan, 'Back to the future: an overview of Moldova under Voronin', *Demokratizatsiya* 4 (2004), 485-504, and Jennifer Cash, 'The communists cannot take us to Europe': negotiating Moldova's place in the post-socialist world', *Journal of Cultural Geography* 3 (2009), 259-279.

<sup>18</sup> A complete account of the Memorandum process and its aftermath can be found at Paul Quinlan, 'A foot in both camps: Moldova and the Transnistrian conundrum from the Kozak Memorandum', *East European Quarterly* 2 (2008), 129-160, and John Lowenhardt, 'The OSCE, Moldova and Russian diplomacy in 2003', *Eurojournal.org* (April 2004).

<sup>19</sup> See Luke March, 'Socialism with unclear characteristics: the Moldovan communists in government',

Therefore, the stabilization of politics under PCRM must not be interpreted as a consequence of the mechanism adopted in 2000. The source of cabinet stability provided by the communists stemmed from their simultaneous holding of a disciplined parliamentary majority, able to support the presidency. In the legislative elections of 2005, a crisis would have been imminent, if PCRM, with 56 seats, didn't obtain the votes of 11 CDPP parliamentarians, in order to invest Voronin in his second term as President. Heavily criticized for forming this coalition, CDPP and its leader Iurie Rosca, have been slowly ousted from the political scene.

### 2.3 Moldova under crisis: April 2009 and the aftermath

PCRM started losing momentum as well: in 2007 local elections the party suffered many defeats, while before parliamentary elections in 2009 the polls were indicating a support of around only 35%. *Stability* in Moldova ended precisely on the date of elections, the 5<sup>th</sup> of April<sup>20</sup>. In their aftermath, the country was hit by social and political turmoil, with the so-called parliamentary scheme finally proving its inherently distorting incentives. Except securing an authoritarian regime during 2001-2009, Article 78 failed to designate another Moldovan president up until the present day.

I contend that there are two possible explanations for this impasse. First – a systemic, institutional cause, namely the internal contradiction of the mechanism itself. Because the powers of the president are significant, to the extent of them being able to dissolve the legislature, there was established the unrealistically high threshold of three-fifths MPs needed to designate the president (Matsuzato 2006, 340). Second – a crisis of political elites, who failed to engage in dialogue, negotiation and compromise.

My argument will therefore become twofold, as I argue that the government crisis ongoing since 2009 is constitutional, and especially political. On one hand, (1) part of the solution could come with the appropriate consolidation of the parliamentary regime in the country. The interviewees in Chapter 3 will further elaborate on this and other options. On the other hand, (2) since neither the governing coalition, nor the communist opposition have engaged responsibly with the situation, Moldova seems to be left with little prospective for

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*Demokratizatsiya* 4 (2004), 507-524.

<sup>20</sup> For the events in April, 2009, and the formation of AEI, see Theodor Tudoroiu, 'Structural factors vs. regime change: Moldova's difficult quest for democracy', *Democratization* 1 (2011), 236-264.

developing a powerful parliamentary culture, which is founded in debate and constructive exchange of ideas on policies and strategies for the country.

Events unfolding in the past two years offer enough reasons to confirm my hypothesis. Because none of the parliamentary factions held 61 mandates to elect the president, early elections were called on the 29th of July, 2009. This time, the communists obtained only 48 seats, with the rest of the MPs forming the Alliance for European Integration (AEI), which became a ruling coalition, able to invest a fully functioning cabinet under PM Vlad Filat (LDPM), and an acting President - Mihai Ghimpu (Liberal Party). Through presidential decree, the latter created the Commission for Constitutional Reform (CCR), in order to craft a new Constitution, which would balance the powers of highest state institutions and reinforce the direct popular election of the president. After several negotiations with the Venice Commission, AEI was finally given green light to organize a Constitutional Referendum on the 5th of September 2010. It asked: 'Would you agree with the Constitutional amendment, which would allow the election of the President of the Republic of Moldova by the entire population?'. The referendum, boycotted by the communists, rendered invalid, due to low turnout (87% of those who participated answered 'Yes'<sup>21</sup>). On the edge of constitutionality, loudly spoken out by the PCRM, the Constitutional Court ruled that Ghimpu had to dissolve the legislature and call for another round of early elections, held on the 28th of November. The new AEI secured 59 seats, this time just two mandates away from the 61 threshold. PCRM declared that it would offer its mandates only under a 'grand coalition', which was not accepted by AEI and negotiations ended. As we shall see, it is believed that other early elections are thus inevitable.

## 2.4 Conclusion

Despite the unquestionable drawbacks of Moldova's current Constitution, I argue that it was irresponsible of AEI to push for this referendum, which could have obviously provided with an easier way through the crisis, than negotiating with the communists. On the other side of the table – the stubborn, unnecessary discipline within PCRM directly contributes to maintaining the government crisis, despite the communists' attempts to mask this by boycotting the referendum.

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<sup>21</sup> See E-Democracy, a portal of ADEPT NGO, <http://www.e-democracy.md/en/elections/referendum/2010/> [accessed June 1st, 2011].

The interviews in the chapter to follow are meant to illustrate this argument. With CCR losing impetus after new acting President Marian Lupu took office in last November, considering the failure of semi-presidentialism before 2000 and of the ‘Moldovan model’ experiment unfolding since then, the choice for a more suitable political regime is highly controversial.

## Chapter 3: Options for Constitutional Reform

The interviews in this chapter are meant to present the possible scenarios for operating constitutional reform in Moldova. We will find new explanations for supporting the earlier made argument that Moldova's current government crisis has also a political dimension. Taking this into consideration, we will rule out the option of reinforcing a semi-presidential scheme.

### 3.1 Interview with Professor Nicolae Osmochescu, PhD, former Judge at the Constitutional Court.

Mr Osmochescu took part in the design of Moldova's Constitution, adopted in 1994, and is a member of the Presidential Commission for Constitutional Reform.

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Q: Has the constitutional reform of 2000 really transformed Moldova into a parliamentary republic?

A: Not at all. Besides the procedure of electing the president, the duties of the president, of the prime minister, of the speaker of the parliament and of the parliament itself didn't change. Moreover, through several further modifications, what was consolidated was the vertical power of the head of the state, not the parliamentary power. He was offered duties that had been hold before by ministries and departments. The president thus received some functions that don't normally belong to a president in any other countries, even presidential. For instance: in a parliamentary republic, the head of the state doesn't hold any important duty within the cabinet. In Moldova, the president chairs the meetings of the cabinet. This position has concentrated all executive power: the head of state appoints, dismisses and accepts the resignation of ministers, which is not characteristic for a parliamentary regime. The president also has a series of duties related to foreign policy, which have been kept from the previous regime (the semi-presidential regime before 2001, A/N): he can take part within any international relations, negotiate and sign any treaty, without the necessity of presenting any empowerment. He provides all diplomatic levels, which is silly, because normally the president should provide only with supreme state levels, like military general or marshal. So, all modifications, starting with 2001, contributed to nothing else but to turning the institution of the presidency into an authoritative one.

Q: How did the CCR approach this state of affairs?



A: Acting president Ghimpu has launched this initiative immediately after being invested, as he was well aware of the necessity to reform the supreme law. Besides the modifications brought by the communists, there were many things excluded from the very first project, which had been prepared before 1994. The Commission for elaborating the constitutional project was formed in 1990; we were 57 members, chaired by Mr Snegur. Most of the members were also members of the Parliament of '90. The project was voted in the legislature and also examined by several foreign organizations. But then, in 1994 there came in a new parliament – the agrarians. The speaker of the parliament and the new chair of the Commission became Mr Lucinschi, so in the spring of that year the members of the Commission changed to the extent of 75%. They started massive cuts into the project that we had previously designed: there have been eliminated a series of attributions of the president, and then, in 1995, when the crisis occurred, they had to confer him 'special empowerments'. They have seen that things were not working properly, but still adopted the Constitution. So, in 1999-2000, when new discussions over the political regime began, the parliament obviously wanted to keep its broad duties. After the 2001 elections, the communists changed the Constitution in order to meet their own interest. We cannot say that Moldova is a parliamentary republic.

Q: What kind of crisis are we facing at the moment?

A: There is no consensus on that. The tendency is to call it a constitutional crisis; nobody wants to acknowledge that this is actually a political crisis, caused by the lack of understanding among political formations. They prefer to blame the Constitution. But there exists Art. 78, which clearly explains how should the president get elected. If they cannot reach consensus within the legislature, then we're talking about a political issue. This situation became foolish, it's like a game: whenever they cannot or don't want to decide upon something in the parliament, they forward the matter to the Constitutional Court. The Court, in turn, sends it back to the legislature. This is why we don't have a president for already two years. All these created the conviction that we need to change the Constitution. When the idea came up within AEI, there were mainly three views: a cosmetic change, a more serious one, and Ghimpu's idea of a complete change that would eliminate all drawbacks. There are formulations subject to broad interpretation; there are contradictory and equivocal foresights. Even in the popular Art. 78: it says 'repeated elections'. What does this mean? Two times? Three? Five? And nobody cares to interpret that. The Venice

Commission, especially the German law school, provided that ‘repeated’ means ‘more times’, not just ‘two’. Ghimpu himself took a little advantage of this, and didn’t dissolve the legislature. But then, he was accused of totalitarian tendencies, and he dissolved it. We believed that we need a profound change of the supreme law, but AEI didn’t come to an agreement, and took to referendum only Art. 78. The awareness about the referendum was raised very badly, and people didn’t understand what are they called for: to elect a new president or to decide on how to elect the president. Absenteeism was huge.

Q: Do you believe we could have overcome the crisis, if the referendum was successful?

A: We cannot overcome the crisis only by modifying the Constitution. If they can’t reach a common position with a threshold of 61, how will they get 67 votes, the minimum necessary to amend the supreme law? Nothing will change if they don’t demonstrate enough political will. I believe that the early elections are inevitable. Moreover, we are very far from the values and the culture of parliamentarism. The ideas of parliamentarism are based upon the rule of law and the judicial precedent. Our parliamentarians would perceive that as being allowed to do whatever they want with the laws.

### 3.2 Interview with Professor Ion Guceac, PhD, and member of the Academy of Sciences of Moldova.

Mr Guceac is a member of the Presidential Commission for Constitutional Reform.

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Q: How would you define the problem of ‘parliamentarism in Moldova’?

A: The high 3/5 threshold offers the possibility for crucial decisions to be taken by consolidated political forces. But the society is not always capable of designating such representatives. The fragmentation that we observe is determined by the multiparty system itself. This renders serious disadvantages in countries such as Moldova, where democracy is very weak. So are the political parties. If we consider a minimum of a decade for a political party to mature, then we have to ascertain that our political parties have lots of drawbacks related to their electoral agendas, their governing programmes, their staff, image and experience. This is why the electorate is confused and disappointed.

Q: Is the electoral system to blame then?

A: Partly, yes. I believe that our political system is inappropriate for us. The system of proportional representation, which we imported from the West, highlights the parties: the citizen expresses their will for a list of candidates, not just for one candidate. This implies that the citizen should pay much more attention to the compound of this list, than to the agenda of the respective party. What happens in Moldova is that we vote within a new electoral system, using old habits. If one asks a voter about the basic elements of one candidate’s agenda, they won’t be able to answer. But he or she will already know that their vote will go for Voronin, or Ghimpu, or the oak (the symbol of LDPM, A/N), and so on. This complicates the matters terribly. The citizen stakes on the personal qualities of a leader, but doesn’t know what their political agenda includes. Another problem is that we lack a neatly defined national identity; we continue swinging between the East and the West. So, we also witness a fractioning of the electorate. This is why we cannot come up with the necessary amount of mandates in order to build a clear political force.

Q: But we have seen coalitions...

A: Indeed, but they suffer from deep issues. They are built *ad hoc*, in order to solve very narrow, corporative problems and to protect the interests of party leaders. And then they break up. For instance, the coalition in 2005, or even the recent coalitions formed in 2010 and 2011.

We observe this absurd and unjustified competition among the leaders. For a country in transition, it would be normal of party leaders to cede more often. If they were willing to find a politically neutral person for the presidency, the crisis would be solved even with the current format of the supreme law.

Q: And if they're not, how can the Constitution be changed?

A: There are two ways of amending the Constitution. First, through organic law. The communists have proposed a project of modifying Art. 78 on the mode of electing the president of the country, but then withdrew it. It was highly unlikely that the Constitutional Court would emit a favourable notification to the parliamentary referral related to the possibility of modifying the procedure of electing the head of state through organic law. The initiative of diminishing the 61 votes threshold to 57 or 51 is only a short term solution, and it would conduce to many disadvantages. It would affront the fundamental principles of contemporary constitutionalism, including the supremacy of the Constitution; it would also reduce the degree of legitimacy of the president. Last, but not least, it would create a precedent, which could be used by any political force, including the ones with not necessarily democratic convictions. The modification of the Constitution in such a way would be an utter error. Personally, I believe this scenario is impossible. Plus, I don't think this would be received well by Europe. We have held several discussions with the European experts, including from the Venice Commission, and they don't support this measure.

The second method would be drafting a project of a new Constitution and subject it to a referendum. In this respect, the proposal of CCR could represent a solution. It foresees the direct election of the president by the population, which confers the president more legitimacy and a certain degree of independence from the parliament. We saw in the case of Romania that, if a conflict between the two institutions arises, the president can appeal to the vote of trust from the population. This is an important tool for ensuring stability and protection of the president in front of the legislature.

Q: So, is it really a constitutional crisis that the country is confronting?

A: I believe it is rather a political crisis. And my argument recalls the negotiations in 2005: there has been created a coalition, discussions have been held and the deadlock has been overcome. It is very important that the politicians concede to compromises. But we observe now that AEI is very harsh with the communist opposition. The Alliance has driven the change of the Electoral Code, namely the rules on the mode of forming the Central Electoral Commission,

which has restricted considerably the role of the opposition. This role used to be much broader under the communists' rule before 2009. So, this is our real problem – the lack of political dialogue.

Q: How can this impasse be overcome?

A: By adopting a new Constitution. But it has to be a consistent process: there should be created a National Commission, with sub-committees dealing with different compartments of the supreme law. During our activity within the CCR we observed a painful lack of interest, from the side of both civil society and political class. We worked on the groping, so to speak, without really knowing what was expected from this reform. Neither did the politicians trust the reform too much. They got accustomed to waiting for solutions from the West, from the European experts; they sometimes forget about sovereignty. I believe we have to be braver: even if we make mistakes, at least we learn how to take decisions at a national level. We have extremely qualitative professional resources in this respect, if only the politicians decided on the course of this reform.

Q: What should we do about the politicians, then?

A: This is a transitory stage. Because of the several difficulties related to the actual role of the parties, this stage is taking too long. We have to work with the political leaders. This is the place for reforms. Why do we observe the so-called 'political tourism'? Well, we don't have a clear regulation regarding the statute of the political party. How does a party decide upon designating candidates on electoral lists? Nobody knows. Everybody just talks that he who has more money, gets on the list. So, the reform should be operated in the political sphere. Of course, that is not to say that Moldova has a perfect Constitution and I acknowledge that. But the politicians should not find excuses for their incapacity of resolving crises in the imperfection of law. After all, *dura lex sed lex*.

### 3.3 Interview with Mr Iurie Rosca, former MP, and Chair of the Christian Democratic People's Party.

Mr Rosca led massive street protests against the ruling of the Communist Party between January and April, 2002.

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Q: How do you describe the constitutional amendment of 2000?

A: Moldova is the only country in CIS area that adopted the constitutional model of the parliamentary republic, a fact that limits the risks of establishing a Russian or Asian kind of dictatorship. The model to be followed by our country is first of all that of Estonia and Latvia, alongside with other parliamentary democracies like Germany, Italy, Czech Republic, and Hungary. It is true that the constitutional reform, initiated at that time, is still uncompleted. Current legislators have to continue re-balancing the competences of the president of the republic, president of parliament and prime minister.

Q: How exactly do you think this should be done?

A: They have to be rearranged in compliance with European norms and practices. This reform has to be accomplished in order to avoid any risks of sliding towards authoritarianism, establishing the so-called 'vertical of power' or even usurpation of state power. What our party has proposed includes foremost limiting the attributions of the president, in favour of the parliament. More precisely, (1) the president of the republic must not have the right to dissolve the parliament. A president that is elected by the parliament simply cannot have this right. Currently, the head of state has three legal situations when he can dissolve the legislative. In a parliamentary republic, the head of state can only initiate a national referendum for dissolving the parliament, and that, only in some situations. However, if on referendum the electors reject the presidential initiative, she/he is obliged to resign.

Further, (2) the president must not have the exclusive right to nominate the prime minister, which is now stipulated by Art. 98 of the Constitution. In a parliamentary regime, in this legal situation, the head of state does not emanate political will towards the parliament, but just takes note of the political will of the parliament. The formulation present in Art. 98 'After consultation with parliamentary factions, the President of the Republic of Moldova nominates a candidate to the position of Prime Minister' should be completed and

phrased as following: ‘After consultation with parliamentary factions, the President of the Republic of Moldova nominates a candidate to the position of Prime Minister. The majority faction of post-electoral coalition in Parliament, which has at least fifty percent plus one mandate, shall submit to the President the candidature to be nominated as Prime Minister’.

Also, (3) the president and prime minister must not have the right to revoke members of the cabinet or to operate reshufflings that are not grounded and not involving any participation of the parliament. The right to initiate replacements in the cabinet has to belong to the prime minister, and the approval of these has to be done by the parliament with a majority of fifty plus one legislators. (4) The president has to be deprived from the right to suspend ‘the acts of Government that run against legislation, until the adoption of final decision by the Constitutional Court’ (Art. 88 of the Constitution). We believe that the acts of cabinet could be disputed at the Constitutional Court by the president, legislators and the People’s Assembly of Gagauzia, in order to check their compliance with the Constitutional norms, or in the Administrative Court. But presidency is not an institution to assess the quality of the acts issued by the cabinet.

Q: What about the parliament and its president, the speaker?

A: First, the mode of electing the president and their competences have to be democratised, in the sense of eliminating those provisions that provide them with authoritarian competences, which undermine parliamentary democracy and the representative character of legislative forum. Currently, the Constitution stipulates in Art. 64 that the speaker shall be elected through secret vote with the majority of votes expressed by elected MPs, and can be revoked from their position through secret vote with a majority of at least two thirds from the votes of all MPs. The same procedure is also set out by the Rules of Procedure of the Parliament (Art. 7-11). We propose that the president of the parliament gets elected by fifty plus one out of all MPs, through secret or open vote, and gets dismissed under the same conditions. Why? Because the speaker is not the chief of MPs, and she/he is not leading them; she/he just coordinates their activity and chairs the plenary sittings. Neither does the speaker make decisions instead of a parliamentary faction, of the Standing Bureau or of standing committees.

Article 91 of the Constitution provides for temporary substitution of the position of the head of state by the president of parliament or by the prime minister, and we propose that this competence should stay just with the prime minister only. Articles 125 of the

Constitution and 15(2) of the Law on Prosecution Service, which stipulate that ‘The General Prosecutor is appointed by parliament, following a proposal submitted to the latter by its president’, have to be amended. Back in 1995, Moldova was taken in front of the Council of Europe, in order to change the status of the Prosecution, but until now it didn’t honour this commitment. This is because all the governments within that period pursued to keep the political control over this institution. Actually, the present legal conditions show that the general prosecutor is subordinated to the president of the parliament and parliamentary majority, and she/he could be symmetrically dismissed at any time if she/he gets out of their subordination. This official has to be withheld from the control of political power and to enjoy stability in position. The president of parliament should not have the right to propose the appointment and dismissal of the general prosecutor.

Articles 133 of the Constitution and 18 of the Law on the Court of Accounts stipulate that ‘President of the Court of Accounts is appointed by the Parliament following a proposal submitted to the latter by its President’ have to be amended. The Speaker has to be deprived of this improper function, which has to be attributed to the legally established parliamentary factions. Articles 10 and 11 of the Law on National Commission of Financial Market have to be amended, so that the right to propose the five members of its Administrative Board, including its president and deputy president, improperly attributed to the speaker, is democratically attributed just to the legally established parliamentary factions. Article 23 (2) of the Law on National Bank of Moldova, which stipulates that ‘Governor of the National Bank shall be appointed by Parliament following the proposal submitted by the President of the Parliament.’ has to be amended, and this function should be attributed only to the legally established factions.

### 3.4 Conclusion

After having conducted these interviews, I was left with an unanswered question. If everyone seems to agree that the Constitutional amendment of 2000 was incomplete and therefore didn’t transform the political regime appropriately, why does the CCR, voicing to a great extent the intentions of AEI, pursue a comeback of the semi-presidential scheme from the 1990s? In other words, why did it avoid further consolidating the parliamentary regime and thus carry out the reform initiated 11 years ago? Obviously, their response is ‘lack of political dialogue’ and the modest, if any, chances that they give to the development of a parliamentary



culture among Moldovan politicians. Even if, as theoreticians, they seem to highly appreciate the idea of parliamentarism, they rule it out on the ground that local political elites are weak and irresponsible. The members of CCR are of course right in revealing this truth about the quality of politics in Moldova, but will their recommendation address the political aspect of the crisis? Is semi-presidentialism *the best* regime for Moldova, in a long term perspective?

In this respect, it is worth recalling the debates exposed in the first chapter of this thesis. Indeed, Moldova's initial experience with semi-presidentialism proved its opponents correct. For a highly fragmented political class and a deeply divided polity, the situation in which the directly elected president represents both the people and a certain political party is extremely difficult to cope with. Therefore, as Linz argued, there is indeed no democratic tool to resolve the issue of 'dual legitimacy' arising between the state branches. The regime collapses, dragging behind both *cabinet stability* and *policy efficiency*, as two proxies of the regime's goodness. The elements for 'conflict resolution', inherent to semi-presidentialism, emphasized by Shugart & Carey, weren't of any usefulness either. The Moldovan legislature used its power to dismiss cabinets in continuous attempts to show its disagreement with the president, while the power of the president to dissolve the parliament and call new elections only accounted for deeper political cleavage. The crisis of the premier-presidential regime in Moldova was foremost institutional.

I contend that there is no guarantee that this will not happen again, and therefore discredit the adoption of CCR's Constitutional draft. Since we have found that the sources of the current government crisis are both institutional and political, there are enough reasons to believe that a genuine parliamentary scheme has more chances to counteract them simultaneously.

How does the current political scene look like and what potential for change does it offer, according to the veto players' theory? We understood that, along with AEI, which is clearly one such player, there is space for activity from the side of the Constitutional Court, in that it can veto legislative initiatives and is 'the sole authority of constitutional judicature' in the country (Constitution, Article 134). A third veto player is definitely PCRM, since it can block the election of the president. With regards to the issue posed by this thesis, we learned that two of the players, AEI and PCRM, demonstrate a high level of internal cohesion, and a high degree of incongruence. The theory would induce us into concluding that there is little potential for meaningful change and that the Court is indeed expected to rule early parliamentary elections.

## Conclusion

The scholars who launched the debate upon political regimes put forward a simple question: what accounts for the survival and preservation of democracy in transitional countries? Some of them concluded that it is government stability, and so they proposed parliamentarism as a regime that is more likely to provide stable cabinets. Some others considered that it is rather economic performance, and gave little credit to the issue of stability. They argued that at low levels of economic development, democracy has generally little chances to endure under any regime. As interest for democratic survival diminished, scholars found other proxies of good regimes: policy efficiency and policy flexibility.

Moldova has never experienced pure parliamentarism, but still enjoyed stable cabinets during a certain period of time. We found that (1) despite popular beliefs, the scheme that allegedly conduced to this could hardly qualify as parliamentarian. Policy stabilization came foremost as a consequence of one disciplined party, able to acquire parliamentary majority and create quick coalitions. Notably, this stability provided policy efficiency, and even policy flexibility. Paraphrasing Cheibub and Limongi, if this regime had a better record of efficient policy-making and pursue of economic reforms, it happened not because it was parliamentary.

We saw that the moment when PCRM failed to secure three fifths affiliated MPs, the regime entered crisis. We proposed (2) two explanations, institutional and political, that account as sources of this deadlock, and confirmed both of them. Considering Moldova's previous difficulties with the semi-presidential regime and the country's highly fractioned political elite, (4) we advocated in favour of consolidating the parliamentary regime to the extent that it becomes truly functional.

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