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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**REPORT**

**ON**

**THE RELATIONS BETWEEN PARLIAMENT  
AND THE GOVERNMENT:  
CONFIDENCE AND RESPONSIBILITY**

**Adopted by the Venice Commission  
at its 139th Plenary Session  
(Venice, 21-22 June 2024)**

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## I. Introduction

1. In its Interim Opinion on Article 49.3 of the French Constitution,<sup>1</sup> the Venice Commission undertook, before preparing a final opinion on this matter, to carry out a comparative analysis of the mechanisms of confidence and responsibility<sup>2</sup> between Parliament<sup>3</sup> and the Government under the constitutions, laws and regulations of its member states. In July 2023, the Commission prepared and distributed a questionnaire to gather information from members and received forty-four responses as of October 2023.<sup>4</sup> Mr Nicos Alivizatos, Mr Richard Barrett, Ms Paloma Biglino, Ms Marta Cartabia, Mr Philip Dimitrov, Mr Christoph Grabenwarter and Mr Dan Meridor, the rapporteurs for the Interim Opinion, also acted as rapporteurs for this report.

2. This report was prepared on the basis of comments by the rapporteurs and the replies to the questionnaire. It was examined at the joint meeting of the Sub-Commissions on Democratic Institutions and on Latin America on 20 June 2024 and it was adopted by the Venice Commission at its 139th Plenary Session (Venice, 21-22 June 2024).

## II. Scope of the report

3. This report will deal with linked aspects of the relations of confidence between the Government and Parliament in a parliamentary system: the mechanisms for the Parliament to vote, renew or withdraw the confidence in the Government, and the mechanisms for the Government to seek and/or obtain the Parliament's confidence, and in particular to pressure Parliament (specifically the dissident members of the majority) into approving a law or policy of significant relevance to the Government, thus enhancing the capacity to act and the efficiency of the Government.<sup>5</sup>

## III. Analysis

4. The extent of separation and balance of powers between the executive and the legislative branches depends on the political system as determined by the Constitution. In general, there are three models. In presidential systems there is a clear separation, where directly elected presidents do not depend on the confidence of the legislature. In semi-presidential systems, Government has to answer both to a directly elected president and to the legislature. In parliamentary systems, the separation is usually less marked because the executive (Government) is appointed from a parliamentary majority. This implies that the executive is dependent on parliamentary approval.<sup>6</sup>

5. Parliamentary systems are defined by the fact that the Government is responsible before Parliament: Government derives its legitimacy from Parliament and more precisely from its ability to command the latter's support ("confidence"). In general the Government is responsible before

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<sup>1</sup> Venice Commission: [CDL-AD\(2023\)024](#), France - Interim Opinion on Article 49.3 of the Constitution.

<sup>2</sup> The term "responsibility" is used in the sense of the parliamentary power to withdraw its confidence in the government.

<sup>3</sup> For reasons of convenience, in this report, and unless the context suggests otherwise, the terms "Parliament" and "legislature" include their component legislative houses, chambers, or assemblies.

<sup>4</sup> [CDL-PI\(2024\)003](#). Replies were received from Algeria, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Costa Rica, Croatia, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Republic of Korea, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Republic of Moldova, Monaco, Morocco, the Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovakia, Spain, Sweden, Switzerland, Türkiye, Ukraine, United States of America.

<sup>5</sup> For more details on the background and objectives of the so-called "rationalised parliamentarism" see Venice Commission: [CDL-AD\(2023\)024](#), France - Interim Opinion on Article 49.3 of the Constitution, paras. 6-9. For a historical background on the preparatory work for the French Constitution of 4 October 1958, see the official collection "L'histoire de l'élaboration de la Constitution du 4 octobre 1958" published in three volumes between 1987-1991 by Documentation Française.

<sup>6</sup> Venice Commission, CDL-AD(2013)018 - Opinion on the balance of powers in the Constitution and the Legislation of the Principality of Monaco, § 16.

the low Chamber.<sup>7</sup> In Italy however, that the Government is responsible not only before the lower, but also before the upper Chamber of Italy's Parliament.<sup>8</sup>

6. In its Report on legislative initiative,<sup>9</sup> the Venice Commission has underlined that States have developed throughout history various concepts and methods of separation of powers. The parliamentary functions have even been subject to a variety of conceptions. However, it is worth noting that in practice the complexity of the decision-making process in modern democracies along with the multiplicity of the actors in democratic life tend to blur the strict approach of the principle of the separation of powers. In parliamentary democracies, the exercise of the power of legislative initiative by the executive power is regarded as a necessary manifestation of the political leadership of the Cabinet, provided the latter has the confidence of the Parliament. This situation, which prevails in parliament regimes, is usually explained and grounded by the fact that the implementation of Governmental policy should be as efficient as possible and by the recognition of the Government as the leader of the assembly majority which is supposed to support the Governmental action.<sup>10</sup>

7. A common trend may be observed to modify the relationship between Governments and parliaments in favour of the former: the executive power is not subordinated to the legislative one and must be able to promote laws in accordance with its policy. In the most recent experiences of parliamentarism, Governments have been endowed with and have made use of the power to compel a majority not willing to follow the Government line of policy to pass a legislative text, and also to accelerate the legislative process, and in some cases to end any obstruction from the opposition leading to the situation where even a majority does not reach decisions in favour of the line of Government.<sup>11</sup>

8. In parliamentary systems the motion of confidence is an expression of the natural competition (sometimes conflict) between the executive and the legislature. The executive (the Cabinet) comes from the legislature and, in order to be able to maintain its institutional independence and active role in dealing with the public agenda, it needs to have weapons to defend its positions, if not strictly similar at least comparable to those of the legislature. The legislature can pressure the Cabinet with a threat to pass a vote of no-confidence when it finds it convenient. The Cabinet should be able to pressure it with the threat of a confidence vote that may lead to the dissolution of Parliament, when for the legislature this may be inconvenient.<sup>12</sup> This may be difficult to grasp in countries with a proportional electoral system where the institutional encounter between the executive and the legislature is blurred by the control that the parties' central bodies have on the numerous parliamentary factions. The different types of proportional representation that are in force in most Council of Europe member States, make a "Westminster type" parliamentarism, that is rotating coherent one-party majorities, rather the exception. "Consensual" parliamentarism is actually the rule in Europe, meaning usually unstable parliamentary majorities. Hence the need to reconcile parliamentary accountability of Governments with Government efficiency. In other words responsibility v. stability and the search for their optimum equilibrium are the scopes sought with the relevant provisions.

9. On the contrary, in non-parliamentary systems, the Government does not need the support of Parliament. This is the case in Venice Commission members with presidential systems - Costa Rica, Cyprus, Republic of Korea, Türkiye, United States of America. This is also the case in Switzerland with its directorial system of Government, where the members of the executive (Federal Councillors) are elected for a fixed term, and in Monaco, where Government is exercised

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<sup>7</sup> Venice Commission, Report on bicameralism, [CDL-AD\(2024\)007](#), §§ 141-146.

<sup>8</sup> Article 94 of the Constitution.

<sup>9</sup> [CDL-AD\(2008\)035](#).

<sup>10</sup> *ibidem*, § 23.

<sup>11</sup> See also ch. I.A.5 on the political consequences of the confidence vote.

<sup>12</sup> Venice Commission, Interim opinion on Article 49.3 of the Constitution of France, § 29

“under the gracious authority of the Prince, by a Minister of State, assisted by a Government Council.”<sup>13</sup>

10. The question has to be seen in the light of the political practice and situation of the country concerned as well as of its constitutional culture. Even in the same country, the significance of a vote of confidence may vary across time, in particular in the presence of a minority Government, as it appears for example from the use of Article 49(3) of the French Constitution.

11. The relationship between the Head of State, the Government and Parliament has also to be considered. The interconnection between the Head of State and the Government will in general be stronger in case the President is elected by Parliament than if he or she is directly elected by the people, and therefore the meaning of the vote of confidence for the Head of State will vary.

### **A. Motions of confidence**

12. A motion of confidence is a parliamentary procedure whereby the Government seeks the formal expression by Parliament of its confidence either in the whole Government or, in some countries, in specific ministers. It is an institutional arrangement that permits a prime minister to attach the fate of a particular policy to a vote on Government survival,<sup>14</sup> or to ask Parliament to give its approval to a specific Government's measure, without amendments and swiftly.

13. Motions of confidence presented at the initiative of the executive are common in comparative constitutionalism. In parliamentary systems they serve to confirm that the Government has a sufficient majority to remain in power. Sometimes they are also used when the parliamentary majority supporting the Government is in crisis. The vote of confidence in these cases is used to force members of Parliament to make a decision and decide if they prefer to support the Government or to face the consequences of the executive's dismissal. In 1996, J. D. Huber distinguished between different types of confidence motions:<sup>15</sup> a formal vote of confidence at the time of Government investiture,<sup>16</sup> a general vote of confidence in the Government, without attaching a specific policy declaration to the vote, a vote of confidence in specific cabinet ministers, which typically occurs when there are questions of unethical behaviour, and a vote after Government formation is complete and in the context of legislative debates on specific policy issues or specific aspects of the Government's programme.<sup>17</sup>

14. The motion of confidence is regulated in the constitutions of the majority of member states with a parliamentary system participating in this study.<sup>18</sup> In other countries, a constitutional convention makes it possible (Canada, United Kingdom); in Italy, while the Constitution provides for the initial motion of confidence,<sup>19</sup> a constitutional custom progressively consolidated on the question of confidence at the initiative of the Government, which was partially codified first in the Chamber's (in 1971), and then in the Senate's rule of procedures (in 1988), as well as, eventually, in the law no. 400/1988. In Belgium too, the motion of confidence is based on a constitutional custom and detailed in the Rules of Procedures of the House of Representatives. In Latvia, the vote of confidence is regulated in the Rules of Procedure of the Saeima.

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<sup>13</sup> Article 43 of the Constitution.

<sup>14</sup> John D. Huber, “The vote of Confidence in Parliamentary Democracies, *The American Political Science Review*, Jun. 1996, Vol 9’, no 2 (Jun., 1996) p. 271, <https://www.jstor.org/stable/2082884>.

<sup>15</sup> John D. Huber, “The vote of Confidence in Parliamentary Democracies, *The American Political Science Review*, Jun. 1996, Vol 9’, no 2 (Jun., 1996) p. 271, <https://www.jstor.org/stable/2082884>.

<sup>16</sup> Belgium, Greece, Ireland, Israel, Italy, Portugal, Spain and Sweden.

<sup>17</sup> Austria, Belgium, Canada, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, United Kingdom.

<sup>18</sup> Amongst the states which replied to the questionnaire, it can be found in Algeria, Armenia, Belgium, Bulgaria, Canada, Croatia, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Republic of Moldova, North Macedonia, Poland, Portugal, Romania, Serbia, Spain, Sweden.

<sup>19</sup> Article 94 of the Italian Constitution.

15. A relatively low number of countries with parliamentary systems do not provide for motions of confidence (Bosnia and Herzegovina, Denmark, Iceland, Kyrgyzstan, Norway, Ukraine).

16. Motions of confidence are not always coupled with a debate or a vote on a piece of legislation. The various types of motions of confidence will be addressed now.

1. Types of confidence motions

17. On the basis of the analysis of the replies to the questionnaire, five types of confidence motions can be observed:

*a. Motions of confidence for the Government's investiture.*

18. The most common motion of confidence is the initial vote of confidence which takes place when a head of Government presents the work programme and the members of the Government. This exists in 32 out of the 44 member states which participated in the study and is often referred to as the confidence vote for the investiture of the Government. The initial vote of confidence can be mandatory<sup>20</sup> or optional,<sup>21</sup> although in some cases where it is optional on paper, it has become part of the constitutional custom.<sup>22</sup> Under Article 63 of the German Fundamental Law, the Chancellor and his Ministers are first voted by the Bundestag and thereafter appointed by the President.

*b. General motions of confidence in the Government.*

19. After taking office, the confidence in Government is assumed unless Parliament initiates no confidence procedures against the Prime Minister or – when allowed by law – against a specific member of the Government. However, in many countries the Prime Minister may request from Parliament a general vote of confidence in the Government, without attaching it to a specific policy declaration or programme.<sup>23</sup>

*c. Motions of confidence related to a general programme or policy statement.*

20. In several countries, a motion of confidence may be linked with the adoption of a programme or general statement of policy when the Government attaches a special importance to the outcome of the vote and signals its determination to resign in case the measure proposed is not approved. The programme and the general policy statements are statements of a political nature for which the Government seeks to strengthen confidence of the legislature without interfering with the regular legislative procedures for the adoption of a law. Such procedures exist, for example, in Bulgaria, France, Latvia, Morocco, Poland, Romania and Spain.

*d. Motions of confidence linked with a specific bill ("questions of confidence").*

21. When the Government decides to link the motion of confidence with the adoption of a specific bill ("question of confidence"), the Parliament must consider the adoption of such bill as a matter of confidence in the Government. In France, Spain and Portugal it is not possible to link questions of confidence with a specific draft law. In Belgium, Finland and the Netherlands this type of confidence procedure is neither specifically regulated nor prohibited by the Constitution. Motions of confidence linked with the adoption of a bill are provided by the

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<sup>20</sup> For example, Bulgaria, Croatia, Greece, Estonia, Poland, Moldova, Slovakia.

<sup>21</sup> For example, France, Spain.

<sup>22</sup> For example, Belgium.

<sup>23</sup> For example, Poland, Croatia, North Macedonia, Slovakia.

constitutions of Armenia,<sup>24</sup> Hungary,<sup>25</sup> Romania,<sup>26</sup> Slovakia<sup>27</sup> and Morocco.<sup>28</sup> Even in the countries where such procedures are not provided for by law, the linking of a bill to a confidence vote can be considered as a matter of political statement that obliges the Prime Minister (Government) and does not need to be explicitly formulated, as long as no Constitution can forbid a Government to resign.

22. In Germany, if a question of confidence is linked with a bill, the Bundestag must decide on both, but at the same time and in a single vote. However, the respective majority requirements for the bill (a relative majority for ordinary laws) and for the question of confidence (an absolute majority) do not change. The bill must then pass the rest of the legislative procedure to become law.<sup>29</sup> In other countries, the bill and the vote of confidence are discussed and debated separately. For example, in Poland, the Prime Minister may submit to the Sejm a motion requiring a vote of confidence in the Council of Ministers in connection with the adoption of a bill by Parliament. This occurs coincidentally during the discussion of a law but without a procedural connection between the two matters.<sup>30</sup> In Finland, a question of confidence can be raised in connection with the adoption of a bill by Parliament, although the consideration of such a motion is a distinct procedure from the consideration of a legislative proposal in a plenary session of Parliament. Even when the legislative procedure for the bill and the vote of confidence are discussed jointly, the bill is adopted with a formal vote of Parliament. It should however be noted that, in most cases, there is only a vote on the bill, not two separate votes. In Italy, the “question of confidence” implies *i.a.* the non-amendability and indivisibility of the text on which the Government has posed the question of confidence.<sup>31</sup>

*e. Commitment of the Government's responsibility linked with the adoption of a specific bill*

23. In some countries, the Prime minister may commit the responsibility of the Government before Parliament when submitting a bill for adoption. As a consequence, the bill is removed from the agenda of the Parliament (or chamber); Parliament, if it votes, votes on its confidence in the Government, not on the bill. This particular form of confidence motions will be examined separately below.

*f. Motions of confidence in an individual member of the Government.*

24. In Ireland, motions of confidence may be invoked in respect of individual members of Government when faced with questions about unethical behaviour or poor sectoral performance.<sup>32</sup>

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<sup>24</sup> Article 157 of the Constitution of Armenia.

<sup>25</sup> Article 21 of the Fundamental Law of Hungary.

<sup>26</sup> Article 114 of the Constitution of Romania.

<sup>27</sup> Article 114 of the Constitution of the Slovak Republic.

<sup>28</sup> Article 103 of the Constitution of Morocco.

<sup>29</sup> Article 68, 77 and 81 of the Basic Law of Germany.

<sup>30</sup> Article 160 of the Constitution of the Republic of Poland.

<sup>31</sup> See below para. 25.

<sup>32</sup> In Ireland, the vote of confidence for a member of Government is invoked to counter an individual motion of no confidence against him or her. The practice in such cases is for the Government to replace the opposition motion of no confidence with its own motion of confidence; either by an amendment to the original motion replacing its entire wording, or by using its control of the legislative agenda to pre-empt the usual order of business with a new motion where the said minister is either given or denied confidence. A motion of confidence takes precedence over opposition motions granting the Government certain procedural advantages to make their case including additional parliamentary time in the discussions on the motion of confidence of the member of Government.

## 2. Procedures of confidence vote

25. Although in most countries the Prime Minister has a discretionary power to resort to the motion of confidence, a prior consultation of the Government is required in the case of France<sup>33</sup> and Spain,<sup>34</sup> while approval by the Government is required for example in Italy<sup>35</sup>. In Finland, the Netherlands and Sweden, Government approval is a matter of constitutional convention. In Italy, the “question of confidence” entails three main procedural effects: first, the application of the roll-call vote, as in all the other confidence procedures; second, the chronological priority of the bill; third, most important, the non-amendability and indivisibility of the text on which the Government has posed the question of confidence.

26. In Slovakia, if the Government connects the vote of confidence with the vote on a draft law, the Parliament must decide within three months, otherwise the President of the Republic may dissolve the Parliament.<sup>36</sup> If the Parliament votes not to adopt the draft law, the Government loses the confidence, and the President of the Republic must recall the Government. However, if the Parliament passes no resolution on the matter for three months, the President of the Republic may dissolve the Parliament and call new elections.

27. In Germany, the possibility of connecting the motion of confidence with a draft law is not specifically mentioned in the Constitution although it is not prohibited. At any rate, if the Government raises such question of confidence, the relevant majority requirements for the adoption of a bill do not change - a relative majority for ordinary laws as specified by Article 77 (1), 42 (2) of the Basic Law and an absolute majority for the question of confidence pursuant to Article 68 (1) of the Basic Law. When the motion of confidence is linked with the adoption of a bill, three scenarios may unfold. First, if both the bill and the vote of confidence are approved, the absolute majority requirements imposed by the Constitution are met.<sup>37</sup> Then the draft proceeds through the rest of the legislative procedure to become law but is never considered “adopted” without a formal vote. Second, if the bill is adopted but the confidence motion fails, the bill continues the parliamentary procedure although the Chancellor may request the President to dissolve the first chamber of Parliament (Bundestag).<sup>38</sup> Third, if both the bill and motion of confidence are not approved, the Chancellor may propose to the Federal President either dissolution of Parliament or the declaration of a state of legislative emergency in relation to the particular bill; after that, if the draft law is not voted by the Bundestag, it is sent for adoption to the second chamber of Parliament (Bundesrat).<sup>39</sup> So far, the declaration of a state of legislative emergency has never happened in practice. Since 1990, only one bill was attached to a motion of confidence which failed and triggered elections.

## 3. Quorum and required majorities of confidence votes.

28. As for the voting rules, in a first group of countries, a motion of confidence is accepted if it receives a majority of the votes cast. For example, in Armenia, the decision shall be adopted by the majority of the votes of the total number of Deputies, by roll-call voting.<sup>40</sup> In Poland, a prime minister's motion carries if it receives a majority of votes in the presence of at least half of the statutory number of deputies.<sup>41</sup> In Spain, confidence shall be considered to have been obtained when a simple majority of the Deputies vote in favour.<sup>42</sup> Requirements are higher in Bulgaria,

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<sup>33</sup> Article 49.1 of the Constitution. There is no vote of confidence on the investiture.

<sup>34</sup> Article 112 of the Constitution of Spain.

<sup>35</sup> Article 116 of the Rules of Procedure of the Italian Chamber of Deputies.

<sup>36</sup> Article 102 of the Constitution of Slovakia.

<sup>37</sup> Article 68 (1) (1) in conjunction with Article 77 (1) and 42 (2) of the Basic Law of Germany.

<sup>38</sup> Article 68 (1) (1) of the Basic Law of Germany.

<sup>39</sup> Art. 81 (1) (2) GG in conjunction with Article 81 (3) of the Basic Law of Germany.

<sup>40</sup> Article 157 of the Constitution of the Republic of Armenia.

<sup>41</sup> Article 117 of the Rules of Procedure of the Sejm of the Republic of Poland.

<sup>42</sup> Article 112 of the Constitution of Spain.



where the decision shall be adopted by a majority of more than half of the votes of the National Assembly Members present.<sup>43</sup> In Greece, the majority required for obtaining confidence is the majority of present MPs which however cannot be less than 2/5 of the total number of MPs.<sup>44</sup> In Croatia,<sup>45</sup> Germany,<sup>46</sup> the Republic of Moldova<sup>47</sup> and Serbia,<sup>48</sup> it is even the majority of the elected members of Parliament which is needed. In Sweden<sup>49</sup> on the contrary, it is only if more than half of the members of the Riksdag vote no that the Prime Minister/ the Government shall be discharged; similar rules apply to the vote of the Lower Chamber in Belgium.<sup>50</sup>

#### 4. Timeframe for the consideration of confidence votes.

29. The general tendency in most member states is to consider motions of confidence without delay, but the timeframe for the consideration of confidence votes varies. For example, in Armenia, the draft decision on seeking confidence in the Government shall be put to a vote no later than seventy-two hours after its submission.<sup>51</sup> In Portugal, the consideration of confidence votes shall begin on the third parliamentary day following the submission of the request for a vote of confidence to the President of the Assembly of the Republic. The debate cannot exceed three days, and the single point of the agenda is the debate on the motion of confidence.<sup>52</sup> In Serbia, upon the request of the Government, a proposal for a vote of confidence must be discussed no later than five days from its submission.<sup>53</sup> A relatively long period is defined in Sweden and Slovakia. In Sweden, no later than two weeks after it has convened, a newly elected Riksdag shall determine by means of a vote whether the Prime Minister has sufficient support in the Riksdag.<sup>54</sup> In Slovakia, the Parliament must decide on a confidence vote within three months; otherwise, the President of the Republic may dissolve the Parliament.<sup>55</sup>

30. In some countries, there is a waiting period before discussions can start. For instance, in Spain, the confidence vote cannot be held until twenty-four hours after it has been tabled.<sup>56</sup>

31. The consideration of confidence votes often takes precedence over other items of the legislative agenda and can be a powerful instrument to threaten undecided majorities with the consequences of a political crisis or early elections.

#### 5. Political consequences of the confidence vote

32. The outcome of the motion of confidence has a significant implication for the relationship between the executive and the legislative branches of Government. In most cases, the immediate consequence of a failed motion of confidence is the resignation of the Government.

33. For example, in Italy, a vote by one or both chambers against a Government proposal does not formally entail the obligation of the Government to resign. However, when a proposal presented by the Government in Parliament is voted as a “question of confidence”, the effect of the parliamentary vote is either to confirm or to withdraw the confidence in the Government.<sup>57</sup> If

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<sup>43</sup> Article 112 of the Constitution of Bulgaria.

<sup>44</sup> Article 84 of the Constitution of Greece.

<sup>45</sup> Article 109.3 of the Constitution of Croatia.

<sup>46</sup> Article 68 of the Fundamental Law of Germany.

<sup>47</sup> 98 of the Constitution of the Republic of Moldova.

<sup>48</sup> Article 131 of the Constitution of Serbia.

<sup>49</sup> Article 6:3 of the Instrument of Government of Sweden.

<sup>50</sup> Article 135 of the Rules of Procedure (Règlement de la Chambre des Représentants).

<sup>51</sup> Article 157 of the Constitution of the Republic of Armenia.

<sup>52</sup> Article 193 of the Constitution of Portugal, Article 218 and 219 of the Rules of Procedure of Portugal.

<sup>53</sup> Article 131 of the Constitution of Serbia.

<sup>54</sup> Article 6:3 of the Instrument of Government of Sweden.

<sup>55</sup> Article 102 of the Constitution of Slovakia.

<sup>56</sup> Section 174 of the Rules of Procedure of the Congress of Deputies of Spain.

<sup>57</sup> Article 94 of the Constitution.

the Parliament does not agree with the Government's proposal, the Government is compelled to resign. Although the dissolution of Parliament is not always immediate, the inability to form a new Government can lead to a premature termination of Parliament's term and early elections. In Spain, the President of the Government, following deliberation by the Council of Ministers, can request a vote of confidence from Congress regarding his or her programme or a general policy statement. Should Congress express a lack of confidence in the Government, the President is then required to submit his or her resignation to the King, leading to the nomination of a new President of the Government.<sup>58</sup> In Serbia, when the Government requires a vote of confidence and the absolute majority of MPs do not vote for it, the term of office of the Government ends and the President of the Republic is obliged to initiate proceedings for the election of a new Government. If the National Assembly fails to elect the new Government within 30 days from the day of passing the vote of no confidence, the President of the Republic shall be obliged to dissolve the National Assembly and to schedule elections.<sup>59</sup> In Poland, the Prime Minister shall, within 14 days following the day of his or her appointment by the President of the Republic, submit a programme of activity of the Council of Ministers to the Sejm, together with a motion requiring a vote of confidence. In the event that a Council of Ministers has failed to obtain a vote of confidence, the Sejm, within 14 days, shall choose a Prime Minister as well as members of the Council of Ministers as proposed by him, by an absolute majority of votes in the presence of at least half of the statutory number of Deputies. In the event that a Council of Ministers has not been appointed, the President of the Republic shall, within a period of 14 days, appoint a Prime Minister and, on his application, other members of the Council of Ministers. The Sejm, within 14 days following the appointment of the Council of Ministers by the President of the Republic, shall hold, in the presence of at least half of the statutory number of Deputies, a vote of confidence thereto. In the event that this vote of confidence has not been granted to the Council of Ministers, the President of the Republic shall shorten the term of office of the Sejm and order the holding of elections.<sup>60</sup>

34. In sum, where questions of confidence can be linked with the adoption of a law, they can be considered as reducing the scope of the parliamentary control over the draft laws initiated by the Government; they can also be considered as changing the nature of this control, the Parliament's decision being based on a more profound understanding whether opposing a particular bill is worth the price of toppling the Government. Instead of debating on the draft law through the ordinary legislative procedure, the Parliament must decide on a political issue: to further support the Government or to withdraw its support and end Government's mandate.

35. While in most countries a positive vote of confidence on a bill does not mean its adoption, there is an exception: Armenia. According to Article 157 of the Constitution, in the event the motion of confidence is approved, the draft law submitted by the Government is deemed adopted.<sup>61</sup> The Parliament thus loses control over the content of the law and a successful motion of confidence on a legislative bill amounts to an enactment of the law by the Government.<sup>62</sup>

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<sup>58</sup> Article 112 and 114 of the Constitution of Spain.

<sup>59</sup> Article 131 of the Constitution of the Republic of Serbia.

<sup>60</sup> Article 154 and 155 of the Constitution of the Republic of Poland.

<sup>61</sup> Although Kazakhstan did not reply to the questionnaire, it is interesting to note that Article 61 (7) of the Constitution of Kazakhstan includes provisions stating: "If a bill submitted by the Government is not adopted, the Prime Minister shall have the right to raise a question of confidence in the Government at a joint session of the Chambers. The vote on this question shall be held no earlier than forty-eight hours after the motion of confidence has been tabled. If the motion of confidence is not carried by a majority of the total number of members of each Chamber, the bill shall be deemed to have been adopted without a vote. However, the Government may not exercise this right more than twice a year."

<sup>62</sup> Although the level of intervention in the legislative process is essentially the same, the vote of confidence in Armenia must be distinguished from the commitment of responsibility of the Government in France, Republic of Moldova, and Romania. This is because in the Armenian case, the Government requests a vote of confidence linked to a draft law, whereas in the other countries, the Government does not ask for a vote of confidence but practically notifies the Parliament of its intention to bypass ordinary legislative procedures reversing the burden to the Parliament to pass a no confidence motion against the Government.

## 6. Practice of confidence votes in selected states

36. Most countries have not submitted comprehensive statistics on the number of questions of confidence and their success or failure. However, the data reported shows that in most countries, the questions of confidence are not a very frequent occurrence as they generally result in early elections. Questions of confidence linked with adoption of a law are rarely raised in a number of countries where the Government is not prohibited from resorting to this instrument.<sup>63</sup>

37. Algeria, Bosnia and Herzegovina, Bulgaria, Croatia, Hungary and Serbia have not reported any case, at least since the 1990s. Germany has reported only two cases, one of them being successful and the other unsuccessful. Spain also has reported only two cases in the 1980s both of them in favour of the Government. Bulgaria and North Macedonia have reported only general confidence votes. Bulgaria has experienced three cases of general motions of confidence since 1990s, two successful (1994, 2011) and one unsuccessful (1992). In Ireland there have been 14 motions of confidence submitted by the Government since 1990 and all of them were successful. Similarly, all the 15 motions of confidence in a Minister have been successful. Poland has reported six votes of confidence since 2003 and all have been won by the Government. North Macedonia has reported two since 1990 both of which were successful.

38. By contrast, in France, Governments have resorted to the question of confidence (Article 49 (1) of the Constitution) 41 times since 1958. The number of motions of confidence under Article 49 (1) of the Constitution does not seem to depend on the importance of the majority. This is completely different for the commitment of responsibility of responsibility of the Government (see next paragraph).

39. In Italy, the Government uses the question of confidence (*questione di fiducia*) frequently to alert the Parliament as to the crucial effect of the outcome of the vote on the confidence relationship. Since 2008, the Government has raised questions of confidence in relation more than 170 laws. The Government often makes use of the question of confidence to accelerate the legislative process and avoid any parliamentary amendments to the Governmental proposal, since the question of confidence has the effect of interrupting ongoing debates and imposing an incidental and priority debate based on a text favoured by the Government.<sup>64</sup> Successive Italian Governments have also raised “questions of confidence” in relation to proposals for the conversion into law of the decree-laws issued by the executive under the “necessity and urgency” clause of Article 77 of the Italian Constitution. The Parliament loses the power to amend the text proposed by the Government and is faced with the difficult alternative of either approving the Governmental decree-law unchanged or cause a crisis of Government. After the debate on the question of confidence, a vote takes place to verify the existence of the parliamentary majority or its absence which could lead to the resignation of the Government.

## 7. Case study: the commitment of responsibility of the Government

40. This particular type of motion of confidence appears to exist in three members states of the Venice Commission: France, Romania and the Republic of Moldova.

41. Article 49.3 of the French Constitution provides that “[t]he Prime Minister may, after deliberation by the Council of Ministers, make the passing of a Finance bill or Social Security Financing bill an issue of a vote of confidence before the National Assembly. In that event, the bill shall be considered passed unless a motion of no-confidence, tabled within the subsequent twenty-four hours, is carried as provided for in the foregoing paragraph. In addition, the Prime

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<sup>63</sup> Poland, Hungary, Germany, Bulgaria, Republic of Latvia, Greece, Finland, Sweden.

<sup>64</sup> Article 116 of the Rules of the Italian Chamber of Deputies and Article 161 of the Rules of the Italian Senate.

*Minister may use the said procedure for one other Government or Private Members' bill per session.*<sup>65</sup>

42. Article 49.3 is not referred to as a question of confidence, because under Article 49.1 of the Constitution the Prime Minister can only invoke a question of confidence in relation to the Government's programme or possibly a general policy statement, and not to the adoption of a bill.<sup>66</sup>

43. Article 49.3 is triggered by the Prime Minister in any phase of the parliamentary procedure, after the examination by a standing committee in the National Assembly, following deliberation with the Government. The National Assembly may only reject the bill (without having the power to amend it) by submitting a motion of no confidence in the Government within twenty-four hours, pursuant to the procedure established in Article 49.2 of the Constitution (the motion must be presented by one-tenth of the members of the National Assembly and must be voted by the absolute majority of the members of the National Assembly within forty-eight hours, with only positive votes counting).<sup>67</sup> Such motion must be approved by an absolute majority within 48 hours, in order to reject the bill. If the motion is carried, the Government falls. If no motion is presented or if it does not reach the absolute majority, the bill is considered approved without the vote of the National Assembly.

44. The procedure of Article 49 (3) is mainly used when the Government is not backed by a solid majority in Parliament: it was used 28 times between 1988 and 1991 and 23 times from the 2022 elections to the end of 2023 (out of a total of 113).

45. A similar solution can be found in the constitutions of Romania and the Republic of Moldova.<sup>68</sup> These countries appear to have borrowed substantially from the French constitutional experience of the Fifth Republic and share important similarities with Article 49 (3).<sup>69</sup>

46. Under Article 114 of the Romanian Constitution,<sup>70</sup> the Government may commit its responsibility before the Chamber of Deputies and the Senate, in joint sitting, upon a programme, a general policy statement, or a bill. Within three days after the Government has invoked the procedure provided by Article 114 of the Constitution, the joint sitting of the two chambers may decide to withdraw the confidence in the Government, by carrying a motion of censure by a majority vote of the Deputies and Senators. If the Government is not dismissed, the bill for which the Article 114 procedure was activated is deemed adopted as presented by the Government or

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<sup>65</sup> On Article 49.3 of the French Constitution, see [CDL-AD\(2023\)024](#), France - Interim Opinion on the Article 49.3 of the Constitution, especially paras. 6-9.

<sup>66</sup> This is also the case in Spain and Portugal where the confidence motion can only be linked with a programme or policy statement and not a law.

<sup>67</sup> Venice Commission: [CDL-AD\(2023\)024](#), France - Interim Opinion on the Article 49.3 of the Constitution, paras 26-27.

<sup>68</sup> Article 114 of the Constitution of Romania, Article 106(1) of the Constitution of Republic of Moldova.

<sup>69</sup> Similar provisions can also be found in several countries influenced by the French constitutional tradition which are not members of the Venice Commission. See Constitution of Cameroon (Article 34), Constitution of the Central African Republic (Article 55), Constitution of Mauritania (Article 75), Constitution of Mali (Article 78), Constitution of Burkina Faso (Article 116), Constitution of Chad (Article 137), Constitution of Niger (Article 107), and Constitution of Senegal (Article 86).

<sup>70</sup> Article 114 - Assumption of responsibility by the Government

(1) The Government may assume responsibility before the Chamber of Deputies and the Senate, in joint sitting, upon a programme, a general policy statement, or a bill.

(2) The Government shall be dismissed if a motion of censure, tabled within three days of the date of presenting the programme, the general policy statement, or the bill, has been passed in accordance with the provisions under Article 113.

(3) If the Government has not been dismissed according to paragraph (2), the bill presented, amended, or completed, as the case may be, with the amendments accepted by the Government, shall be deemed as passed, and the implementation of the programme or general policy statement shall become binding on the Government.

(4) In case the President of Romania demands reconsideration of the law passed according to paragraph (3), the debate thereon shall be carried in the joint sitting of the Chambers.

as amended, or completed with amendments that are acceptable to the Government. Following the constitutional revision process (Constitutional Review Law) of 2003, if the President returns the Law adopted through the commitment of responsibility for reconsideration, the two chambers shall reconsider the returned Law in a joint sitting and may make amendments to the text which the Government cannot reject (the added paragraph 3 of Article 114).<sup>71</sup>

47. The Constitutional Court of Romania has found that the possibility for the Government to be able to commit its responsibility for a bill in a discretionary manner, at any time and under any conditions, would amount to “the transformation of the executive into a legislative public authority, competing with the Parliament in the area of lawmaking”.<sup>72</sup> The Court has thus held that the Government can only commit its responsibility in compliance with specific conditions.<sup>73</sup> These criteria appear to be quite broad and Romanian Governments may commit their responsibility for all types of law and emergency ordinances (except for constitutional laws), at any stage of the legislative process, as many times per session as deemed necessary<sup>74</sup> and for one or more laws regulating multiple areas as long as they can justify that such laws are materially connected.

48. Article 106.1 of the Moldovan Constitution provides that: (...) (2) *The Government is dismissed if a motion of censure, brought before within 3 days following the date of presentation of the programme, of statement of general policy or of the draft law, has been passed in terms of Article 106.* (3) *If the Government has not been dismissed pursuant to para. (2), the lodged draft law is considered to be adopted, and the programme or the statement of general policy becomes mandatory for the Government.*

49. Article 119 of the Rules of Procedure of Parliament details the procedure, specifying that the commitment of responsibility is possible only for organic or ordinary laws and is activated through adoption of a Government decision communicated in writing to the Parliament.

50. The Constitutional Court of Moldova, like its Romanian counterpart, has observed that the commitment of responsibility by the Government on a draft law in a discretionary way, at any time and under any conditions, would amount to its transformation into a legislative public authority, competing with the Parliament.<sup>75</sup>

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<sup>71</sup> Law No. 429/2003 on the Revision of the Constitution of Romania.

<sup>72</sup> Constitutional Court of Romania, Decision No. 1431/2010.

<sup>73</sup> The conditions are the following:

- 1) the existence of an urgency in the adoption of the measures contained in the Law for which the Government has pledged its responsibility.
- 2) the need for the regulation in question to be adopted with maximum celerity (swiftness).
- 3) the importance of the regulated field.
- 4) the immediate application of the Law in question. Constitutional Court of Romania, Decision No. 1655/2010.

<sup>74</sup> The Venice Commission had welcomed a limitation of this possibility “since it increases the Parliament’s opportunities to control the Executive, thus reinforcing the position of the Parliament within the parliamentary form of government”: Venice Commission, Opinion on the Draft Law on the Review of the Constitution of Romania, CDL-AD(2014)010, § 166.

<sup>75</sup> The criteria outlined by the Constitutional Court are the following:

- 1) the procedure of assumption of responsibility by the Government upon a draft law as an in-extremis measure only,
- 2) determined by the importance of the regulated area,
- 3) the urgency and celerity of law adoption through procedure of assumption of responsibility, and its immediate application.

Recent case-law has added a new criterion, namely that the draft law for which the Government commits its responsibility before the Parliament should clearly refer to only one regulatory area. In general, the Court has deferred to the discretion of the Government as to the appropriateness of invoking Article 106/1 procedures. Most importantly, in 2006, the Court held that given the peculiarities of the institution of commitment of responsibility, the President is not entitled to submit to parliament for reconsideration, prior to promulgation, a law adopted through commitment of responsibility by the Government. Before signing the laws, the President may only lodge a complaint with the Constitutional Court.

## B. Motions of no confidence

51. In parliamentary systems the Government and its members are accountable to Parliament. The ultimate and strongest form of parliamentary responsibility of the Government and for ministers is the vote of no-confidence. Motions of no confidence (in French: *motions de censure*) are initiated by Parliament to question the fitness of the whole Government, or the prime minister or a single member of the Government to remain in office. Political responsibility and accountability may cover everything a Government minister does or does not do, whether there are “objective” grounds for criticism or not. Political responsibility may be realised in informal ways, such as mere criticism, or through formalised parliamentary and other procedures, which are governed by legal rules, but which are nevertheless “political”.<sup>76</sup> Motions of no confidence are the formal and legal way in which Parliament expresses its wish to withdraw the trust it placed in the Government (or its members) who, as a result, may be obliged to resign from their posts.

52. Based on the received responses, no confidence motions are a common feature of constitutional frameworks and/or parliamentary practices in 37 members out of the 44 member states covered by this study.<sup>77</sup>

53. In Canada, Iceland and the Netherlands, the vote of no confidence is not regulated in the Constitution or rules of parliamentary procedure, but it is a well-established parliamentary practice based on an unwritten constitutional convention that a responsible Government must enjoy the support of the representative body to whom it is accountable to perform its function. In Ukraine, the Constitution does not explicitly regulate the motion of no confidence against the Prime Minister or a Minister, but the Parliament may consider the issue of Government responsibility and adopt a resolution by which it may withdraw its confidence in the Government with consequences similar to no confidence procedures.<sup>78</sup>

### 1. Types of no confidence motions

54. State responses to the questionnaire show that no confidence motions can be distinguished by the subject they are directed at (collective or individual) and by the consequences the motion entails for the Government and Parliament (ordinary or constructive no confidence motion).

#### a. *Collective and individual motions of no confidence*

55. No confidence motions can be directed against the Prime Minister, a specific minister or the Government as a whole. The general tendency in most states where no confidence votes exist is to allow both general motions of no confidence against the whole Government or individual motions against a member of the Government<sup>79</sup> In several legal orders, no confidence motions can only be submitted against the Government as a whole and not an individual minister, leading to the dismissal of the whole Government or the single minister respectively.<sup>80</sup> Where the individual minister fails a motion of no confidence, this has no consequences for the whole Government or the Parliament, as the minister can be replaced by the Prime Minister. For example, in Croatia, the Constitution provides that the motions of no confidence can be directed towards a minister, the Prime Minister, or the Government as a whole. The consequences of a

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<sup>76</sup> Venice Commission, Report on the relationship between political and criminal ministerial responsibility, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2013\)001-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2013)001-e), §§ 11, 12.

<sup>77</sup> Algeria, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Republic of Moldova, Morocco, the Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovakia, Spain, Sweden, Ukraine.

<sup>78</sup> Article 87, Article 115, paras 3 and 4 of the Constitution of Ukraine.

<sup>79</sup> Algeria, Austria, Belgium, Croatia, Denmark, Estonia, Finland, Greece, Iceland, Ireland, Italy, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Republic of Moldova, the Netherlands, Macedonia, Norway, Poland, San Marino, Serbia, Spain, Slovakia, Sweden.

<sup>80</sup> Armenia, Bosnia and Herzegovina, Bulgaria, Canada, France, Germany, Morocco, Portugal, Romania, Ukraine.

successful motion of no confidence are practically the same in the latter two cases as the Government must resign if either the Prime Minister or the Government fail to receive support. If a vote of no confidence in an individual member of the Government is passed, the Prime Minister may propose to the Croatian Parliament another member for a vote of confidence or the Prime Minister and the Government as a whole may submit their resignation.<sup>81</sup> In Germany and Hungary, the no confidence motion is directed to the Chancellor and the Prime Minister respectively. In San Marino, motions of no confidence may be submitted against the entire Congress of State or against only one of its Ministers (“Segretari di Stato”): if a motion of no confidence against the entire Government (Congress of State) is adopted and approved, the entire Government must resign. If, instead, a motion of confidence against a Government member is adopted and approved, only the individual Minister is required to resign.<sup>82</sup> In Armenia, the Constitution allows for the expression of no confidence against the Prime Minister, which can result in the dissolution of the entire Government. While there is no direct provision for expressing no confidence in specific members of the Government, written interpellations may lead to the resignation of particular Government members.<sup>83</sup> In Poland, the Constitution distinguishes between two procedures for expressing a vote of no confidence, namely the procedure for adopting a motion of no confidence against the entire Council of Ministers and the procedure for adopting a motion of no confidence against an individual minister (excluding the Prime Minister).<sup>84</sup> In Denmark, a motion of no confidence may be filed against the Prime Minister or against an individual minister. When the Folketing passes a vote of no confidence in the Prime Minister, they shall request the dismissal of the Ministry (Government) unless writs are to be issued for a general election. If a vote of censure is passed on a Ministry, or if it requests its dismissal, it shall remain in office until a new Ministry has been appointed. Ministers who continue in office under these circumstances shall perform only those duties necessary to ensure the uninterrupted conduct of official business. If the motion is passed against an individual minister, that minister must resign.<sup>85</sup> In Italy the vote of no confidence initiated by the Parliament is directed to the whole Government, but it can also be used, and has been used, against a single member of the Government.

56. Motions of no confidence have to be distinguished from “motions of censure” (not to be confused with the French “*motions de censure*” which are motions of no confidence). Such “motions of censure” are designed to show disapproval rather than to oust the minister. They exist for example in the United Kingdom. In Spain, while the vote of no confidence against the Government is regulated in the Constitution,<sup>86</sup> the no confidence vote against individual ministers (“*mociones de reprobación*”) is not regulated by the Constitution or the Standing Orders of the Chambers. However, such motions are frequent in practice; they can be tabled in either chamber, but they do not have legal effect as censured ministers do not have to resign. They are similar to interpellations to ministers which are possible in a number of countries whose Constitution does not provide for motions of no confidence against individual ministers, such as Bulgaria,<sup>87</sup> Hungary<sup>88</sup> and Romania.<sup>89</sup>

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<sup>81</sup> Article 116 of the Constitution of Croatia.

<sup>82</sup> Article 9 of Constitutional Law No. 183 of 15 December 2005 of San Marino (and subsequent amendments) provides for “motions of no confidence” and Rules of Procedure of the Great and General Council (Article 45) regulate some of their procedural aspects.

<sup>83</sup> Article 113 and 115 of the Constitution of the Republic of Armenia.

<sup>84</sup> Article 158 and 159 of the Constitution of the Republic of Poland.

<sup>85</sup> Article 15 of the Constitutional Act of Denmark.

<sup>86</sup> Article 113 of the Constitution of Spain.

<sup>87</sup> Article 90 of the Constitution of the Republic of Bulgaria.

<sup>88</sup> Article 7 of the Fundamental Law of Hungary.

<sup>89</sup> Article 112 of the Constitution of Romania.

*b. Constructive vote of no confidence*

57. A specific form of no confidence procedure is the constructive vote of no confidence. While ordinary no confidence motions are regulated in the majority of the member states, constructive no confidence motions exist only in a few legal orders.<sup>90</sup>

58. Under ordinary no confidence procedures, a Government can be forced out of office by the majority of members of Parliament who do not support policies or the performance of a certain Government without proposing a successor. By contrast, under the constructive no confidence procedures, members of Parliament submitting the motion must put forward a candidate to replace the existing Prime Minister. In Germany, the motion of no confidence must include a proposal for a new Chancellor, thus avoiding the vacancy of the post of Chancellor.<sup>91</sup> The Parliament, via the motion of no confidence, cannot create a situation where there is no Chancellor – it must elect a new one. The Federal President is obliged to comply with the request of the *Bundestag* and must dismiss the old Chancellor and appoint the person elected in the motion of no confidence as new Federal Chancellor. In Spain, the motion of no confidence against the Government ("*moción de censura*") is based on the model set out in the German Basic Law. Such a motion can only be tabled in the lower house (Congress of Deputies) and not in the upper house (Senate) by one tenth of its members (normally 35 MPs) and must contain the name of a candidate who aspires to replace the head of the Government.<sup>92</sup> In Belgium, where both, constructive and non-constructive motions of no confidence are permissible, a Chamber that adopts a no confidence vote in the Government but fails to propose a successor, risks being dissolved by the King, on the proposal of the Prime Minister.<sup>93</sup>

2. Procedures of no confidence votes

59. While most constitutions regulate the procedures for the introduction of no confidence motions, details on modalities are usually found in the parliamentary rules of procedure, standing orders of the Parliament or constitutional custom.

60. In bicameral legislatures, the no confidence motions are usually initiated, debated, and voted only in the democratically elected chamber.<sup>94</sup> In Bosnia and Herzegovina as well as in Italy, where the Government must maintain the confidence of both houses of the legislature, each chamber may initiate and carry out a motion of no confidence. In Romania, the Chamber of Deputies and the Senate may, in joint sitting, withdraw the confidence granted to the Government, by carrying a motion of no confidence by a majority vote of the Deputies and Senators.<sup>95</sup>

61. In the Netherlands, where the Parliament consists of the First Chamber (Senate) and the Second Chamber (House of Representatives), both chambers can file a motion of no confidence against an individual member of the Government. However, while the House of Representatives may also file a motion of no confidence against the entire Government, there is no consensus on whether the Senate also has a right to do so.

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<sup>90</sup> Article 67 of the Basic Law of Germany, Article 21 of the Fundamental Law of Hungary, Article 115 of the Constitution of Poland, Article 46 of the Constitution of Belgium, Art. 113.2 of the Constitution of Spain; Article 152 of the Constitutional Law of the Republic of Armenia, Article 158 of the Constitution of the Republic of Poland.

<sup>91</sup> Art. 67 (1) of the Basic Law.

<sup>92</sup> Article 113.2 and Article 114 of the Constitution of Spain and Sections 175-179 of the Rules of Procedure of the Spanish Congress of Deputies.

<sup>93</sup> Article 46, paras. 1 and 2 of the Constitution of Belgium and Article 138 of the Rules of Procedure of the Standing Order of the Chamber.

<sup>94</sup> For example, Austria, Belgium, Canada, Ireland, France, Germany. Venice Commission, Report on bicameralism, [CDL-AD\(2024\)007](#), §§ 141-146.

<sup>95</sup> Article 113 and 114 of the Constitution of Romania.



### 3. Quorum and required majorities of no confidence votes

62. States have adopted a variety of solutions concerning the required majority to submit a motion of no confidence, but the general tendency is that a no confidence motion can be submitted by any member of Parliament or a required number of the members of Parliament which is usually not prohibitively high for the opposition to propose a vote of no confidence.

63. In the majority of states, the required number of members of Parliament to submit the motion of no confidence varies from one third to one tenth of the total number of members of Parliament with the highest number of countries usually requiring one fifth of the total number. In Ukraine, in addition to one third of the total members of Parliament, the President is one of the subjects entitled to submit a request calling for the responsibility of the Government. In Austria a motion of no confidence must be supported by five members of the National Council. In Ireland and Finland no confidence motions are typically filed by leaders of the opposition or several members of the opposition. In Denmark and Norway any member of the opposition can file a motion of no confidence.

64. Holding a meeting to debate a no confidence motion usually requires a quorum of the absolute majority in the Parliament since the underlying rationale of motions of no confidence is to test whether a majority of Parliament continues to support the Government. In Azerbaijan however, a two thirds majority is required for the validity of a meeting to debate the motion of no confidence.

65. A successful no confidence vote generally requires the support of the absolute majority in the Parliament (or the Chamber). A qualified majority is required in Algeria where two thirds of the 407 members of the lower house have to vote in favour of the no confidence motion. In other countries on the contrary, the majority of those present is sufficient to carry out a successful no confidence vote.<sup>96</sup>

### 4. Timeframe for the consideration of no confidence votes

66. The timeframe for consideration of the initiative for no confidence votes is relatively short, with most countries allowing for a one (Italy), two to three days period between the tabling of the initiative and the session for its consideration. Other countries allow for a more extensive time, which varies from seven days in Poland to 10 days in Ukraine, 15 days in Finland and Greece, three weeks in Lithuania and 30 days in Croatia. Slovakia has a general time limit of 30 days which can be shortened to seven days upon the request of one fifth of the members of Parliament. Iceland does not have a fixed time limit, but the motion of no confidence must be considered without delay and in the Republic of Moldova it should be considered in the first day of the next plenary session of the Parliament.

67. In many countries, there is a limitation on the number and frequency of no confidence motions. For example, In Romania, if the motion of no confidence fails to be passed, the Deputies and the Senators who signed it may not submit another one during the same session.<sup>97</sup> In Greece, a motion of no confidence may not be submitted before the lapse of six months from the rejection by Parliament of such a motion. A motion of no confidence may, exceptionally, be submitted before the lapse of six months, if it is signed by the majority of the total number of Members of Parliament.<sup>98</sup> In Portugal, if a motion of no confidence is not passed, its signatories may not make another such motion during the same legislative session.<sup>99</sup> In Ukraine, the Parliament cannot consider the issue of the Government's responsibility and accordingly cannot

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<sup>96</sup> Austria, Ireland, Italy, Lithuania, Norway.

<sup>97</sup> Article 113 of the Constitution of Romania.

<sup>98</sup> Article 84 of the Constitution of Greece.

<sup>99</sup> Article 194 of the Constitution of the Portuguese Republic.

adopt a resolution of no-confidence in the following cases: 1) more than once during one regular session; 2) within a year after the Programme of Activity of the Cabinet of Ministers of Ukraine is approved; 3) during the last session of the Parliament.<sup>100</sup> In Armenia, in case the draft decision of the National Assembly on seeking no confidence against the Prime Minister is not adopted, such draft may be submitted not earlier than after six months.<sup>101</sup>

#### 5. Consequences of no confidence votes

68. In most of the countries surveyed, the motions of no confidence result in the dismissal or resignation of the Government. Azerbaijan is an exception: the Government serves under the authority of the President as the nominal chief of the executive branch but must be confirmed by the Parliament which has the power to pass a motion of no confidence against the whole Government. However, a successful motion of no confidence does not require the Government to resign, and the President may decide to dissolve the Parliament if it expresses a lack of confidence in the Government twice in the same year.<sup>102</sup>

69. In the case of ordinary no confidence motions, the Government that does not survive the vote in the Parliament is considered dismissed or must present its resignation. This type of motion does not automatically produce any direct consequences for the Parliament.<sup>103</sup> If the sitting Parliament is unable to form a new governing majority, the successful no confidence vote may result in early termination of the mandate of Parliament either by its own initiative, on a request of the Prime Minister, or by a decision of the head of state followed by the announcement of new elections.<sup>104</sup> In France, while the dismissal of Government does not have a direct consequence on the lower house (National Assembly), the President has the right to dissolve the National Assembly and to call early elections.<sup>105</sup>

70. In a minority of countries, a successful no confidence vote immediately leads to both the resignation of the Government and the dissolution of Parliament.<sup>106</sup>

71. In the case of constructive motions of no confidence, the parliamentary mandate is not affected by the change of the Prime Minister since the underlying rationale of the constructive motion is for the initiators of the motion to demonstrate whether the Parliament is able to elect the successor prior to the actual voting of the motion.<sup>107</sup> In Spain, the tabling of the motion of censure brings about two immediate effects: (i) the suspension of the Prime Minister's power to dissolve the legislature to prevent him from tortiously frustrating the purpose of the motion of censure and (ii) the start of a 5-day cooling-off period to prevent the chamber from making hasty decisions. If the proponents are unsuccessful in their motion, they may not reintroduce another no confidence motion in the same ordinary parliamentary session.

#### 6. Statistics on no confidence motions

72. According to the replies to the questionnaire relating to no confidence motions filed since 1990, such motions were tabled in most countries. Out of the 37 countries where the vote of no confidence is part of the constitutional order, only three countries (Algeria, Belgium and Serbia) have not reported any motions of no confidence in recent times. In other countries, the use of a

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<sup>100</sup> Article 87 of the Constitution of Ukraine.

<sup>101</sup> Article 115 of the Constitution of Armenia.

<sup>102</sup> Article 95 of the Constitution of Azerbaijan.

<sup>103</sup> Norway, Austria, Lithuania, Armenia, Romania.

<sup>104</sup> Italy, Bulgaria, Greece, Portugal, Romania, Serbia, Sweden, Ukraine.

<sup>105</sup> Since the Prime Minister does not need to receive a vote of confidence in the National Assembly for the Government investiture, the President may also choose to appoint the same Prime Minister who may have resigned because of a motion of censure (similar to the no confidence motion), as happened in 1962.

<sup>106</sup> Estonia, Croatia, Republic of Moldova, Romania.

<sup>107</sup> Armenia, Belgium, Germany, Hungary, Poland, Spain.

motion of no confidence is limited or rather infrequent. This is often the case in countries where the motion of no confidence must include a proposal for a new Prime Minister (the so-called constructive motion of no confidence). For example, Germany has not recorded any motion of no confidence since 1990 and Hungary reported only one case. Armenia and Poland have reported five and six cases respectively since 1990 and Spain six cases since 1980; only one was approved in 2018, and the Prime Minister in power was replaced by the alternative candidate.

73. However, the type of no confidence motion provided for in the constitutional system is not always key for determining the frequency and success of this instrument. It may also be rarely used in countries providing for ordinary no confidence motions. Lithuania and Morocco recorded just one unsuccessful motion of no-confidence against the Government (respectively in 2008 and 1991).

74. In countries which provide at the same time for motions of no confidence against the Government or the Prime Minister on the one side and individual motions of no confidence against a member of Government on the other side, the latter are more frequent. For example, Croatia has reported four motions of no confidence against the Prime Minister and 20 against individual ministers, Lithuania respectively one and 20. In Latvia, out of the 53 motions of no confidence which have taken place since 1990, 11 have been directed against the Prime Minister and 42 against individual ministers. In Slovakia, there have been 13 cases of no confidence motions against the Government and 59 against individual members.

75. The reported success rate of collective and individual motions of no confidence is very low. This is understandable given the consequences that a successful motion of no confidence may have for the Government but also for the Parliament when it is unable to form a new Government and may need to be dissolved to overcome the political and institutional crisis. Such a motion implies a change in the majority that gave confidence to the Government for its appointment. Thus, in order to be successful, it requires a prior change in the original parliamentary majority. Such changes are infrequent (only when the Government coalition collapses or in cases of party/institutional crisis). In many cases, the prime ministers who are almost certain to have lost the support of the majority in Parliament submit their resignation pre-emptively before a formal vote takes place and resign "voluntarily" before a motion of no confidence is adopted.

76. Since 1990, Romania has reported over 200 cases of no confidence motions initiated in both chambers with a success rate of less than five percent. Bulgaria has reported 42 unsuccessful and only two successful motions since 1990. In Greece, although 12 motions of no confidence were directed against the Government, none of them was successful. In Latvia, none of the 11 motions of no confidence directed against the Prime Minister or the entire Government was successful. In Italy, despite frequent crisis of the Government, none of them was caused by a successful vote of no confidence.<sup>108</sup>

77. French Governments have committed their responsibility 100 times since the 1958 Constitution came into force based on Article 49.3 of the Constitution. In 67 cases motions of censure were tabled by members of the National Assembly. The only motion which succeeded since the creation of the Fifth Republic was the one of October 1962.

78. In conclusion, motions of no confidence are an important and powerful instrument of the legislature to confirm the support, express disapproval with withdraw support to the executive branch of Government. Both collective and individual motions of no confidence are possible and are used in most countries. However, in the vast number of cases no confidence motions against a Prime Minister or a Government fail. In many countries, prime ministers faced with a no confidence vote seek to avoid a formal vote in the Parliament through pre-emptive resignation.

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<sup>108</sup> In one case a minister was dismissed after a vote of no confidence.

#### IV. Conclusion

79. Parliamentary systems are defined by the fact that the Government is responsible before Parliament: Government derives its legitimacy from Parliament and more precisely from its ability to command the latter's support ("confidence").

80. Most countries with a parliamentary system have regulated confidence relationships between Government and Parliament through motions of confidence and no confidence motions. One of the main instruments the executive can use to discipline its members and the members of the Parliament majority that supports the Government and thus secure the majority support is to raise a question of confidence in relation to the adoption of a legislative bill which if not granted may lead to the resignation of the Government, potential dissolution of the elected chamber and early elections. However, in the majority of the legal orders surveyed, such questions of confidence are not used often. A specific form of motion of confidence is the commitment of responsibility of the Government in relation to the adoption of a general policy or a specific bill.

81. In the States which have answered the questionnaire and where the vote of confidence may be combined the legislative process, the combination of the question of confidence and of the adoption of a specific bill mainly appears under four forms:

- Both the vote on the bill and the vote of confidence are taken, either jointly (Germany) or separately (Poland, Finland).
- The vote on the bill "absorbs" the vote of confidence: the Parliament must consider the adoption of such bill as a matter of confidence in the Government, and the confidence in the Government is the consequence of the adoption of the bill.
- The vote of confidence "absorbs" the vote on the bill: the vote of confidence in the Government entails the adoption of the bill. This appears to exist only in Armenia.
- No vote is necessary, either on the bill or of confidence: unless a motion of no confidence is submitted, the bill is adopted without a vote and even without deliberation. This exists in three Venice Commission member states: France, Romania and the Republic of Moldova.

82. In cases when the vote of confidence "absorbs" the vote on the adoption of the bill and in cases of commitment of the Government's responsibility, Parliament votes on its confidence in the Government rather than on the adoption of the bill: this entails that the bill becomes a law without having formally been voted by Parliament (or one of its chambers).

83. Questions of confidence and the commitment of the Government's responsibility are two key instruments which are used by Governments to force their majority to support them, under the sanction of Government resignation. They thus contribute to Government stability. They limit the Parliament's opportunities to control the executive, thus weakening the position of the Parliament within the parliamentary form of Government. In particular, questions of confidence linked to the adoption of a specific bill modify the power of the executive in the legislative process, as they restrict the power of the legislature to deliberate on the content of the draft law unless the Government is defeated in confidence vote procedures.