



Strasbourg, 20 February 2014

CDL-REF(2014)004

Opinion 731 / 2013

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT LAW

ON THE REVIEW

OF THE CONSTITUTION OF ROMANIA

**(as adopted by the Joint Committee
of the Chamber of Deputies and the Senate
for the revision of the Constitution)**

and

A N N E X E

DRAFT**THE PARLIAMENT OF ROMANIA****CHAMBER OF DEPUTIES****SENATE****LAW**
ON THE REVIEW OF THE CONSTITUTION OF ROMANIA

The Parliament of Romania hereby adopts the following law:

Single article.- The Constitution of Romania republished in the Official Journal, Part I, no. 767 of 31 October 2003, is amended and supplemented as follows:

1. Article 1, after paragraph (1), a new paragraph is introduced, par. (1¹), with the following content:

(1¹) Romania acknowledges the historic role in establishing and modernizing the Romanian State of the Orthodox Church and of the other religious denominations recognized by law, of the Royal House and of the national minorities.

2. Article 2, after paragraph (2), a new paragraph is introduced, par. (2¹), with the following content:

(2¹) Human dignity is the source of all fundamental rights and freedoms and is inviolable. All the forms of public authority shall respect/observe and protect human dignity.

3. Paragraph (3) of article 3 is amended and will have the following content:

(3) The territory is organized, from an administrative point of view, in communes, cities, counties and regions. Under the law, certain cities will be declared as municipalities.

4. After paragraph (3), a new paragraph is introduced, par. (3¹), with the following content:

(3¹) Through organic law traditional areas may be recognised as administrative subdivisions of the regions.

5. Article 4, paragraph (2), is amended and will have the following content:

(2) Romania is the common and indivisible homeland of all its citizens. Any discrimination based on sex, colour, ethnic or social origin, genetic characteristic, language, faith or religion, political opinions or of any kind, the belonging to a national minority, property, birth, disabilities, age or on any other situation, is forbidden.

6. Article 6, after paragraph (1), a new paragraph is introduced, par. (1¹), with the following content:

(1¹) The legal representatives of national minorities may establish, according to the status of national minorities approved by law, their own decision-making and executive bodies, having competences in relation to the right to preserve, develop and express their identity.

7. Article 6, after paragraph (2), a new paragraph is introduced, par. (2¹), with the following content:

(2¹) The decisions of central and local public authorities shall be taken, after consulting the citizens' organizations belonging to national minorities, with regard to the preservation, development and expression of their ethnic, cultural, linguistic and religious identity.

8. Article 7 is amended and will have the following content:

The State shall support the strengthening of links with the Romanians living abroad and shall act accordingly for the preservation, development and free expression of their ethnic, cultural, linguistic and religious identity, with the observance of the legislation of the State whose citizens they are or where they live, as well as with international law.

9. Article 10 is amended and completed and will have the following content:

(1) Romania maintains and develops peaceful relations with all the States and, in this framework, relations of good neighbourliness, and also with the other subjects of international law and takes action through its foreign policy to achieve the national interest, on the basis of mutual respect and in accordance with the principles of international law, with the international treaties it is party to and with the other generally accepted norms of international law.

(2) Romania is a Member State of the European Union.

10. Paragraph (1) of article 12 is modified and will have the following content:

(1) The Flag of Romania is tricolour, having on the yellow background the country's coat of arms; the colours are displayed vertically, in the following order starting from the flagpole: blue, yellow, red.

11. Article 12, after paragraph (4), a new paragraph is introduced, par. (4¹), with the following content:

(4¹) National minorities may freely use, in the public and private space, their own symbols which represent their ethnic, cultural, linguistic and religious identity.

12. Paragraph (1) of article 15 is amended and shall have the following content:

(1) The Romanian citizens are born and live free, they enjoy the rights and freedoms guaranteed and established by the Constitution and by other laws and have the obligations provided by them.

13. Paragraph (4) of article 16 is amended and shall have the following content:

(4) The citizens of the European Union who meet the requirements of the organic law have the right to elect and be elected to local public administration authorities.

14. Paragraphs (3) and (4) of article 21 are amended and shall have the following content:

(3) Parties are entitled to a fair trial and the solution of their cases within an optimal and predictable term.

(4) The special administrative jurisdictions are free of charge.

15. Paragraphs (4) and (8) of article 23 are amended and shall have the following content:

(4) Exceptionally and duly motivated, the criminal investigation and trial proceed with the deprivation of liberty of the person. Preventive custody is decided by the judge of the court competent to rule on the merits of the case, in accordance with the law and only in the course of the criminal proceedings, after indictment.

(8) The person administratively taken in, detained or arrested will be informed right away, in the language he/she understands, about the reasons of the administrative taking in, of the detention or of the arrest, and, in the shortest delay possible, the accusation against him/her is brought to his/her knowledge only in the presence of a lawyer, chosen or appointed.

16. In article 23 a new paragraph is introduced, paragraph 13¹, with the following content:

(13¹) It is forbidden to use illegally obtained evidence with the exception of evidence in favour of the accused.

17. Paragraph (2) of article 24 is amended and shall have the following content:

(2) In the entire course of the trial, the parties have the right to be assisted by a lawyer, chosen or appointed ex officio and be given the time and the necessary facilities to prepare the defence.

18. In article 24, after paragraph (2) a new paragraph is introduced, paragraph (2¹), with the following content:

(2¹) Throughout all the stages of criminal proceedings, the principle of equality of arms between prosecution and defence is guaranteed.

19. Article 26 is amended and shall have the following content:

The intimate, family, private life and the personal data

(1) The public authorities guarantee the right to an intimate, private and family life.

(2) The natural person has the right to dispose of one's own self, provided he/she does not encroach on others' rights and freedoms or on the public order.

(3) The public authorities guarantee the right to the protection of personal data and have the obligation to take measures to protect them.

(4) Compliance with paragraph (3) is submitted to the control of an autonomous authority.

20. Paragraph (3) of article 27 is amended and shall have the following content:

(3) The search is ordered by the judge from the court competent to rule on the merits of the case and is carried under the conditions and in the forms provided by law.

21. Article 28 is amended and shall have the following content:

(1) The secrecy of letters, telegrams, of other postal dispatches, of telephone calls, of other communications carried through electronic means, of traffic data, location data and other legal means of communication is inviolable and guaranteed.

(2) The retention, the handing over or the search of postal dispatches, the interception of calls and communications, technical surveillance in public and private spaces, the electronic

search and the access to an information system and to an information support system for data storage, obtaining electronic data, including the traffic and location data, the identification of the subscriber, owner or user of an electronic communication system or of an access point to an information system or other such techniques are ordered by a judge from the court competent to rule on the merits of the case and only during criminal proceedings.

22. Paragraph (4) of article 29 is amended and shall have the following content:

(4) Any forms, means, acts or actions of religious hatred are forbidden.

23. Paragraphs (3), (5), (7), and (8) of article 30 are amended and shall have the following content:

(3) The freedom of expression implies also the freedom to set up means of mass communication.

(5) The means of mass communication have the obligation to declare publicly the sources of their financing and the structure of their shareholding. The declaration procedure is established by law.

(7) The defamation of the country and of the nation, the profanation of the national flag, the urge to war and aggression, to national, racial, class and religious hate, the incitation to discrimination, to territorial separatism or public violence, as well as to obscene manifestations, against the public decency, are forbidden by law.

(8) Civil liability for the information or creation brought to public knowledge falls, as the case may be, upon the author, the person exercising editorial responsibility or to the means for mass communication, in accordance with the law. Press offences are established by law.

24. In article 31, after paragraph (2) a new paragraph is introduced, paragraph (2¹), with the following content:

(2¹) The draft normative acts to be adopted by public authorities and institutions, with the exception of those having an emergency character in accordance with the law, are submitted to public debate at least 30 days before adoption.

25. Paragraph (5) of article 31 is amended and shall have the following content:

(5) Public radio and television services and the public press agencies are autonomous. They shall guarantee to the important social and political groups the exercise of the right to broadcasting. The organisation of these services and press agencies, as well as the parliamentary oversight over their activity, are regulated by an organic law.

26. Article 32 is amended and shall have the following content:

"The right to education"

(1) The right to education is guaranteed, according to the law.

(2) The right to education is guaranteed, in accordance with the law, and is provided through pre-school education, mandatory general education, higher education, as well as through other forms of education, of vocational formation and of continuing formation.

(3) Education shall pursue the full development of human personality and the strengthening of the respect of human rights and fundamental freedoms.

(4) General education is carried out in the Romanian language. Under the law, education may also be carried out in a language of international circulation.

(5) The right of the persons belonging to national minorities to learn in their mother tongue and the right to be educated in this language are guaranteed; the means to exercise these rights are established by law.

(6) State education is free of charge, in accordance with the law. The State grants social scholarships to children and young people from disadvantaged families or institutionalised, as well as excellence scholarships, in accordance with the law.

(7) Education at all levels is carried out in State, private or confessional units, in accordance with the law, respecting quality standards in education for each level and form of education.

(8) University autonomy is guaranteed. University autonomy entails the capacity of higher education institutions to manage directly and unmediated their patrimony, to elect or, as the case may be, to appoint in an independent manner their management bodies and functions and to decide, in accordance with the law and quality standards, educational and research missions.

(9) The State ensures the freedom of religious education, according to the specific requirements of each denomination. In state schools, religious education is organized and guaranteed by law.

27. In article 33, after paragraph (1) a new paragraph is introduced, paragraph (1¹), with the following content:

(1¹) The national cultural heritage made up of the immovable cultural heritage, the mobile cultural heritage and the immaterial cultural heritage constitute the perennial element of the cultural heritage and of the national identity and are protected by law.

28. Paragraph (3) of article 33 is amended and shall have the following content:

(3) The State shall ensure the preservation of spiritual identity, the support of national culture, the stimulation of arts, the protection and conservation of cultural heritage, the development of contemporary creativity, the promotion of cultural and artistic values of Romania worldwide.

29. In article 33, after paragraph (3) a new paragraph is introduced, paragraph (3¹), with the following content:

(3¹) The State promotes the diversity of cultural expressions nationwide and encourages the intercultural dialogue.

30. In article 35, after paragraph (2) two new paragraphs are introduced, paragraphs (2¹) and (3¹), with the following content:

(2¹) The State ensures the protection, the sustainable use and the restoration of the natural heritage.

(3¹) The ill-treatment of animals, defined according to the law, is forbidden.

31. In article 37, after paragraph (2) a new paragraph is introduced, paragraph (2¹), with the following content:

(2¹) In the elections for the Senate, for the Chamber of Deputies and for the office of President may take part only the candidates who have had their domicile in Romania at least 6 months prior to the election date.

32. Article 38 is amended and shall have the following content:

The Romanian citizens have the right to elect and be elected in the European Parliament, in accordance with the law and with the provisions of the European Union Treaties.

33. Paragraph (2) of article 40 is amended and shall have the following content:

(2) The parties or the organisations which, through their goals or through their activity, militate against political pluralism, against the respect for fundamental human rights and freedoms, against the principles of the rule of law or against the sovereignty, integrity and independence of Romania are unconstitutional.

34. Paragraphs (2) and (4) of article 41 are amended and shall have the following content:

(2) The persons who carry out their activity on the grounds of a labour relation have the right to social protection measures. These refer to labour security and health, to women's and young people's labour regime, to the establishment of the national gross minimum wages, the weekly respite, the paid leave, the work in particularly special conditions, the professional training, as well as other specific situations, established by law.

(4) For equal work, women shall receive an equal remuneration with men.

35. Paragraph (1) of article 44 is amended and shall have the following content:

(1) The right to property, as well as the debts incurring on the State, are guaranteed. The debts incurring on the State have the same juridical regime as the payment of fiscal obligations, in accordance with the law.

36. Paragraph (1) of article 48 is amended and shall have the following content:

(1) The family is founded on the freely consented marriage of the spouses, their full equality, as well as the right and duty of the parents to ensure the upbringing, education and instruction of their children, with the observance of the principle of their superior interest.

37. Paragraphs (1) and (2) of article 49 are amended and shall have the following content:

(1) Children and young people shall enjoy special protection and assistance in the exercise of their rights, with the observance of the principle of their superior interest.

(2) The State grants allowances for children and benefits for the care of ill or children with disabilities. Other forms of social protection for children and young people shall be established by law.

38. Article 50 is amended and shall have the following content:

“Protection of persons with disabilities”

Persons with disabilities enjoy all the fundamental human rights and freedoms, under the conditions of the equality of opportunities. The State ensures the implementation of a national policy based on the equality of opportunities and of inclusion, prevention and treatment with a view to the effective participation of persons with disabilities in the life of the community, with the respect of the rights and duties incumbent on parents and tutors.

39. After article 51, a new article is introduced, art.51¹, with the following name and the following content:

“The right to a good administration”

Any person has the right to benefit, in his/her relations with the public administration, from an impartial, equitable treatment and to obtain, within a reasonable delay, an answer to his/her requests.

40. Paragraphs (1) and (3) of article 52 are amended and shall have the following content:

(1) The person prejudiced in his/her right or in a legitimate interest, by a public authority, through an administrative act or by non-replying, within a legal delay, to a request, is entitled to obtain the recognition of the claimed right or of the legitimate interest, the cancellation of the act and the reparation of the prejudice by an equitable compensation.

(3) The State has patrimonial liability for the damages caused by judicial errors. The State liability is established in accordance with the law and does not exclude the liability of the magistrates who exercised their mandate with ill-will or gross negligence. The State exercises the right of regress, in accordance with the law.

41. Paragraph (2) of article 53 is amended and shall have the following content:

(2) Such restriction shall only be ordered if necessary in a democratic society. The measure shall be proportional to the situation which caused it, shall be applied in a non-discriminatory manner, for a limited period of time ending as soon as the situation which caused it has ended and without infringing the existence of the right or freedom.

42. Article 55, after paragraph (3), a new paragraph is introduced, par.(3¹), with the following content:

(3¹) Romania is a Member State of the North Atlantic Treaty Organization.

43. Paragraph (1) of article 58 is amended and will have the following content:

(1) The Advocate of the People is an autonomous institution, with a role in the promotion and protection of rights and freedoms of the citizens, in their relations with public authorities.

44. Article 58, after paragraph (1), a new paragraph is introduced, par.(1¹), with the following content:

(1¹) The Advocate of the People is appointed for a 5-year term. The Deputies of the Advocate of the People are specialized in specific fields of activity. The mandate of the Advocate of the People ceases before this term in case of resignation, incompatibility with other public or private functions, impossibility to perform its duties for more than 90 days or in case of death.

45. Paragraph (2) of article 61 is amended and will have the following content:

(2) Parliament consists of the Senate and the Chamber of Deputies.

46. Paragraphs (1) and (3) of article 62 are amended and will have the following content:

(1) The Senate and the Chamber of Deputies shall be elected by universal, equal, direct, secret and free suffrage, in accordance with the electoral law.

(3) The number of Deputies cannot be more than 300. To this number are added the representatives of the citizens belonging to national minorities.

47. Paragraphs (1) and (2) of article 63 are amended and will have the following content:

(1) The Senate and the Chamber of Deputies shall be elected for a term of office of 4 years, which may be extended de jure in the event of a mobilization, war, siege, or emergency, until such event has ceased to exist.

(2) Elections to the Senate and the Chamber of Deputies shall be held within three months at the most of the expiry of the term of office or the Parliament dissolution.

48. Paragraphs (2) and (3) of article 64 are amended and will have the following content::

(2) Each Chamber shall elect its Standing Bureau. The President of the Senate and the President of Chamber of Deputies shall be elected for the Chambers' term of office. The other members of the Standing Bureaus shall be elected at the opening of each session. The members of the Standing Bureaus may be dismissed before the expiry of the term of office.

(3) Senators and Deputies may be organized into Parliamentary Groups, according to the Standing Orders of each Chamber.

49. In article 64, after paragraph (1), a new paragraph is introduced, par.(4¹), with the following content:

(4¹) Every public authority, every private legal person and every natural person has the obligation to stand, directly or by a legal representative, as the case may be, before a parliamentary committee, at the written invitation sent by it, with the exception of magistrates. The activity of the parliamentary committee cannot replace the judiciary bodies.

50. Paragraph (5) of article 64 is amended and will have the following content:

(5) The Permanent Bureaus and the parliamentary committees are formed according to the political configuration of each House as resulted from elections.

51. Paragraphs (1) and (2) of article 65 are amended and will have the following content:

(1) The Senate and the Chamber of Deputies shall meet in separate sittings.

(2) The Chambers may also meet in joint sittings, based on the regulations passed by a majority vote of the Senators and Deputies, in order:

- a) to receive the messages of the President of Romania;
- b) to suspend the term of office of the President of Romania;
- c) to approve the State budget and the State social security budget;
- d) to give the vote of confidence in the Government;
- e) to debate and vote on the censure motions;
- f) to engage the responsibility of the Government according to article 114 of the Constitution
- g) to approve the country's National Security Strategy;
- h) to declare total or partial mobilization;
- i) to declare a state of war;
- j) to suspend or terminate armed hostilities;
- k) to fulfil any other prerogatives which, in accordance with the Constitution, shall be exercised in a joint sitting.

52. Paragraphs (1) and (2) of article 66 are amended and will have the following content:

(1) The Senate and Chamber of Deputies shall meet in two ordinary sessions every year. The first session begins in February and is due to last by the end of June at the latest. The second session begins in September and is due to last by the end of December at the latest.

(2) The Senate and the Chamber of Deputies may also meet in extraordinary sessions, at the request of the President of Romania, the Standing Bureau of each Chamber or of at least one third of the number of Senators or Deputies.

53. Article 67 is amended and shall have the following content:

The Senate and Chamber of Deputies shall pass laws, and carry resolutions and motions, in the presence of the majority of their members.

54. After article 67, a new article is introduced, article 67¹, with the following name and the following content:

"Powers in the field of European Union's affairs"

(1) The Senate and the Chamber of Deputies verify the compliance with the principles of subsidiarity and proportionality of the legislative initiatives at European Union level according to the European Union constitutive treaties, as established by an organic law.

2) The Senate and the Chamber of Deputies are involved in the formulation of Romania's positions within the European Union decision-making process.

(3) In order to fulfil the functions provided under paragraphs (1) and (2), the Senate and the Chamber of Deputies adopt decisions, with the vote of the majority of the members present.

55. The denomination of Section II will be modified and have the following content:

"Statute of Deputies and Senators"

56. Paragraph (1) of article 69 is amended and will have the following content:

(1) In the exercise of their mandate Senators and Deputies shall be in the service of the people.

57. Paragraphs (1) and (2) of article 70 are amended and will have the following content:

"Term of office of Senators and Deputies"

(1) Senators and Deputies shall begin the exercise of their office on the day the Chamber whose members they are has lawfully met, on condition the election is validated and the oath is taken. The form of the oath shall be regulated by an organic law.

(2) The status of Senator and Deputy ceases:

- a) on the date of the legal reunion of the newly elected Houses;
- b) in case of resignation;
- c) in case of the loss of electoral rights;
- d) in case of incompatibility;

- e) on the date of the resignation from the political party or political formation on whose behalf he/she was elected or on the date of his/her enrolment in another political party or political formation;
- g) in case of death.

58. Paragraphs (1) and (2) of article 71 are amended and will have the following content:

- (1) No one may be a Senator and a Deputy at the same time.
- (2) The capacity as a Senator or Deputy is incompatible with the exercise of any public office in authority, with the exception of Government membership.

59. Article 72 is amended and will have the following content:

- (1) No Senator or Deputy shall be held judicially accountable for the votes cast or the political opinions expressed while exercising their office.
- (2) The Senators and the Deputies can be investigated and prosecuted for acts not related to their votes or political opinions expressed in the exercise of their office. The Senators and the Deputies cannot be searched, detained or arrested without the consent of the Chamber they belong to, which shall decide after their hearing.
- (3) If caught in the act, Senators and Deputies may be detained and searched. The Minister of Justice shall inform without delay the president of the Chamber in question on the detainment and search. If, after being notified, the Chamber in question finds there are no grounds for the detainment, it shall order the annulment of such a measure at once.

60. Paragraph (3) of article 73, letter e) is amended and will have the following content:

- e) the organisation of the Government and of the National Security Council;

61. Paragraph (3) of article 73, after letter i) four new letters are introduced, lett.i¹⁾ i²⁾ i³⁾ and i⁴⁾, with the following content:

- i¹⁾ the status of legal professions;
- i²⁾ the status of the National Bank of Romania;
- i³⁾ the organization and functioning of the Constitutional Court;
- i⁴⁾ the organization and functioning of the Court of Accounts;

62. Paragraphs (1) and (4) of article 74 is amended and will have the following content:

- (1) The legislative initiative belongs, as the case may be, to the Government, the Senators, the Deputies or to a number of at least 75,000 citizens having the right to vote. The citizens exercising their right to legislative initiative shall come from at least a quarter of the country's counties, and in each of these counties, the Bucharest municipality respectively, shall be registered at least 5,000 signatures in support of this initiative.
- (4) Senators, Deputies and citizens exercising the right of legislative initiative may present proposals only in the form required for bills.

63. Paragraphs (1) to (4) of article 75 is amended and will have the following content:

- (1) The bills and legislative proposals are notified for the debate and adoption of the Senate, as the first competent Chamber, with the exception of those bills and legislative proposals concerning the organization of the public local administration, the organization of the territory and the general regime of local autonomy, the bills and legislative proposals concerning the

ratification of treaties, including treaties concerning foreign loans, and the bills and legislative proposals meant to regulate the legislative measures resulting from the application of these treaties, which shall be notified to the Chamber of Deputies, as the first notified Chamber.

(2) The first Chamber notified shall decide within a delay of 30 days. For codes and highly complex bills, the delay is 45 days. If these delays are exceeded the bills and the legislative proposals are considered to be adopted.

(3) The Senate appoints or elects, as the case may be, according to the law or to its own Standing Orders:

- a) The People's Advocate;
- b) the president and vice-presidents of the Legislative Council;
- c) the counsellors of the Court of Accounts;
- d) the president of the Economic and Social Council;
- e) the directors of the intelligence services;
- f) the representatives of any other public authorities or institutions under the parliamentary oversight;

(4) The Senate exerts the control of the Parliament over all the authorities or public institutions listed at para.(3), according to its own Standing Orders.

64. Paragraph (5) of article 75 shall be abrogated.

65. Article 75, after para. (5), a new paragraph (5¹) is added, and will have the following content:

(5¹) In the case of legislative initiatives submitted for debate in the joint sittings of the Senate and the Chamber of Deputies, as well as in the case of the approval of the National Security Strategy, the Parliament will decide within a maximum delay of 6 months after notification.

66. Paragraph (1) of article 76 is amended and will have the following content:

(1) The organic laws, the laws that confine the exercise of certain rights and freedoms, under art. 53, as well as the decisions regarding the Standing Orders of the two Chambers are adopted with the vote of the majority of the members in each Chamber.

67. Article 76, after paragraph (2), a new paragraph is introduced, par.(2¹), with the following content:

(2¹) Legislative interventions on organic laws cannot be made through normative acts of a lower level.

68. Paragraphs (2) and (3) of article 77 are amended and will have the following content:

(2) Before promulgation, the President of Romania may return the law to Parliament for reconsideration, and he may do so only once.

(3) In case the President of Romania has requested that law be reconsidered or a review has been asked for as to its conformity with the Constitution, promulgation shall be made within ten days from receiving the law passed after its reconsideration, or the decision of the Constitutional Court confirming its constitutionality.

69. Article 78, a new paragraph is introduced, para. (1¹), with the following content:

(1¹) The access to the electronic version of the Official Gazette is free of charge and cannot be restricted.

70. Paragraphs (1) and (2) of article 80 are amended and will have the following content:

(1) The President of Romania is the head of the State, represents the Romanian State and is the guarantor of the national independence, of the unity and territorial integrity of the country.

(2) The President of Romania shall guard the observance of the Constitution and the proper functioning of the public authorities. To this effect, the President of Romania shall act as a mediator between the Powers in the State, as well as between the State and society.

71. The denomination of Article 81 will be modified and have the following content:

“Election of the President of Romania”

72. Paragraph (2) of article 82 is amended and will have the following content:

(2) The candidate whose election has been validated shall take before the Senate and the Chamber of Deputies, in a joint sitting, the following oath: "I solemnly swear that I will dedicate all my strength and the best of my ability for the spiritual and material welfare of the Romanian people, to abide by the Constitution and laws of the country, to defend democracy, the fundamental rights and freedoms of my fellow-citizens, Romania's sovereignty, independence, unity and territorial integrity. So help me God!"

73. Paragraph (1) of article 83 is amended and will have the following content:

(1) The mandate of the President of Romania is of 4 years and is exercised upon the date of taking the oath of allegiance.

74. Paragraph (1) of article 85 is amended and will have the following content:

(1) The President of Romania shall designate the candidate for the office of Prime Minister and appoint the Government on the basis of the vote of confidence of Parliament.

(2) In the event of government reshuffle or vacancy of office, the President of Romania shall dismiss and appoint, on the proposal of the Prime Minister, Government members, after the candidates are heard in the specialised committees of the Parliament.

(3) If, through the reshuffle proposal, the political structure or composition of the Government is changed, the President of Romania shall only be entitled to exercise the power stipulated under paragraph (2) based on the Parliament's approval, granted following the proposal of the Prime Minister.

75. Article 85, after paragraph (3) a new paragraph is introduced, par.(3¹), with the following content:

(3¹) The President of Romania cannot reject the proposal of the Prime Minister to revoke and appoint Government members.

76. Paragraph (1) of article 87 is amended and will have the following content:

(1) The President of Romania may participate in the meetings of the Government debating upon matters of national interest with regard to foreign policy, the defence of the country, ensurance of public order, and, at the Prime Minister's request, in other instances as well.¹

¹ The amendment is only relevant for the Romanian version.

77. Paragraph (1) of article 89 is amended and will have the following content:

(1) After consulting the presidents of the two Chambers and the presidents of the parliamentary political parties, formations or alliances, the President of Romania dissolves the Parliament, if it failed to give its vote of confidence for the investiture of the Government, within a delay of 60 days since the first notification and only after at least three requests for investiture were rejected.

78. Article 89, after paragraph (1) a new paragraph is introduced, paragraph (1¹), with the following content:

(1¹) The President of Romania also dissolves the Parliament in case a decision to this end is adopted with the vote of two thirds of the members in each Chamber.

79. Article 90 is amended and will have the following content:

(1) The President of Romania or at least 250,000 citizens with the right to vote may ask the people to express their will, by referendum, on issues of national interest, with the exception of those regarding the revision of the Constitution.

(2) The citizens who initiate the organization of the referendum shall come from at least half of the country's counties, and in each of these counties shall be registered at least 10,000 signatures for this initiative.

(3) The referendum is valid if at least 30 % of the number of persons registered in the electoral lists takes part in it.

80. Article 91, after paragraph (1), a new paragraph is introduced, par.(1¹), with the following content:

(1¹) The President represents Romania at the European Union meetings, having as topic the European Union foreign relations, the common security policy, the modification and completion of the European Union constitutive treaties.

81. The denomination and paragraph (1) of article 92 are amended and will have the following content:**“Powers in the field of national security”**

(1) The President of Romania is the Commander-in-Chief of the armed forces and fulfils the office of president of the National Security Council.

82. Paragraph (2) of article 92 is amended and will have the following content:

(2) He may declare, with prior approval of Parliament, partial or total mobilization of the Armed Forces. Only in exceptional cases shall the decision of the President of Romania be subsequently submitted for approval to Parliament, within five days of the adoption thereof.

83. In Article 92, after paragraph (4) four new paragraphs are introduced, paragraphs (5)-(8), with the following content:

(5) The President of Romania proposes to the Senate the candidates for the office of Director of the Romanian Intelligence Service and Director of the Foreign Intelligence Service.

(6) The President of Romania appoints the Head of the General Headquarters, at the proposal of the Minister of Defence, with the assent of the Prime Minister.

(7) In maximum 6 months from taking the oath of allegiance, the President of Romania sends to the Parliament the National Security Strategy.

(8) The President of Romania presents annually before the Parliament, a message on the state of the national security.

84. Paragraphs (1) to (3) of article 95 are amended and will have the following content:

(1) In case of having committed grave acts infringing upon constitutional provisions, the President of Romania may be suspended from office by the Senate and the Chamber of Deputies, in joint sitting, by a majority vote of Senators and Deputies, and after consultation with the Constitutional Court. The President of Romania may explain before Parliament with regard to imputations brought against him.

(2) The proposal of suspension from office may be initiated by at least one third of the number of Senators and Deputies, and the President of Romania shall be immediately notified thereof.

(3) If the proposal of suspension from office has been approved, a referendum shall be held within 30 days, in order to remove the President of Romania from office.

85. Article 95, after paragraph (3) a new paragraph is introduced, paragraph (3¹), with the following content:

(3¹) If the referendum for the removal from office is valid, but the proposal for removal does not have a majority of 50% plus one of the validly expressed votes, the Parliament will be dissolved, and early parliamentary elections shall be organized within 45 days. The provisions of art. 90 par.(3) shall apply accordingly.

86. Article 96 is amended and will have the following content:

(1) The Senate and the Chamber of Deputies may decide the impeachment of the President of Romania for high treason, in a joint session, based on the votes of at least two thirds of the number of senators and deputies.

(2) The impeachment proposal may be initiated by a majority of senators and deputies and shall, without further delay, be notified to the President of Romania, so that he can give explanations about the facts he is being held accountable for.

(3) From the impeachment date and up to the dismissal date, the President of Romania is under de jure suspension.

(4) The jurisdiction for judging such cases shall belong to the High Court of Cassation and Justice. The President of Romania shall be dismissed de jure on the date the court decree impeaching him is final.

87. Paragraph (1) of article 98 is amended and will have the following content:

(1) In case of vacancy in the office of President of Romania, or if the President is suspended from office or is temporarily incapable to exercise his powers, the interim shall devolve, in this order, on the President of the Senate or the President of the Chamber of Deputies.

88. Paragraph (2) of article 100 is amended and will have the following content:

(2) The decrees issued by the President of Romania in the exercise of his powers, as provided under Article 91 paragraphs (1) and (2), Article 92 paragraphs (2) and (3), Article

93 paragraph (1), and Article 94 subparagraphs a), b) and d) shall be countersigned by the Prime Minister.²

89. Paragraph (1) of article 102 is amended and will have the following content:

(1) The Government, according to its governing programme approved by Parliament, ensures the achievement of the country's domestic and foreign policy and exercises the general management of the public administration.

90. Article 102, after paragraph (3) a new paragraph is introduced, par.(3¹), with the following content:

(3¹) The Government ensures Romania's representation at the European Union meetings, with the exception of the provisions under art. 91 par.(1¹).

91. Paragraphs (1) and (3) of article 103 are amended and will have the following content:

(1) The President of Romania shall designate as a candidate for the office of Prime Minister the representative proposed by the political party, the political alliance respectively, which took part in elections, which obtained the highest number or parliamentary mandates, according to the official result in elections. If there are several political formations which took part in elections and which obtained the same number of mandates, the President of Romania nominates as a candidate for the office of Prime Minister the representative proposed by the political party, the political alliance respectively, which took part in elections, which obtained the highest number of votes, according to the official result in elections.

(3) The programme and list of the Government shall be debated upon by the Senate and the Chamber of Deputies, in joint sitting. Parliament shall grant confidence to the Government by a majority vote of the Senators and Deputies.

92. Article 103, after paragraph (3) three new paragraphs are introduced, par.(3¹) - (3³), with the following content:

(3¹) In the case when the candidate for the office of Prime Minister relinquishes his/her mandate, does not come before the Parliament for the vote of confidence within the delay set or does not obtain the vote of confidence, the President of Romania nominates as a candidate for the office of Prime Minister the representative proposed by the political party, the political alliance respectively, which obtained the second highest number of parliamentary mandates, according to the official result in elections.

(3²) In the case when the second candidate for the office of Prime Minister relinquishes his/her mandate, does not come before the Parliament for the vote of confidence within the delay set or does not obtain the vote of confidence, the President of Romania nominates as a candidate for the office of Prime Minister the representative proposed by a coalition of parliamentary political formations, which gather together the absolute majority of parliamentary mandates, according to the official result in elections.

(3³) In the case when the third candidate for the office of Prime Minister relinquishes his/her mandate, does not come before the Parliament for the vote of confidence within the delay set or does not obtain the vote of confidence, the President of Romania will dissolve the Parliament.

93. Paragraph (1) of article 104 is amended and will have the following content:

² The amendment is only relevant for the Romanian version.

(1) The Prime Minister, the Ministers and other members of the Government shall individually take an oath before the President of Romania, as provided under Article 82.³

94. Article 107 is amended and will have the following content:

“Prime Minister”

(1) The Prime Minister shall direct Government actions and co-ordinate activities of its members, with the observance of the powers and duties incumbent on them. Likewise, he shall submit to the Senate or the Chamber of Deputies reports and statements on Government policy, to be debated with priority.

(2) The President of Romania cannot dismiss the Prime Minister.⁴

(3) If the Prime Minister finds himself in one of the situations stipulated under Article 106, except for him being dismissed, or if it is impossible for him to exercise his powers, the President of Romania shall designate another member of the Government as Acting Prime Minister, in order to carry out the powers of the Prime Minister, until a new Government is formed. The interim, during the Prime Minister's impossibility to exercise the powers of the said office, shall cease if the Prime Minister resumes his activity within the Government.⁵

(4) Provisions under paragraph (3) shall apply accordingly to the other members of the Government, on proposal by the Prime Minister, for a period of 45 days, at the most.⁶

95. After article 107, a new article is introduced, art.107¹, with the following name and the following content:

“Powers in the field of national security”

The Prime Minister is the vice-president of the National Security Council.

96. Paragraph (4) of article 108 is amended and will have the following content:

(4) Decisions and ordinances adopted by the Government shall be signed by the Prime Minister, countersigned by the Ministers who are bound to carry them into execution, and shall be published in the Official Gazette of Romania. Non-publishing entails non-existence of a decision or ordinance. Decisions of a military character shall be conveyed only to the institutions concerned.⁷

97. Paragraph (2) of article 109 is amended and will have the following content:

(2) Only the Senate, the Chamber of Deputies and the President of Romania have the right to demand legal proceedings to be taken against members of the Government for acts committed in the exercise of their office. If such legal proceedings have been requested, the President of Romania may decree that they be suspended from office. Institution of proceedings against a member of the Government entails his suspension from office. The case shall be within the competence of the High Court of Cassation and Justice.

98. Paragraph (1) of article 110 is amended and will have the following content:

(1) The Government exercises its mandate until the date of the investiture of the new Government.

³ The amendment is only relevant for the Romanian version.

⁴ The amendment is only relevant for the Romanian version.

⁵ The amendment is only relevant for the Romanian version.

⁶ The amendment is only relevant for the Romanian version.

⁷ The amendment is only relevant for the Romanian version.

99. Paragraph (1) of article 111 is amended and will have the following content:

(1) The Government and the other bodies of public administration shall be obliged, within the parliamentary control over their activity, to present the information and documents requested by the Senate, the Chamber of Deputies or parliamentary committees, through their respective presidents. In case a legislative initiative involves the amendment of the provisions of the State budget, or of the State social security budget, the request for information shall be compulsory.

100. Paragraph (2) of article 112 is amended and will have the following content:

(2) The Senate or the Chamber of Deputies may carry a simple motion expressing their position as to a matter of domestic or foreign policy or, as the case may be, a matter having been the subject of an interpellation.

101. Paragraphs (1), (2) and (4) of article 113 are amended and will have the following content:

(1) The Senate and the Chamber of Deputies, in joint sitting, may withdraw the confidence given to the Government by adopting a motion of censure, with the vote of the majority of Senators and Deputies.

(2) The motion of censure may be initiated by at least one fourth of the total number of Senators and Deputies, and shall be notified to the Government upon the date of its tabling.

(4) If the motion of censure fails to be passed, the Senators and the Deputies who signed it may not submit another one during the same session, except for the case the Government assumes responsibility in conformity with Article 114.

102. Paragraph (1) of article 114 is amended and will have the following content:

(1) The Government, only once in the course of a parliamentary session, can engage its responsibility before the Senate and the Chamber of Deputies, in joint sitting, on a programme, a statement of general policy or a draft law.

103. Paragraph (6) of article 115 is amended and will have the following content:

(6) The emergency ordinances cannot be adopted in the field of constitutional laws or regarding the regime of crimes, punishments and their enforcement, they cannot affect the regime of the State fundamental institutions, the rights, freedoms and duties provided by the Constitution, the electoral rights and they cannot regard measures on the forced transfer of assets into public property.

104. Article 119 is amended and will have the following content:**"National Council of Security"**

(1) The National Council of Security organizes and unitarily coordinates the activities regarding the national security, participation in maintaining the international security and collective defence within the systems of military alliance, as well as actions of peacekeeping and peacemaking.

(2) The National Council of Security issues decisions which are mandatory for the authorities of public administration and public institutions.

(3) The National Council of Security, annually or whenever is required, submits to the Parliament reports on its activity.

105. After article 119, a new section shall be introduced **SECTION 1¹** entitled “**Central Public Administration in the Territory**” made up of article 119¹ – The Prefect and the Sub-prefect with the following content:

“Secțiunea 1¹
Central Public Administration in the Territory”

“Art.119¹.
The Prefect and the Sub-prefect”

- (1) The Government nominates in the administrative-territorial units, prefects and sub-prefects according to the law.
- (2) The Prefect and Sub-prefect are the representatives of the Government at local level and they manage the de-concentrated public services (translator’s note: directorates, inspectorates, agencies) of ministries and of the other bodies of central public administration within the administrative-territorial units.
- (3) The Prefect and Sub-prefect’s attributions are settled according to the organic law.
- (4) Between the Prefects and Sub-prefects, on the one hand, local councils, mayors, county councils and their Chairmen, as well as regional councils and their chairmen, on the other, there is no subordination.
- (5) The Prefect can challenge in the Court of Administrative Justice an act of the regional, county or local council, of the county council Chairman or of the Mayor in the case he or she considers the act illegal. The act challenged can only be suspended by the competent court according to the law.

106. **Paragraph (1) of Art 120 is amended and will have the following content:**

- (1) The public administration of the territorial administrative units is based on the principles of decentralization, local autonomy and de-concentration of public services. Decentralization of public services is achieved, with the observance of the subsidiarity principle, by wholly ensuring the necessary financial resources for exercising, under good conditions, the transferred competences.

107. **Article 122 is amended and will have the following content:**

“County and Regional Authorities”

- (1) The County Council and its Chairman represent the authority of public administration for coordinating the activity of the city councils and communal councils in order to achieve the public services in the interest of the county.
- (2) The Regional Council and its Chairman represent the authority of public administration for coordinating the activity of the county councils in order to achieve the public services in the interest of the region.
- (3) The County Council and the Regional Council are elected and function according to the law.
- (4) The Chairman of the County Council and Chairman of the Regional Council are elected and perform their duties according to the law.

108. **Article 123 is abrogated.**

109. Paragraph (4) of Article 126 is amended and will have the following content:

(4) The composition and the organization of the High Court of Cassation and Justice, as well as its functioning rules, shall be established by its organic law.

110. The introductory part and letter b) of paragraph (2) of Article 133 is amended and will have the following content:

“(2) The Superior Council of Magistracy is composed of 21 members, of whom:

b) 4 representatives of the civil society, specialists in law, who enjoy high professional and moral reputation, elected by the Senate; they only participate in plenary sessions;”

111. Paragraphs (3) and (4) of Article 133 are amended and will have the following content:

(3) The president of the Superior Council of Magistracy shall be elected for a one year’s term of office, which cannot be renewed, from among the judges listed in paragraph (2) letter a).

(4) The term of office of the Superior Council of Magistracy members is of 4 years.

112. In Article 133, after paragraph (4) a new paragraph (4¹) shall be introduced, with the following content:

(4¹) The magistrates elected as members of the Superior Council of Magistracy are revoked by the general assemblies of the Courts or of the Prosecutor’s Offices they represent, according to the special law for organization and functioning.

113. Paragraph (1) of Article 134 is amended and shall have the following content:

(1) The sections of the Superior Council of Magistracy shall propose to the President of Romania the appointment of judges and public prosecutors, except for the trainees, according to the law. The Section of judges of the Superior Council of Magistracy shall deal exclusively with the professional career of judges, while the Section of prosecutors of the Superior Council of Magistracy shall deal exclusively with the professional career of prosecutors. The decisions of the sections can be challenged directly at the High Court of Cassation and Justice.

114. Paragraph (2) of Article 135 is amended and will have the following content:

(2) The State guarantees and promotes the competitiveness increase of the Romanian economy, through:

a) freedom of economic activities, protection of fair competition, protection of consumers, provision of a favourable framework in order to stimulate and capitalize every factor of production;

b) protection of national interests in economic, financial and currency activity;

c) stimulation of national scientific and technological research, arts, and protection of copyright;

d) exploitation of production resources using maximum economic efficiency conditions and granting non-discriminatory access to all interested persons;

e) economic development, by respecting the environmental protection rules and preserving the ecological balance;

f) creation of all necessary conditions so as to increase the quality of life;

g) implementation of regional development policies in compliance with the objectives of the European Union.

115. After Article 137, a new article will be introduced, Article 137¹ having the following denomination and content:

“National Currency and Central Bank

(1) The National Bank of Romania is the Central Bank of the Romanian State, an autonomous public authority, whose prerogatives; administration; and functioning are regulated by law; according to the international law norms, resulted from the treaties which Romania is part to.

(2) By exercising its prerogatives, the National Bank of Romania cannot require or receive instructions from any other State authority or institution.

(3) The Central Bank has the right to issue currency on the territory of Romania.

(4) According to the constitutive treaties and legislative acts of the European Union, the following can be regulated by organic law:

- a) transfer of prerogatives from the National Bank of Romania to the European Central Bank;
- b) acknowledgement of the circulation and replacement of the national currency with the Euro currency.”

116. Paragraphs (1) and (2) of Article 138 is amended and will have the following content:

(1) The national public budget shall comprise the State budget, the State social security budget and the local budgets of communes, towns, counties and regions.

(2) The Government shall annually or multi-annually draft the State budget and the State social security budget, which shall be sent to the institutions of the European Union, after informing the Parliament on their content.

117. Paragraphs (3) – (6) of Article 140 are amended and will have the following content:

(3) At the request of the Senate or the Chamber of Deputies, the Court of Audit shall check the management of public resources, and report on its findings.

(4) Audit advisers shall be appointed by the Senate for a term of office of 9 years, which cannot be extended or renewed. Members of the Court of Audit shall be independent in exercising their term of office and irremovable throughout its duration. They shall be subject to the incompatibilities the law stipulates for judges.

(5) The Court of Audit shall be renewed with one third of the audit advisers appointed by the Senate, every 3 years, under the terms stipulated by the organic law of the Court.

(6) The Senate shall be entitled to revoke the members of the Court of Audit, in the instances and under the terms stipulated by the law.

118. Paragraph (3) of Article 142 is amended and will have the following content:

(3) Three judges shall be appointed by the Senate, three by the Chamber of Deputies, and three by the President of Romania.

119. Article 146 letter b) and e) are amended and will have the following content:

b) to adjudicate on the constitutionality of treaties or other international agreements, *ex officio* or upon notification by one of the presidents of the two Chambers; a number of at least 25 senators or at least 50 deputies;

e) to solve legal disputes of a constitutional nature between public authorities, at the request of the President of Romania, one of the presidents of the two Chambers, the Prime Minister, or of the president of the Superior Council of Magistracy;⁸

120. Letter l) of Article 146 is abrogated.

121. The denomination of the Title VI is amended and will have the following content:

“Membership of Romania to the European Union and the North-Atlantic Treaty Organization”

122. Paragraphs (1) and (2) of Article 148 are amended and will have the following content:

(1) Ratification of the treaties which modify or complete the constituent treaties of the European Union, as well as the treaties which modify or complete the North Atlantic Treaty, is done by a law adopted in the joint sitting of the Senate and the Chamber of Deputies, with the vote of two thirds of the number of Senators and Deputies.

(2) Within its national legal order, Romania ensures the observance of the European Union law, according to the obligations assumed by the Accession Act and the other treaties signed within the Union.

123. Article 149 is abrogated.

124. Paragraph (1) of Article 150 is amended and will have the following content:

(1) Revision of the Constitution may be initiated by the President of Romania on the proposal of the Government, by at least one quarter of the number of Senators or Deputies, as well as by at least 500,000 citizens with the right to vote.

125. Paragraphs (1) and (2) of Article 151 are amended and will have the following content:

(1) The draft or proposal of revision must be adopted by the Senate and the Chamber of Deputies, by a majority of at least two thirds of the members of each Chamber.

(2) If no agreement can be reached by a mediation procedure, the Senate and the Chamber of Deputies shall decide thereupon, in joint sitting, by the vote of at least three quarters of the number of Deputies and Senators.

126. Paragraph (3) of Article 151 is amended and will have the following content:

(3) The revision shall be final after the approval by a referendum held within 30 days of the date of passing the draft or proposal of revision. The provisions of the paragraph (3) of the Article 90 shall apply accordingly.

127. Paragraph (2) of Article 154 is amended and will have the following content:

(2) The Legislative Council shall examine, within 3 months of the date of coming into force of the law for revising the Constitution, the compliance of legislation with this Constitution and shall accordingly advance proposals to Parliament or to the Government, as the case may be.

⁸ The amendment is only relevant for the Romanian version.

128. Paragraphs (4) – (6) of Article 155 are abrogated.

This law is adopted by the Senate in its sitting of, in accordance with the provisions of Article 151 paragraph (1) of the republished Constitution of Romania.

The President of the Senate,

George Crin Laurențiu Antonescu

This law is adopted by the Chamber of Deputies in its sitting of, in accordance with the provisions of Article 151 paragraph (1) of the republished Constitution of Romania.

The President of the Chamber of Deputies,

Valeriu Ștefan Zgonea

ANNEXE**ROUMANIE
COUR CONSTITUTIONNELLE****Dossier n° 95 A/2014****I. MINUTE****II. Séance du 16 février 2014**

I. À l'unanimité, constate que la proposition législative de révision de la Constitution a été lancée dans le respect des dispositions de l'article 150, paragraphe (1) de la Constitution.

II. Puisqu'elle méconnaît les limites de la révision prévue à l'article 152 de la Constitution:

1. **à la majorité**, constate l'inconstitutionnalité du complément à l'article 3 de la Constitution avec un nouveau paragraphe (3¹), concernant la possibilité de reconnaître les zones traditionnelles comme subdivisions administratives des régions;
2. **à la majorité**, constate l'inconstitutionnalité du complément à l'article 6 de la Constitution avec un nouveau paragraphe (1¹), concernant l'introduction de la possibilité des représentants légaux des minorités nationales d'établir, selon le statut des minorités nationales adopté par la loi, des organes propres de prise de décision et exécutifs;
3. **à la majorité**, constate l'inconstitutionnalité du complément à l'article 12 de la Constitution avec un nouveau paragraphe (4¹), concernant l'utilisation des symboles propres des minorités nationales;
4. **à l'unanimité**, constate l'inconstitutionnalité de la modification apportée à l'article 15, paragraphe (1) de la Constitution, concernant l'introduction des termes «*les citoyens roumains sont nés et vivent libres*»;
5. **à l'unanimité**, constate l'inconstitutionnalité de la modification apportée à l'article 21, paragraphe (4) de la Constitution, concernant l'élimination du caractère facultatif des juridictions administratives spéciales;
6. **à l'unanimité**, constate l'inconstitutionnalité du complément apporté à l'article 23 de la Constitution avec un nouveau paragraphe (13¹), concernant l'utilisation des éléments de preuve obtenus illégalement;
7. **à l'unanimité**, constate l'inconstitutionnalité de la modification apportée à l'article 26, paragraphe (2) de la Constitution, concernant l'élimination des termes «*les bonnes mœurs*»;
8. **à la majorité**, constate l'inconstitutionnalité de la modification apportée à l'article 28 de la Constitution, concernant le secret de la correspondance;
9. **à la majorité**, constate l'inconstitutionnalité du complément apporté à l'article 32, paragraphe (8) de la Constitution, concernant la définition de l'autonomie universitaire;
10. **à la majorité**, constate l'inconstitutionnalité du complément à l'article 37 de la Constitution avec un nouveau paragraphe (2¹), concernant la condition du domicile en Roumanie au moins 6 mois avant l'élection pour le Sénat, la Chambre des Députés pour la fonction de Président de la Roumanie;
11. **à l'unanimité**, constate l'inconstitutionnalité de l'élimination de l'actuelle deuxième phrase de l'article 44, paragraphe (1) de la Constitution, concernant les conditions et les limites du droit de propriété;
12. **à l'unanimité**, constate l'inconstitutionnalité de la modification apportée à l'article 50 de la Constitution, concernant la suppression de la protection spéciale dont bénéficient les personnes handicapées;

13. **à l'unanimité**, constate l'inconstitutionnalité de la modification apportée à l'article 52, paragraphe (1) de la Constitution, concernant l'élimination de la réparation intégrale du préjudice subi par la personne lésée par une autorité publique;
14. **à l'unanimité**, constate l'inconstitutionnalité du remplacement des termes « personnes physiques » avec le terme « citoyens » dans le contenu de l'article 58, paragraphe (1) de la Constitution;
15. **à la majorité**, constate l'inconstitutionnalité du complément à l'article 58, paragraphe (1) de la Constitution avec les termes « dans leurs relations avec les autorités publiques »;
16. **à la majorité**, constate l'inconstitutionnalité du complément à l'article 64 avec un nouveau paragraphe (4¹), concernant l'obligation des personnes de droit public, des personnes morales privées et des personnes physiques de se présenter, directement ou par représentant légal, le cas échéant, devant une commission parlementaire;
17. **à la majorité**, constate l'inconstitutionnalité du complément à l'article 70, paragraphe (2), point (e) concernant la cessation de la fonction de député ou de sénateur à la date de sa démission du parti politique ou de la formation politique de la part de laquelle il avait été élu ou à la date de son inscription dans un autre parti ou dans une autre formation politique;
18. **à l'unanimité**, constate l'inconstitutionnalité de l'élimination des deuxième et troisième phrases du paragraphe (2) de l'article 72 concernant la compétence du Parquet d'auprès la Haute Cour de Cassation et de Justice de poursuite et renvoi en jugement, respectivement la compétence de jugement de la Haute Cour de Cassation et Justice en ce qui concerne les sénateurs et les députés;
19. **à la majorité**, constate l'inconstitutionnalité de la modification apportée à l'article 103, paragraphes (1) et (3) de la Constitution, ainsi que du complément à l'article 103 de la Constitution avec trois nouveaux paragraphes (3¹)-(3³), concernant la modalité de nomination par le Président de la Roumanie du candidat au poste de Premier ministre;
20. **à l'unanimité**, constate l'inconstitutionnalité de la modification apportée à l'article 110, paragraphe (1) de la Constitution, concernant la durée du mandat du Gouvernement;
21. **à l'unanimité**, constate l'inconstitutionnalité de l'introduction du paragraphe (2) dans le contenu de l'article 119 de la Constitution, concernant le caractère obligatoire des décisions du Conseil National de Sécurité;
22. **à la majorité**, constate l'inconstitutionnalité de la modification de la partie introductive et du point b) du paragraphe (2) de l'article 133, concernant l'augmentation du nombre des membres du Conseil Supérieur de la Magistrature représentants de la société civile;
23. **à l'unanimité**, constate l'inconstitutionnalité de la modification de l'article 135, paragraphe (2), point d), concernant l'exploitation des ressources de production dans des conditions d'efficacité économique maximale et avec l'octroi de l'accès non discriminatoire de tous ceux intéressés;
24. **à l'unanimité**, constate l'inconstitutionnalité de la modification de l'article 135, paragraphe (2), point e), concernant le développement économique dans les conditions de la protection de l'environnement et du maintien de l'équilibre écologique;
25. **à l'unanimité**, constate l'inconstitutionnalité de l'abrogation du point l) de l'article 146 de la Constitution dans la mesure où celui-ci n'est pas accompagné par la constitutionnalisation, correctement, des attributions de la Cour Constitutionnelle de contrôle de la loi de révision de la Constitution adoptée par le Parlement et, respectivement, de contrôle de la constitutionnalité des décisions de la Chambre des Députés, des décisions du Sénat et des décisions des deux Chambres réunies du Parlement affectant des valeurs, règles et principes constitutionnelles ou, le cas échéant, l'organisation et le fonctionnement des autorités et institutions constitutionnelles.
26. **à l'unanimité**, constate l'inconstitutionnalité de la modification de l'article 148, paragraphe (2), selon lequel la Roumanie assure le respect, dans le cadre de l'ordre juridique national, du droit de l'Union Européenne, conformément aux obligations

assumées par l'acte d'adhésion et par les autres traités signés dans le cadre de l'Union.

III. À l'unanimité, soumet au Parlement les observations concernant:

1. L'élimination:

- du paragraphe (2¹), proposé à être introduit à l'article 2;
- de la modification proposée à l'article 21, paragraphe (3);
- de la modification proposée en ce qui concerne l'introduction de la deuxième phrase à l'article 23, paragraphe (4);
- de la modification proposée à l'article 27, paragraphe (3);
- de la modification proposée à l'article 49, paragraphe (1);
- de la troisième phrase du paragraphe (1¹) proposé à être introduit à l'article 58;
- de la modification de l'article 62, paragraphe (3);
- de la modification proposée à l'article 76, paragraphe (1);
- du paragraphe (3), proposé à être introduit à l'article 90;
- de l'article 95, paragraphe (3¹), deuxième phrase;
- de l'article (4¹) proposé à être introduit à l'article 133;
- de l'article 151, paragraphe (3), deuxième phrase.

2. La reformulation des propositions de modification de: l'article 23, paragraphe (4) concernant l'introduction de la première phrase, l'article 23, paragraphe (8), l'article 24, paragraphes (2) et (2¹), l'article 31, paragraphe (5), titre marginal de l'article 32, l'article 32, paragraphes (2) et (4), l'article 40, paragraphe (2), l'article 51¹, l'article 52, paragraphe (3), l'article 65, paragraphe (2), l'article 73, paragraphe (3), l'article 74, paragraphe (1), l'article 75, l'article 78, paragraphe (1¹), l'article 85, paragraphe (3¹), l'article 89, paragraphe (1), l'article 90, paragraphe (1), l'article 91, paragraphe (1¹), l'article 95, paragraphe (3¹), première phrase, l'article 102, paragraphe (3¹), l'article 114, paragraphe (1), l'article 119, paragraphe (1), l'article 122, paragraphes (1) et (2), 133, paragraphe (3), 133 paragraphe (4), l'article 137¹, l'article 138, paragraphes (1) et (2), l'article 140, paragraphes (3), (4) et (6), l'article 146, point b) et l'article 148, paragraphe (1).

3. Le réexamen du placement:

- du paragraphe (2) de l'article 10 dans la structure du Titre VI de la Constitution;
- du paragraphe (2¹) de l'article 24 dans la structure de l'article 21 de la Constitution;
- des paragraphes (1) et (3) de l'article 32 dans la structure d'un nouvel article de la Constitution;
- du paragraphe (3¹) de l'article 55 dans la structure du Titre VI de la Constitution;
- des paragraphes (2), (3) et (4) de l'article 75 dans la structure d'un nouvel article de la Constitution.

4. Le réexamen de la solution législative concernant la modification de l'article 126, paragraphe (4) et de l'article 134, paragraphe (1) de la Constitution.

IV. À la majorité, soumet au Parlement les observations concernant:

1. L'élimination:

- du paragraphe (1¹) proposé à être introduit à l'article 1;
- du paragraphe (2¹) proposé à être introduit à l'article 6;
- de la deuxième phrase du paragraphe (5) de l'article 119¹ qui est proposé à être introduit dans la Constitution.

2. La reformulation du complément à l'article 35 avec un nouveau paragraphe (3¹), et de la modification de l'article 44, paragraphe (1), deuxième phrase de la Constitution.

V. À l'unanimité, soumet au Parlement les observations concernant le complément à l'article 155 de la Constitution pour l'introduction de règles transitoires concernant le mandat des membres du Conseil Supérieur de la Magistrature.

VI. À la majorité, constate que les dispositions de la proposition législative sur la révision de la Constitution relative à la modification de l'article 61, paragraphe (2), de l'article 64, paragraphe (3) et de l'article 80, paragraphe (1), ainsi que l'introduction de l'article 107¹ dans la Constitution ne sont pas contraires aux dispositions constitutionnelles.

VII. À l'unanimité, constate que les autres dispositions de la proposition législative sur la révision de la Constitution ne sont pas contraires aux dispositions constitutionnelles.

Définitive et généralement obligatoire.

La décision est communiquée aux présidents des deux Chambres du Parlement de la Roumanie et est publiée au Moniteur officiel de la Roumanie, Partie I.

President

Augustin Zegrean

Judges

Valer Dorneanu

Toni Greblă

Petre Lăzăroiu

Mircea Ștefan Minea

Daniel Marius Morar

Mona-Maria Pivniceru

Puskás Valentin Zoltán

Tudorel Toader

Premier magistrat-assistant,

Marieta Safta

Magistrat-assistant en chef

Senia Mihaela Costinescu

Magistrat-assistant en chef

Benke Károly

Magistrat-assistant

Valentina Bărbățeanu

Magistrat-assistant

Ramona Daniela Marițiu