

SOME CONSIDERATIONS REGARDING THE LEGAL NATURE OF THE CONSTITUTIONAL COURT OF ROMANIA*

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ABSTRACT: *According to Article 147 paragraph 1 of the revised Romanian Constitution, the provisions of law and of the ordinances in force as well as the provisions of the regulations determined as unconstitutional, shall cease their legal effects within 45 days of the publication of the Constitutional Court Decision, if within this time the Parliament or the Government, where appropriate, does not agree with the articles of the Constitution.*

These provisions found to be unconstitutional are suspended during those 45 days. This case of power subjugation of the two authorities is exceeded in content only by Article 147 paragraph 2 of the Constitution which requires the Parliament, in cases of unconstitutionality of laws before their promulgation, namely in the previous control procedure, to review the related provisions and to bring them into line with the Constitutional Court Decision.

In an article published in the Review of Public Law no. 1/2004, professor Tudor Drăganu, concerned about the excessive powers conferred to the Constitutional Court through the Constitution revision, stated that "nowhere in Europe such Courts (Tribunals) receive the power to issue such instructions to the Parliament in order to force the Parliament to legislate the way they dictate"¹. In the light of these findings, the professor wondered, whether we could say that the Parliament is the supreme representative body of the people and the sole legislative authority of the country?

Consequently, taking into account all the extraordinary powers entrusted to this Court, has this Court become, if not a superpower, at least the fourth power in state?

This constitutional exaggeration must be settled by placing on the revision course the constitutional waters within their riverbeds, the respect and balance between the separations of the legitimate powers of the state.

KEYWORDS: *Constitutional court, rule of law, Constitutionality control, Parliament, Romanian Constitution*

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¹ See Tudor Drăganu, "Efectele juridice ale deciziilor Curţii Constituţionale în lumina prevederilor Constituţiei revizuite", in the Review of Public Law no. 1/2004, p. 95.