

COMPARATIVE ASPECTS REGARDING THE CONSTITUTIONAL MONARCHY AND THE PARLIAMENTARY REPUBLIC, IN THE EUROPEAN DEMOCRATIC STATES - THE CASE OF SPAIN AND ITALY

Luciana BEZERIȚĂ (TOMESCU), PhD Lecturer

Athenaeum University, Bucharest, Romania

luciana.tomescu@gmail.com

Abstract: *In this article we aim to capture some resemblances and differences between European democratic monarchies and parliamentary republics, resorting to the comparative method of their Constitutions, in the case of Spain, a parliamentary monarchy, and of Italy, a parliamentary republic. As we know, in European states characterized by a parliamentary political regime, monarchies or republics, considerable importance is granted to the Parliament, and the head of state, the Monarch, is appointed by hereditary criteria and the President is, as a rule, elected by the Parliament. In most cases, the Parliament is bicameral in order to ensure a counterbalance aimed at ensuring the balance within the legislative power, and the Government is headed by a prime minister and is accountable to Parliament, which can withdraw the confidence it has vested in, if it assesses that he does not fulfill the mandate. Out of the constitutional elements under analysis, we will notice a series of characteristics common to states with a parliamentary regime, regardless of their form of government, monarchy or republic, but also some differences of substance or only hue, generated by historical, traditional or cultural considerations, which, of course, could be highlighted in more detail by extending the law-based analysis, without being limited to it. Moreover, like all European constitutional democracies, the analysed states have their constitutional text based on the values, principles and standards common to the European Administrative Space, recognized in the doctrine as “an evolutionary process of convergence.”*

Keywords: *form of government, political regime, parliamentary monarchy, parliamentary republic*

JEL Classification: *K10*

Introduction

In democratic constitutional systems, in the European states, regardless of the **form of government**, i.e. *monarchy* or *republic*, the head of state, *the monarch* or *the president*, represents *the state*. The manner of appointing the head of state is the main criterion for defining the *form of government* and the *political regime* of a country. In the European **constitutional monarchies**, the fundamental principle of “*the rule of law*” is enshrined as an act of the Parliament, and the head of state, *the monarch*, is designated by hereditary criteria for life (Apostol Tofan, 2008).

The following Member States of the European Union are recognized as *constitutional monarchies*: Belgium, Denmark, Luxembourg, the Netherlands, United Kingdom, Spain, Sweden (Wikipedia, *List of countries by system of government*). According to the criterion of *election of the head of state* and his *attributions*, **republics** can be classified in: **parliamentary republics**, in which the President is elected by the Parliament, **presidential and semi-presidential republics** in which the President is elected by popular vote (Apostol Tofan, 2008, p. 19).

In the European **parliamentary republics**, the power of Parliament prevails, and the head of state, the President is usually elected by the Parliament.

Within the European Union, most Member States are recognized as *parliamentary republics*: Austria, Bulgaria, Czech Republic, Croatia, Estonia, Finland, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia, Hungary (Wikipedia, *List of countries by system of government*).

“The classification of a state in terms of the **form of government** is the work of the *doctrine*, very rarely being expressly mentioned in the Constitution. We will retain by way of example, ... art. 1 of the Constitution of Bulgaria of 1991 according to which *Bulgaria is a parliamentary republic*, although, paradoxically, the President of Bulgaria is elected by direct vote by the people” (Apostol Tofan, 2008, pp.16-17).

Most of the Constitutions of the European democratic states, *monarchies* or *republics*, enshrine the principle according to which *the powers emanates from the nation*.

Constitution of the Kingdom of Spain (1978, amended 2011) and Constitution of the Republic of Italy (1947, amended 2012) (see Table 1: Comparative table) - comparative aspects

✓ **Preliminaries - Preliminary Title / Fundamental Principles**
(Spain's Constitution: Sections 1, 2; Italy's Constitution: Art. 1, 5, 11)

In terms of the form of government and the political regime, Spain “is a Parliamentary Monarchy”, and Italy „is a democratic Republic”, also *parliamentary* (Barbu, 2015, pp. 589-650).

Both the Kingdom of Spain and the Italian Republic are *democratic* states, where *national sovereignty belongs to the people*.

Both states recognize “*self-government*”/“*local autonomies*”: Spain “*recognizes and guarantees the right to self-government of the nationalities and regions of which it is composed*”, and Italy „*recognises and promotes local autonomies, and implements the fullest measure of administrative decentralisation in those services which depend on the State*”, from where one can see the distinction between *self-government* and *autonomy* (Vedinaş, 2015).

It is noteworthy that one of the fundamental principles explicitly enshrined in the Constitution of Italy is that: “*Italy rejects war (...)*”, which can be assessed as a good example to be taken over in the Constitutions of other democratic states.¹

✓ **Fundamental Rights and Duties / Rights and Duties of citizens**
(Spain's Constitution: Sections 14, 27, 30, 35; Italy's Constitution: Art. 3, 33, 34, 35, 52)

The citizens of both states “*are equal before the law*”, “*without distinction of sex, race, language, religion, opinion, personal and social conditions.*”

The Constitution of Spain states that “*everyone has the right to education*” and recognizes “*the autonomy of Universities*”, and the Constitution of Italy provides that “*Schools are open to everyone*” and enshrines the right of *higher education institutions* “*to establish their own regulations.*”

¹ Introduction by Oscar Luigi Scalfaro, President of the Italian Republic, p. 7, in: *Constituțiile statelor lumii - Constituția Republicii Italiene (Constitutions of the World States - Constitution of the Italian Republic)*, Translation by Popescu, A., (2006), București, Editura C.H. Beck: „This is a solemn *No* pronounced by the Constitutional Charter of the Italian Republic for the defence of man, the holder of the natural right to peace.” our trans.

Citizens of both states have the *duty to defend their homeland*.

The Constitution of Spain enshrines the right of Spanish citizens “*to work*” and, moreover, the Constitution of Italy provides that it “*protects work in all its forms and practices.*”

✓ **Head of State - The King - The Crown / The President of The Republic** (Spain’s Constitution: Sections 56, 57, 62; Italy’s Constitution: Art. 83, 85, 87, 88, 90)

The King of the Kingdom of Spain “*is the Head of State, the symbol of its unity and permanence*” and “*he arbitrates and moderates the regular functioning of the institutions*”, and the President of the Republic of Italy “*is the Head of the State and represents national unity*”. The doctrine showed that the President of Italy “*has generally an honorary role, but he plays an important role as a arbitrator in the event of a political crisis, which has happened several times in recent years*” (Androniceanu, 2015, p.180).

The person of the King “*is inviolable and shall not be held accountable*”, in contrast to The President of the Republic who is liable for “*high treason or violation of the Constitution*”, in the latter case being accused by the Parliament, “*with an absolute majority of its members*”.

While “*The Crown of Spain shall be inherited*”, the President of the Republic of Italy “*is elected by Parliament*”, “*for seven years.*”

Regarding the constitutional powers of the King of Spain, compared to those of the President of Italy, we retain the following similar responsibilities (presented selectively, as an example):

- “*to promulgate laws*”,
- “*to call for a referendum in the cases provided for in the Constitution*”,
- “*to exercise supreme command*”/“*is the commander-in-chief of the Armed Forces*”,
- “*to confer the honorary distinctions*”, etc.

According to the Constitution of Spain, the King is the one “*to dissolve the Cortes Generales*”, and according to the Constitution of Italy the President “*may dissolve one or both Houses of Parliament, in consultation with the presiding officers of Parliament*”.

In addition, the King of Spain exercises “*the High Patronage of the Royal Academies.*”

✓ ***The Cortes Generales / The Parliament***

(Spain's Constitution: Sections 66, 87; Italy's Constitution: Art. 55, 71)

In Spain's Constitution, Parliament is regulated in Part III: *The Cortes Generales*, after Part II: *The Crown*.

In Italy's Constitution, Parliament is regulated in Part II - *Organisation of the Republic*, at Title I: *The Parliament*, before Title II: *The President of the Republic*.

Both analysed states have a bicameral Parliament: in Spain "*The Cortes Generales represent the Spanish people and shall consist of the Congress and the Senate*"; in Italy "*Parliament consists of the Chamber of deputies and the Senate of the Republic.*"

About the Italian Parliament, it was stated in the specialized studies that it "*provides the example of authentic bicameralism*" (Avram and Radu, 2007, p. 286).

In the Kingdom of Spain, "*legislative initiative belongs to the Government, the Congress and the Senate*" and in the Republic of Italy, "*legislation may be introduced by the Government, by a Member of Parliament and by those entities and bodies so empowered by constitutional amendment law*", in both states, the *popular initiative* being possible under the conditions laid down in the constitutional text.

✓ ***Government and Administration - Relations between the Government and the Cortes Generales / The Government***

(Spain's Constitution: Sections 98, 99, 107, 113, 114; Italy's Constitution: Art. 92, 94, 100)

In both Spain and Italy, the Government has a prime minister - *the President*.

In Spain, "*if the Congress, by vote of the overall majority of its members, grants to said candidate its confidence, the King shall appoint him or her President.*"

In Italy, "*the President of the Republic appoints the President of the Council of Ministers*", and "*the Government must receive the confidence of both Houses of Parliament*".

Based on *legal symmetry*, in Spain "*if the Congress adopts a motion of censure, the Government shall submit its resignation to the King*", but in Italy "*an opposing vote by one or both the Houses against a Government proposal does not entail the obligation to resign.*"

In both analysed states there is *The Council of State*: in Spain, it “*is the supreme consultative body of the Government*”, and in Italy it “*is a legal-administrative consultative body and it oversees the administration of justice.*”

✓ **Judicial Power / The judicial branch**

(Spain’s Constitution: Section 117; Italy’s Constitution: Art. 101)

In Spain “*Justice emanates from the people and is administered on behalf of the King*”, and in Italy “*Justice is administered in the name of the people.*”

In both analysed states *judges and magistrates* are “*subject only to the rule of law*”.

✓ **Territorial Organization of the State - The control exercised at this level**

(Spain’s Constitution: Sections 106, 137, 153; Italy’s Constitution: Art. 103, 114, 125)

Territorially, Spain is organised in: “*municipalities, provinces and the Self-governing Communities*”, which “*shall enjoy self-government for the management of their respective interests.*”

Territorially, Italy is organised in: “*municipalities, provinces, metropolitan cities and regions*”, which “*are autonomous entities having their own statutes, powers and functions.*”

In Spain, *Control over the bodies of the Self-governing Communities shall be exercised by*:

“*a. The Constitutional Court, ...*,

b. The Government, after the handing down by the Council of State of its opinion, ...,

c. Jurisdictional bodies of administrative litigation ...,

d. The Auditing Court, ...”, in their areas of jurisdiction.

At the same time, “*The Courts shall check the power to issue regulations and ensure that the rule of law prevails in administrative action ...*”.

In Italy, “*The Council of State and the other bodies of judicial administration have jurisdiction over the protection of legitimate rights before the public administration ...*”, “*The Court of Accounts has jurisdiction in matters of public accounts ...*”, and “*Administrative tribunals of the first instance shall be established in the Region, ...*”, according to their legal jurisdiction.

✓ ***The Constitutional Court /Constitutional guarantees***
(Spain's Constitution: Sections 161, 164; Italy's Constitution: Art. 134, 137)

In Spain and Italy, *the Constitutional Court* has jurisdiction to judge “*the alleged unconstitutionality of acts*” / “*controversies on the constitutional legitimacy of laws*”, as well as in “*(...) other matters assigned to it by the Constitution or by organic acts.*”

In addition, in Italy, the Constitutional Court has jurisdiction to judge “*charges brought against the President of the Republic and the Ministers.*”

Regarding *the judgments/ the decision of the Constitutional Court*, in Spain, as well as in Italy: “*no appeal may be brought against them.*”

✓ ***Constitutional Amendment / Amendments to the Constitution***
(Spain's Constitution: Section 169; Italy's Constitution: Art.139)

The Constitution of Spain states that “*the process of constitutional amendment may not be initiated in time of war...*”, while the Constitution of Italy provides that “*the form of Republic shall not be a matter for constitutional amendment.*”

Conclusions

Both Spain, as a *parliamentary monarchy* and Italy, as a *parliamentary republic*, are European *democratic states*, where *national sovereignty belongs to the people and all citizens are equal before the law.*

The Constitution of Spain regulates first ***The Crown - The King*** and then ***The Cortes Generales*** - The Parliament, as opposed to the Constitution of Italy, which regulates first ***The Parliament*** and then ***The President of The Republic.***

The King of Spain is designated by hereditary criteria and represents *the symbol of state unity and permanence* and the President of Italy is elected by Parliament for a period of seven years and represents *the national unity.*

Thus, unlike the Constitution of Italy, a *parliamentary republic*, the Constitution of Spain, a *parliamentary monarchy*, gives the head of state a priority place in the content of the constitutional text, given the cultural traditions and historical developments specific to the hereditary monarchy.

Both analysed states have a bicameral Parliament: in Spain, *The Cortes Generales* consisting of *the Congress* and *the Senate*; in Italy, *Parliament* consists of *the Chamber of deputies* and *the Senate of the Republic.*

Regarding the constitutional powers of the King of Spain, compared to those of the President of Italy, we retain a number of similar responsibilities, including that *the King may dissolve the Cortes Generales, and the President may dissolve one or both Houses of Parliament*. Thus, in Italy, it is stated in the doctrine, “*in addition to the classical powers of the Head of State, in a **parliamentary regime**, the President of the Republic may dissolve either Chambers or only one of them after consulting their presidents*” (Apostol Tofan, 2008, p. 28).

Regarding the legal relations between the head of state and Parliament, the analysis of the constitutional text of the two European democratic states, characterized by a *parliamentary political regime*, also reveals some differences of principle, substance or hue, such as:

The person of the King of Spain *is inviolable and is not liable, “so that no action for legal accountability or any kind of trial against him is possible”* (Barbu, 2015, p. 593) unlike the President of Italy who is responsible for *high treason or violation of the Constitution*, in the latter case being impleaded by the Parliament. The specialty studies also show that in Italy “*Presidential institution presents different aspects, some even contradictory. The President of the Republic seems to be a primary importance power factor by the way he is appointed and by the privileges he is endowed with (...)*” (Avram and Radu, 2007, p. 287).

Regarding **The Government**, both in Spain and Italy, the Government has a prime minister - *the President*.

In Spain, *if the Congress grants to said candidate its confidence, the King shall appoint him or her President, “contrary to the traditions existing in other parliamentary monarchies”* in which “*the King has the role of electing the head of Government*” (Apostol Tofan, 2008, pp. 29, 34), but *if the Congress adopts a motion of censure, the Government shall submit its resignation to the King*, according to the constitutional text.

In Italy, the head of Government, *the President of the Council of Ministers*, is appointed by *President of the Republic*, and *the Government must receive the confidence of both Houses of Parliament and each House grants or withdraws its confidence through a reasoned motion*, according to the constitutional text.

Regarding the *basis of the **parliamentary control***, in the current comparative law doctrine, it was pointed out that “*Parliament must supervise the way in which the state’s affairs administration is carried out in order that*

it is maintained in the line that most corresponds to the aspirations of the entire national community, the power of the legislative assembly consisting of the power to supervise as a whole the political and administrative action of the executive and even to interrupt it when it no longer corresponds to the aspirations of the nation” (Apostol Tofan, 2008, p. 78).

In both analysed states there is **The Council of State**: in Spain, it is *the supreme consultative body of the Government*, and in Italy it is *a legal-administrative consultative body*.

Regarding **The Judicial Power**, as we have seen, the constitutional text of the states under consideration states that: in Spain, *Justice is administered on behalf of the King*, in Italy *Justice is administered in the name of the people*, and *judges and magistrates are subject only to the rule of law*, in both states.

Regarding **the control exercised at an administrative-territorial level**: in Spain, *control over the bodies of the Self-governing Communities shall be exercised by The Constitutional Court, The Government, Jurisdictional bodies of administrative litigation, The Auditing Court*, as well as *The Courts*, and in Italy, control is exercised by *The Council of State, The Court of Accounts and Administrative tribunals*, according to their legal jurisdiction.

Regarding the *constitutionality control over the laws*, exercised by **the Constitutional Court**, which guarantees the superiority of the Constitution, it was implemented much earlier in Italy than in Spain.

The specialized doctrine confirms that: *“After the war, Italy was the first great restored democracy that introduced a legal review of constitutionality” (Avram and Radu, 2007, p. 289).*

Regarding the **amendments to the Constitution**, the Constitution of Spain *did not impose material limits on its revision regarding the form of monarchical ruling (Focșăneanu, 2006, pp. 11-12)*, while the Constitution of Italy *has provided as a limit, the ban on changing the form of republican ruling*.

Table 1 - Comparative table: *Constitution of the Kingdom of Spain* (1978, amended 2011) and *Constitution of the Republic of Italy* (1947, amended 2012)

Spain's Constitution of 1978 with Amendments through 2011	Italy's Constitution of 1947 with Amendments through 2012
<p>„Section 1 2. National sovereignty belongs to the Spanish people, from whom all state powers emanate. 3. The political form of the Spanish State is the Parliamentary Monarchy.”</p>	<p>„Art. 1 Italy is a democratic Republic founded on labour. Sovereignty belongs to the people and is exercised by the people in the forms and within the limits of the Constitution.”</p>
<p>„Section 2 The Constitution is based on the indissoluble unity of the Spanish Nation, the common and indivisible homeland of all Spaniards; it recognizes and guarantees the right to selfgovernment of the nationalities and regions of which it is composed and the solidarity among them all.”</p>	<p>„Art. 5 The Republic is one and indivisible. It recognises and promotes local autonomies, and implements the fullest measure of administrative decentralisation in those services which depend on the State. The Republic adapts the principles and methods of its legislation to the requirements of autonomy and decentralisation.”</p>
	<p>„Art. 11 Italy rejects war as an instrument of aggression against the freedom of other peoples and as a means for the settlement of international disputes. (...).”</p>
<p>“Section 14 Spaniards are equal before the law and may not in any way be discriminated against on account of birth, race, sex, religion, opinion or any other personal or social condition or circumstance.”</p>	<p>„Art. 3 All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions. (...).”</p>
<p>“Section 27 1. Everyone has the right to education. Freedom of teaching is recognized. 10. The autonomy of Universities is recognized, under the terms established by the law.”</p>	<p>„Art. 33 (...) Higher education institutions, universities and academies, have the right to establish their own regulations within the limits laid down by the law.” „Art 34 Schools are open to everyone. (...).”</p>
<p>„Section 30 1. Citizens have the right and the duty to defend Spain.”</p>	<p>„Art. 52 The defence of the country is a sacred duty for every citizen.”</p>
<p>„Section 35 1. All Spaniards have the duty to work and the right to work, (...).”</p>	<p>„Art. 35 The Republic protects work in all its forms and practices. (...).”</p>

<p>„Section 56 1. The King is the Head of State, the symbol of its unity and permanence. He arbitrates and moderates the regular functioning of the institutions, (...). 3. The person of the King is inviolable and shall not be held accountable. (...).”</p>	<p>„Art 90 The President of the Republic is not responsible for the actions performed in the exercise of presidential duties, except in the case of high treason or violation of the Constitution. In such cases, the President may be impeached by Parliament in joint session, with an absolute majority of its members.”</p>
<p>„Section 57 1. The Crown of Spain shall be inherited by the successors of H. M. Juan Carlos I de Borbón, the legitimate heir of the historic dynasty. Succession to the throne shall follow the regular order of primogeniture and representation, the first line always having preference over subsequent lines; (...).”</p>	<p>„Art. 83 The President of the Republic is elected by Parliament in joint session. (...).” „Art. 85 The President of the Republic is elected for seven years. (...).”</p>
<p>„Section 62 It is incumbent upon the King: a) To sanction and promulgate the laws. b) To summon and dissolve the Cortes Generales and to call for elections under the terms provided for in the Constitution. c) To call for a referendum in the cases provided for in the Constitution. d) To propose a candidate for President of the Government and, as the case may be, appoint him or her or remove him or her from office, as provided in the Constitution. e) To appoint and dismiss members of the Government on the President of the Government’s proposal. f) To issue the decrees approved in the Council of Ministers, to confer civil and military positions and award honours and distinctions in conformity with the law. g) To be informed of the affairs of State and, for this purpose, to preside over the meetings of the Council of Ministers whenever, he sees fit, at the President of the Government’s request. h) To exercise supreme command of the Armed Forces. i) To exercise the right of clemency in accordance with the law, which may not authorize general pardons. j) To exercise the High Patronage of the Royal Academies.”</p>	<p>„Art. 87 The President of the Republic is the Head of the State and represents national unity. The President may send messages to Parliament. The President shall: • authorise the introduction to Parliament of bills initiated by the Government; • promulgate laws and issue decrees having the force of law, and regulations; • call a general referendum in the cases provided for by the Constitution; • appoint State officials in the cases provided for by the law; • accredit and receive diplomatic representatives, and ratify international treaties which have, where required, been authorised by Parliament. The President is the commander-in-chief of the armed forces, shall preside over the Supreme Council of Defence established by law, and shall make declarations of war as have been agreed by Parliament. The President shall preside over the High Council of the Judiciary. The President may grant pardons and commute punishments. The President shall confer the honorary distinctions of the Republic.” „Art. 88 In consultation with the presiding officers of Parliament, the President may dissolve one or both Houses of Parliament. (...).”</p>

<p>„Section 66 1. The Cortes Generales represent the Spanish people and shall consist of the Congress and the Senate.”</p>	<p>„Art. 55 Parliament consists of the Chamber of deputies and the Senate of the Republic. (...).”</p>
<p>„Section 87 1. Legislative initiative belongs to the Government, the Congress and the Senate, in accordance with the Constitution and the Standing Orders of the Houses. 3. An organic act shall lay down the manner and the requirements of the popular initiative for submission of non-governmental bills. (...).”</p>	<p>„Art. 71 Legislation may be introduced by the Government, by a Member of Parliament and by those entities and bodies so empowered by constitutional amendment law. The people may initiate legislation by proposing a bill drawn up in sections and signed by at least fifty-thousand voters.”</p>
<p>„Section 98 1. The Government shall consist of the President, Vice-Presidents, when appropriate, Ministers and other members as may be created by law.(...).” „Section 99 3. If the Congress, by vote of the overall majority of its members, grants to said candidate its confidence, the King shall appoint him or her President. (...).”</p>	<p>„Art. 92 The Government of the Republic is made up of the President of the Council and the Ministers who together form the Council of Ministers. The President of the Republic appoints the President of the Council of Ministers and, (...).” „Art. 94 The Government must receive the confidence of both Houses of Parliament. (...).”</p>
<p>„Section 107 The Council of State is the supreme consultative body of the Government. (...).”</p>	<p>„Art. 100 The Council of State is a legal-administrative consultative body and it oversees the administration of justice. (...).”</p>
<p>„Section 113 1. The Congress may require political responsibility from the Government by adopting a motion of censure by overall majority of its Members.” „Section 114 2. If the Congress adopts a motion of censure, the Government shall submit its resignation to the King, (...).”</p>	<p>„Art. 94 (...). Each House grants or withdraws its confidence through a reasoned motion voted on by roll-call. (...). An opposing vote by one or both the Houses against a Government proposal does not entail the obligation to resign. (...).”</p>
<p>„Section 117 1. Justice emanates from the people and is administered on behalf of the King by judges and magistrates members of the Judicial Power who shall be independent, shall have fixity of tenure, shall be accountable for their acts and subject only to the rule of law.”</p>	<p>„Art. 101 Justice is administered in the name of the people. Judges are subject only to the law.”</p>

<p>„Section 137 The State is organized territorially into municipalities, provinces and the Selfgoverning Communities that may be constituted. All these bodies shall enjoy selfgovernment for the management of their respective interests.”</p>	<p>„Art. 114 The Republic is composed of the Municipalities, the Provinces, the Metropolitan Cities, the Regions and the State. Municipalities, provinces, metropolitan cities and regions are autonomous entities having their own statutes, powers and functions in accordance with the principles laid down in the Constitution. (...)”</p>
<p>„Section 153 Control over the bodies of the Self-governing Communities shall be exercised by:</p> <p>a. The Constitutional Court, in matters pertaining to the constitutionality of their regulatory provisions having the force of law.</p> <p>b. The Government, after the handing down by the Council of State of its opinion, regarding the exercise of delegated functions (...).</p> <p>c. Jurisdictional bodies of administrative litigation with regard to autonomic administration and its regulations.</p> <p>d. The Auditing Court, with regard to financial and budgetary matters.”</p> <p>„Section 106 1. The Courts shall check the power to issue regulations and ensure that the rule of law prevails in administrative action, and that the latter is subordinated to the ends which justify it.”</p>	<p>„Art. 103 The Council of State and the other bodies of judicial administration have jurisdiction over the protection of legitimate rights before the public administration and, in particular matters laid out by law, also of subjective rights. The Court of Accounts has jurisdiction in matters of public accounts and in other matters laid out by law. (...)”</p> <p>„Art. 125 Administrative tribunals of the first instance shall be established in the Region, in accordance with the rules established by the law of the Republic. (...)”</p>
<p>„Section 161 1. The Constitutional Court has jurisdiction over the whole Spanish territory and is entitled to hear:</p> <p>a. against the alleged unconstitutionality of acts and statutes having the force of an act. (...).</p> <p>b. Individual appeals for protection (recursos de amparo) against violation of the rights and freedoms (...).</p> <p>c. Conflicts of jurisdiction between the State and the Self-governing Communities or between the Self-governing Communities themselves.</p> <p>d. Other matters assigned to it by the Constitution or by organic acts.”</p>	<p>„Art. 134 The Constitutional Court shall pass judgement on:</p> <ul style="list-style-type: none"> • controversies on the constitutional legitimacy of laws and enactments having force of law issued by the State and Regions; • conflicts arising from allocation of powers of the State and those powers allocated to State and Regions, and between Regions; • charges brought against the President of the Republic and the Ministers, according to the provisions of the Constitution.”

<p>„Section 164 1. The judgments of the Constitutional Court shall be published in the Official State Gazette (...). They have the force of res judicata from the day following their publication, and no appeal may be brought against them. (...).”</p>	<p>„Art. 137 (...). No appeals are allowed against the decision of the Constitutional Court.”</p>
<p>„Section 169 The process of constitutional amendment may not be initiated in time of war (...).”</p>	<p>„Art. 139 The form of Republic shall not be a matter for constitutional amendment.”</p>

References

- Androniceanu, A. (2015). *Sisteme administrative din state ale Uniunii Europene (Administrative systems in the Member States of the European Union)*. Bucharest: University Publishing House.
- Apostol Tofan, D. (2008). *Instituții administrative europene Note de curs (European administrative institutions Course notes)*, [online]. Available at: http://www.umk.ro/images/documente/master/institutii_administrative_europene.pdf.
- Avram, C., and Radu, R. (2007). *Regimuri politice contemporane: democrațiile (Contemporary political regimes: democracies)*. Craiova: Aius Print Ed.
- Barbu, S.G. (2015). *Constituția Regatului Spaniei (The Constitution of the Kingdom of Spain)*, pp. 589-650; *Constituția Republicii Italia (Constitution of the Republic of Italy)*, pp. 801-844, in: Deaconu, Ștefan - coordinator, Muraru, Ioan; Tănăsescu, Elena Simina; Barbu, Silviu Gabriel, (2015), *Codex Constituțional, Constituțiile statelor membre ale Uniunii Europene (Constitutional Codex, the Constitutions of the Member States of the European Union)*, Vol. II, Bucharest: Printed by Monitorul Oficial.
- Constituțiile statelor lumii - Constituția Republicii Italiene (Constitutions of the World States - Constitution of the Italian Republic)*, Translation by Popescu, Alexandrina. (2006). Bucharest: C.H. Beck Publishing House.
- Constitution of the Kingdom of Spain* (1978, amended 2011) and *Constitution of the Republic of Italy* (1947, amended 2012), [online]. Available at: [Legislationline.org:https://www.legislationline.org/documents/section/constitutions](https://www.legislationline.org/documents/section/constitutions).
- Focșăneanu, E. (2006). *Prezentarea evoluției ordinii constituționale în Spania (Presentation of the evolution of constitutional order in Spain)*, pp. 1-12, in: *Constituțiile statelor lumii - Constituția Spaniei (Constitutions of the*

World States - Constitution of Spain), Collection supervised by Focșăneanu, Eleodor; Ciobanu-Dordea, Aurel; Florescu, Marian, Translation by Prisăcaru, Mihaela. Bucharest: C.H. Beck Publishing House.

Vedinaș, V. (2015). *Drept administrativ (Administrative law)*, The 9th edition revised and updated. Bucharest: Universul Juridic Publishing House.

Wikipedia, Free Encyclopedia: *Democracy Index*, [online]. Available at: https://ro.wikipedia.org/wiki/Indicele_democrației, Note 2 ^ „*Democracy Index 2017 - Economist Intelligence Unit*” (PDF). *EIU.com*. available on the website: http://pages.eiu.com/rs/753-RIQ-438/images/Democracy_Index_2017.pdf (...).

Wikipedia, Free Encyclopedia: *List of countries by system of government*, [online]. Available at: https://ro.wikipedia.org/wiki/Lista_țărilor_după_forma_de_guvernare.