

Stenogram

Meetings of a round table, June, 25 2004 Theme: "Legislative power"

Mr.Creanga – Hello, dear colleagues. A theme of today's seminar: "Legislative power".

Please, Mr. A.Volentir's present your report prepared for today's session.

Mr.A.Volentir – In the Republic of Moldova the problem is to find the best solution that would make compatible the systems constituted on those two riverbanks of Nistru. In the bessarabian part of the Republic of Moldova a pluralistic and multi-party democracy with a parliamentary system of governance has been installed, while in the transnistrian part the political pluralism and the multi-party system are just a fiction, and the system of governance is presidential. It is difficult to make a comparison between these two constitutional systems. Thus, the supreme soviet of Transnistria is a bicameral legislative body, consisting of the chamber of legislators and that of representatives. The age qualification for the candidates in Supreme Soviet members is 21 years old. The Parliament of the Republic of Moldova is unicameral, with deputies elected in a national constituency within a proportional electionregister ballot. The minimal threshold for the candidates is 18 years old.

The realities of the bessarabian part of the Republic of Moldova should form, however, the basis for the constitutional system of the future federation, given the democratic reforms implemented during the years after gaining independence resulting in a higher level state of law.

A major problem we have to deal with is to find an efficient formula for the parliamentary elections' ballot. The structure of the future federal legislative body is very important and will eventually depend upon the option of one of the electionsystems.

One of the problems, which I have noticed in my research, is that in Transnistria and in Republic of Moldova those two electoral systems are different now. I have offered, the authorization, the regulation of an electoral system to belong to federal subjects for local elections, certainly, federal, regional.

The present election system of the Republic of Moldova is perfectly compatible with its political system. The problem is to reconcile the election systems from both riverbanks of Nistru. In Transnistria the

deputies of the supreme soviet are elected based on the ballot of a majority within uninominal constituencies. A solution to this could be to delegate the regulation of the local election system to the federation's subjects, while at the federal level to implement a regulation via constitutional provisions of a system with proportional representation that would be able to stimulate the national multi-party system, i.e. the activity of parties with national covering.

Therefore, in case of the Republic of Moldova, it is advisable to have a sole constituency, since this could serve as an impetus for the pluralistic democracy development at the national level. In order to be more attractive, the political parties would be more concerned about the entire society's problems and would carry out their activity in the entire territory of the state and not just in particular areas. Thus, eventual cleavages would disappear by themselves. The deputies represent the entire nation and not certain segments of it or the parties they are part of, that is why, their election within a national constituency is more convenient.

The other problem that i'd like to stress is the structure and functioning of federal Parliament. Regardless of the adopted formula, either federal or regional, the double-chamber system is indispensable, due to the Moldovan society's variety. One of the important aspects of the problem is the manner of constituting the upper chamber of the legislative forum, as well as of the underlying principle.

Depending on the degree of the legislative power concentration or division, the parliaments can be classified into: 1) legislative parliaments with strong double-chamber system, 2) parliaments with a weak double-chamber system, 3) parliaments with an insignificant double-chamber system, that are very much close to the single-chamber system.

The parliamentary government implies that the executive power is responsible before the parliament, and in case this is combined with a strong double-chamber system, it would mean that both chambers could claim this responsibility. Since the strong double-chamber system results in two chambers constituted in different ways, the chambers can have different political majorities, while the cabinet could find itself in the situation of keeping the confidence of these majorities that may show divergences.

The parliamentary form of government requires for the double-chamber system be congruent (i.e. the composition of chambers should not differ), or lop-sided (i.e. a chamber has more prerogatives than the other one), or they could be both at the same time. It should be also specified that the parliamentary government is not compatible with the strong double-chamber system unless there is the tendency of the governments being formed on the basis of some relative majorities of the

lower chamber. In cases when cabinets represent big coalitions, they will not face difficulties in trying to maintain the support of overwhelming majorities in both parliament chambers. On the other hand, a strong federalism assumes a strong federal chamber and, therefore, a strong double-chamber system.

With regard to the upper chamber of the future federal Parliament of the Republic of Moldova, we have to bear in mind that, at present, the country has a parliamentary form of government, which needs to be maintained, for it is the manifestation of an increased democracy and rule within the European community as well. The parliamentary form of government is indispensable in the context of European integration expectation. Accordingly, I believe that a weaker double-chamber system would better fit the Republic of Moldova, because, as showed above, it is more compatible with the parliamentary government.

With regard to the internal organisation of the federal parliament, in both lower chamber and upper chamber, it should be mentioned that, traditionally, all parliaments have similar organisation. It is obvious that those two chambers perform their activity as in accordance to their own working regulations.

The lower chamber, which is the chamber of representatives elected by universal ballot in a democratic way, is being constituted according to principles similar to those of other countries'. Thus, the deputies are constituted in parliamentary factions depending on political affinities, in parliamentary commissions given the previous professional experience. While the factions represent political bodies within the chamber, contributing to the political will formation, the commissions are the real chamber's working bodies, which have to deal with the greater part of work in the legislative process: detailed examination of draft laws, their endorsement, amendment and preparation for the following reading, etc. Another chamber's working body, the governing body, is the so-called presidium (standing committee) of the chamber, its naming may vary from country to country. The collegiality of the standing committee differs from one state to another. Thus, in some parliaments the members of the standing committee are relatively equal, while in other countries the pre-eminence of the parliament chairman can be noticed. In the latter case, the chairman of the chamber is a regular state authority. Beside the internal order ensurance, the chairman has a series of important prerogatives, such as presiding meetings, giving the floor to speakers, representing the chamber as against other state structures, he is also the main manager of budgetary funds, etc.

In Great Britain the chairman of the House of Commons is called "the speaker" and is elected at the beginning of the new legislature. The rules are that the speaker must be independent. This means that at the

moment of his electing as a chairman, he officially retires from the party he was part of and does not participate to the chamber's voting. The chairman of the House of Commons construes the chamber's regulation of functioning at the highest degree, and his decisions are indisputably accepted. The speaker is, therefore, only a chairman; he is not a leader, but an arbitrator.

I have proposed, that in the future Federal Parliament of Republic of Moldova, the example of the Great Britain to be taken, in order to emphasize a primary role of Chairman of Federal Parliament so, as he became a strong state authority.

Referring to the delimitation of jurisdictions between those two chambers, the bulk of the legislative prerogatives should be assigned to the lower chamber as the exponent of the entire nation's benefits.

First of all, we should mention the decisive role of the lower chamber in establishing the internal and external policy of the state. In this regard, the lower chamber participation to the state's general government must be determined by its exclusive competence related to the federal government formation and its control. This is determined by the parliamentary system of government that the Republic of Moldova has in present and that it should have in the future.

While emphasising once again the principle of the people's sovereignty, the government must derive from the legislative system and namely, the lower chamber, i.e. the chamber of the people's representatives, which is the sovereignty bearer. Therefore, the lower chamber should have the exclusive role of the federal government constituting.

We have to underline the important role of the lower chamber within the legislative process. The upper chamber must, however, have the role of the body of control and correction of this process. This should be achieved by assigning to the senate of the right of veto over some categories of laws and decisions adopted by the first chamber. In Austria, for instance, all decisions adopted by the national Council must be immediately submitted to the federal Council that may reject approval, meaning that the law will be delivered to the lower chamber for a repeated examination. Thus, the federal chamber may influence the legislative process by exerting its right of veto.

Certain categories of laws or decisions can be simply excepted from compulsory approval by the federal chamber, meaning they could be submitted, by sidestepping the senate, directly to the president for promulgation and publication. Another way would be to simplify the procedure of the chamber of deputies' surpassing the senate's veto. For example, the same quorum could be admitted to the repeated voting. In order not to completely under-estimate the role of the

federal chamber, its right of veto should, however, be strong in some cases. Thus, in case of some laws affecting directly the interests of the federation's members, the right to veto must be strengthened by establishing a higher quorum of its surpassing by the chamber of deputies. If the senate did not approve the federal budget law, the repeated voting of the law in the same wording should be carried out with an expert majority, 2/3, for instance.

At the same time, both chambers should co-operate by exercising common assignments. The chambers could, for instance, constitute the federal assembly, by sitting in joint meetings in order to examine issues of national importance, like the federal President being sworn in or the approval of measures regarding the external armed aggression repelling or on the war declaration. The chambers could also co-operate while forming joint parliamentary commissions, such as the commission of mediation, the aim of which is contributing to the final version of the draft law.

The federal government should exert the legislative initiative in the federal legislative process both by the federal legislative system and especially.

A strong right of initiative of the executive system may be seen especially in the context of the parliamentary regime of government settlement. Executive system implication in the legislative process by initiation of draft laws is politically justified. The government is responsible for the general administration and ensures the fulfilment of the internal and external state's policy. By virtue of this responsibility, the Government should have the prerogative of proposing draft laws to the Parliament and, at the same time, in its capacity of the expert body, the Government should have the prerogative to endorse and amend the legislative proposals made by the members of Parliament.

I have offered, the President of the Republic, should be excluded from direct exerting of this right, since his essential function resides in being the head of the state, meaning the state representative, especially in the field of international relations. At the same time, unlike the Government that is appointed based on mutual consent, the President is the expression of the democracy of a majority, judging by the procedure of his direct election. If we take into account the aforementioned political arguments related to this right assignment to the Government, it should be added that the President is not responsible from the political point of view, he is not the person who ensures the internal and external policy achievement of the state, therefore the President should not initiate laws. But he could initiate the legislative process by his periodical messages addressed to the Parliament, in which the head of the state states his

position towards the most important problems of the nation, as well as the modality of their solution.

Another form of the Government's participation to the exertion of the legislative power is the legislative authorisation. The latter consists, in fact, in assigning to the Government the prerogative of primary regulation of social relations, which ususally is in the exclusive competence of the Parliament. This institute plays the important role and I have stated it in the report, some examples of other states. As, I have noted in the report that it should be taking into consideration at regulation of institute of the delegated legislation in the Constitution of Republic of Moldova. This institute should be conceived in order to promote strengthening of an existing parliamentary mode and strengthening role of executive authority in a management of the country.

The organisation of the legislative power in federation subjects is not very different from that of the federal level. The discrepancy, however, may be found in the legislative process of both levels, and, particularly, in an enhanced democarcy at the local level. The experience of other countries, unprecedented, in fact, for our country, like the direct people's participation to legislation, may arouse interest for the Republic of Moldova. Taking into account the geographic dimensions of our country, and especially those of the future federation subjects, we may conclude that it is possible to implement this experience in the Republic of Moldova. The direct democracy would be helpful in surpassing many social problems. As a result of these measures, the people's sovereignty and the purpose of federalisation – to decentralise the power – are brought once again into light.

The delimitation of jurisdictions between federation and its subjects represents the key-problem of the state's federative structure, since the power balance from the territorial point of view depends on the way this issue is settled down. The constitutional practice of many countries displays several models of jurisdictions' distribution. These models are based on the following elements:

- Exclusive jurisdiction of the federation;
- Exclusive jurisdiction of the federal subjects;
- Concurrent jurisdiction of the federation and its subjects;
- The rest of jurisdictions, delimited according to the centralisation degree of the given federation.

The USA Constitution, for example, defines the Union jurisdiction mainly as legislative assignments and other Congress assignments and, to a lesser extent, the prerogatives of the President and of federal judicial power. Thus, in Constitution there are formulated positions of the Congress jurisdictions (settlement and levy of duties and other taxes, defence and common welfare insurance, external and

interstate trade regulation, etc.), but besides all these, states that the Congress should issue all the necessary and timely laws for the exertion of the above-mentioned prerogatives, as well as of other prerogatives, which, according to Constitution, are assigned to the USA Government and its departments.

The prerogatives, not delegated to the Union and not forbidden to the member-states, stay within the jurisdiction of the states or of the people". In the reference literature this constitutional norm is treated as the *presumption of the states jurisdiction* (i.e. in cases not foreseen by the Constitution, the jurisdiction belongs to the states). At the same time, the syntagm *or of the people* arises a problem of interpretation. The people are considered the totality of the USA citizens – the whole electoral body, the Union, after all. The Supreme Court has presented the interpretations of these provisions, which led to the concept of *implicit prerogatives*. Their essence resides in the fact that beside the prerogatives foreseen in the Constitution, the Congress of the Union has at its disposal other prerogatives implied by the constituent legislator, ensuing that the scope of federal jurisdictions, in general, and of the USA Congress, in particular, are broader than it may seem at first sight.

In the conclusion, has suggested, that in order to render the Moldovan federation stronger and more fit to life, the federal Parliament should have under its jurisdiction the regulation of the majority of issues and an important right of intervention in the domain assigned to the federal subjects, within reasonable limits not to diminish their autonomy. For a more efficient organisation of the federation, the federal Parliament should be vested with the right of issuing laws from within each of the domains, and even from outside the joint domains.

Thanks.

Mr. Ion Creanga – Thanks Mister Volentir, for the report you have offered. Certainly, our colleagues have many questions on this theme. Now, dear colleagues, I give word to Mister I.Botan... Please, Mister Botan, your question...

I.BOTAN – my question will be very brief and simple. You have spoken about what kind of competences the President should have. My question is what would you offer as an example? Is it possible for a President to represent the interests of his country and his party?

Mr.Volentir – I think that this question, we should discuss at the other session when we shall speak about executive power. But to my opinion the federal president should function as the arbitrator and not as a

political representative. Thus, the President should represent all nation, instead of one political party to which he belongs. By my opinion, the President of Republic should be selected by a general selective principle. In essence, it would not change character of the parliamentary state because there are many parliamentary states where the President is selected by a general selective principle. The greater value has a parity between the legislative and executive authority.

Mr.Creanga – in the same context, I want to ask to you one more questions concerning elections. Who does organize local elections, the federal state or federal subjects?

Mr.Volentir – the general aim of federalization is to decentralize authority ... Thus, the selective Commission would be, how to say more precisely... selective bodies which should be based, should be based not only at a federal level, but also at a regional level. With other words, at the level of federal subjects, I think that should be on one local selective commission that would submit to the central selective commission. Thus, elections of subjects of federation, regional elections become organized and are carried out by the central local selective commission. An establishment of date of elections –the date of elections should be established by the federal law. The term of carrying out of the following elections, after the expiration of the previous mandates should be established by the federal selective Code.

Mr.Creanga – in whose competence are the parliamentary federal elections, local federal elections?

Mr.Volentir – there is a set of positions for their realization. It is possible to establish the whole electoral system in the federal law, but it is possible to establish in the separate law and more detailed to concretize in local laws on federal subjects.

Mr.Negru – what federal subjects do you mean, because you have told that the states which will be the parts of our federation..., it is the first question, and the second question – what opinion do you have the parliament to be in the Moldavian style, the Moldavian federation with more chambers, one chamber of moldavians, another of the romanian minority, for example, another of gagauzian, another one of bulgarians, another of russians, another of ukranians, another of jews, another of the gipsies ... and in this case it is possible to act, may be and we can become an example for others? Thanks ...

Mr.Botan – in general Mr Negru is right when he speaks that ... probably you know that last summer in Tiraspol they have presented the project of the Constitution and exactly what Mr.Negru is speaking about was written there, that they make of the decision in their Parliament and the voices, somehow will transfer to Kishinev, where it will be taking into consideration.

Mr.Volentir – concerning the first question, how many subjects I see personally, this is the one thing, but how many will be seen by our authorities of the country which make of the decision, it is completely another thing.

Mr.Creanga – I have a question concerning constituencies, you have told that you see one constituency. Do you see it for both chambers?

Mr.Volentir – no, for the lower chamber I see one constituency.

Mr.Creanga – how will be arranged the Supreme chamber? As you see there are many problems, questions have appeared concerning the structure, modality of creation ... here it would be more interesting if you would express your thoughts more detailed.

Mr.Volentir – concerning the first chamber, I have cited as an example Belgium and Italy, and also an example of Austria. I want to note that all these examples are very successful. All the deputies should be chosen in different constituencies, and in a bigger amount. I personally I think, that would be more favorable to create one district as it reduces risk of not representation enough of political minority and not representation enough of one authority, one political party. For example, if we were speaking about one constituency in which 5 places are reserved, it would mean that one political party should receive not less than twenty percent from the suffrage, in order to receive that place, one place. It means, that those parties, which have representatives in those districts at a rate of ten percent, or even fifteen percent, have no any chance in reception of one mandate. On the contrary the party which has, which gets approximately thirty, thirty five percent from the suffrage, has all chances to receive two mandates, through redistribution of mandates, voices. Therefore, all these examples which I have resulted from other countries of Europe, are very good. But they are impractical for Republic Moldova, because our democracy is very weak, and some modalities of realization of some systems, such as system of single transmitted voice or inexpressible, practised in some countries such as Austria or Japan, they are very difficult for realizing in conditions of Republic Moldova.

Therefore, the most successful and most popular variant of an electoral system, I would offer at the moment for the lower chamber – is one national district with a threshold is no more 4 % of representatives. Concerning the supreme chamber, I would offer some versions of elections. The most suitable would be where local parliaments put forward members of the supreme chamber proportionally to the population of this region.

Mr.Negru – how many local parliaments, do you see? I have asked this question, but you have not answered me ...

Mr.Volentir –the amount of local parliaments should be as much as subjects will be coordinated...

Mr.Negru – how many? 2, 9, 20 subjects?

Mr.Creanga – in our today's context there are offers, regarding Transnistria and regarding Gagauzia as subjects... who will put forward from the territory of Republic Moldova according to your report? Parliaments, which lower chamber represents those two subjects, or will be, created the other special chamber, which will put forward these senators?

Mr.Volentir – if conversation in today's context, The asymmetric federation with one subject and federal territory, I see the most suitable decision direct election of senators in some constituencies which would be equal to number of voters. Thus, all territory of federation will be divided in some constituencies...

Mr.Creanga is would be the most suitable for Republic of Moldova. In case of such an offer the next problem will appear, the next question – what guarantees, what modality...

Mr.Negru – but if Moldovian side would approve those subjects of federation, it would be excellent...

Mr.Creanga– senators?

Mr.Negru – yes, yes... And I think that in this situation there would be an agreement...

Mr.Volentir – a variant with promotion from the side of regional Transnistrian Parliament, yes? ... And federal Parliament for federal

territory is not the most successful decision because some minorities and especially transnistrian will be overrepresented according to such procedure. Till now it was offered that senators have been put forward by regional parliament and the lower chamber of federal Parliament and the supreme chamber of federal Parliament. To my opinion it is...

Mr.Negru – are the transnistrians a minority?

Mr.Botan – dear colleagues, there are some problems here... you have spoken that the proportional system better protects the interests of minorities ... I think that if we are speaking about the minorities, it is necessary they to be asked – the minorities. I know that in 1998, the former deputy of Parliament Feodor Angeli has addressed in the Constitutional Court. He has protested the fact that absolute proportional system, one state in one district does not protect their interests. It was his opinion ... I have written an article in which i have told ... Sirs, on the one hand you are right, but on the other hand, it is paradoxical to tell that does not protect ... in Parliament there were 7 representatives from gagauzian nationality. Thus, parties had interest to advance them. If we shall give regions to minorities in order to be named by them, and there are some standarts of OSCE according to which it is said those nominal regions, borders should be such in order minorities not to be divided. With other words, there are mechanisms for the insurance of their interests, but I have a proposal... Recently, a month ago, on TV, in program МТВ – "Барьер", Mister Chairman of the Central Elective Commission of Russia and one deputy from the State Duma have discussed an electoral system which the Central Selective Commission of Russia would like to offer for us. But we have already developed also such an electoral system and it was accessible on our site, already 3 years ago. And I'd like to find out your opinion. It is concerning the proportional system you have told about – one state, one district. Parties have to offer the list from hundred candidates, only chairman of a party, the leader of this party has reliability that he is the first, for the others does not matter in what order they are written down. It means, the state is one district. We divide the state into hundred administrative districts in which chairman of a party sends on one candidate from this list, for representation. When its time to make the conclusions, on a threshold of election, exactly as it is spoken now that party X has collected 30 %, everyone knows that it there were taken 30 %. The modality of collecting in these regions and who has brought more voices, the so-called party comes in the head of the list and so on. It takes into account many things, no voice is lost and you know that research shows that sixty percent from the general number of the population want to have, to choose the concrete

person. And on the one hand he appears in the list and on the other hand he will be responsible. Advantages, from my point of view are big. Do you remember, when one deputy on behalf of all deputies, has addressed to the chairman of his party and has told, Mister, I has paid to you in order you to put me in the chapter of the list. And in this situation if you come with a bag of money, it doesnt matter, it is necessary to receive voices there ... this is an advantage. Other advantage – is the representative. Other advantage – is the leader of a party is interested to find the person with weight in this region. Now in the Parliament we have 75 % from deputies, which are from Kishinev... who does represent territory? My question, what do you think about this system?

Mr.Volentir – What do I think? It’s a very good idea. But I guess it is necessary to think if we are able to realize it, from the point of view of material and from the point of view of psychological opportunities. If we aren’t confuse more a voter because this is a big problem for the voter when he sees the list with 20 and more parties and have to select one, he makes mistakes while filling the ballot.

Mr.Botan – yes, in this case everything is clear, very simple...

Mr.Creanga – in any case the list will remain and it doesn’t matter there will be one party or another, is simple...

Mr.Volentir – but procedure of calculation of voices, distributions of mandates, it is very difficult to realize it in practice ...

Mr.Botan - it is a problem of the central elective commission... the electiv district has no anything common with it ..., a party as a whole and it is not necessary separate candidates ... Polling districts transfer the ballots to the central elective commission, and they are already counting...

Mr.Mosneaga – Do you mean a proportional representation?

Mr.Botan – proportional, Sirs ...

Mr.Mocreac – 32 parties, from each district 10 - 32 candidates...

Mr.Botan – why 32, only one deputy from every district...

Mr.Mocreac – one from every party, from 32 parties...

Mr.Botan - the elective experience has shown...

Mr.Mocreac – and in addition will be about 5 independent candidates...

Mr.Botan – now is the same thing, nothing changes...

Mr.Negru – in order not to complicate situation, may be the elections are not necessary in general... Who will be able to come earlier, will occupy all the places...

Mr.Mocreac – and in this case, what system does remain... remains the old one or it is offered the system to be proportional, or with the majority of voices?

Mr.Botan –it is proportional...

Mr.Guceac – proposal of mr.Botan is closer to democratic aspect because the voter has an opportunity to have its own position, its own opinion...

Mr.Botan - Sirs, I have invented this, but it's paradoxal that with 3 years later we can find on our site, in a heading Eureka, it is described very detailed. It is paradoxical, with 3 years later ... I have spoken to you, that a month ago Mister Vishnjakov was talking about it... There are no claims from my side that this idea belongs to me, everyone could realize this... this is the question.

Mr.Cirnat – Excuse me please for intervention... There is another proposal the system to be of the mixed type, with other words both: on proportional system and on the majority of voices...

Mr.Creanga – and in the lower chamber?

Mr.Cirnat – no, now I am speaking about an electoral system in the state where there is one chamber, as for example now in Republic Moldova.

Mr.Negru – I want to tell some things concerning parliaments of a bicameral system. It is considered ideal to have single-chamber parliaments because if we are speaking about the national sovereignty, the Republic of Moldova, to my understanding, is a national state. If we speak about the state sovereignty –in this case a single-chamber

parliament is ideal, because it represents absolutely whole people. The parliament of a bicameral system or more ... I have intentionally told, because this idea was already told, and I haven't taken it as derisively, but I really had a serious attitude to this. Because in reality, someone would like the Parliament of Republic Moldova to consist from some chambers. Such attempts have been already in the history, for example in Africa. The two-chamber Parliament, in general is considered necessary only in a situation of the federal state because as a rule, in the unitary states, two-chamber parliaments were kept only in the countries with some democratic traditions – France, for example, Italy, Romania... But in Romania, I know that the authors of the Constitution of Romania have recognized that the biggest mistake was their agreement regarding bicameral system when the project of the Constitution has been developed. Certainly, there is a question appears here, as I understood a federalization is something existing in our country according to the information presented today by our colleague. I have a simply question where is the analysis and where, in general ... what specific proposals do we have for Republic of Moldova? For example, I think, that in a situation of the federal state, may be such situations are known in a history, can exist and a single-chamber parliament for the coordination and make possible representation of some federal subjects. I speak about some federal subjects and I do not speak about some states, as our dear colleague have told... He has not told us, how many local parliaments does he suggest. In spite of this, federal subjects could be presented with ... to find any modality. With the help of heads, local units, as how it happens for example at Russians, there are only subjects of federation are presented? Because Russia, I speak, that it is a classical unitary example, in spite of that everywhere is written that this is a federal state, but unitarity prevails here, because practically, Russians have very cleverly destroyed federation. This idea has been taken in 1977 when the new project of the Constitution of Soviet Union has been developed. At that time they were afraid of explosion of republics. Because there was an offer that, in spite that it was spoken about Moldova, or Latvia, Kyrghyzstan. For that time they were called in the other way. I mean to be considered as subjects of federation, subjects of the future federation, a question that was not approved for that time. But now please, a classical example of the unitary state with two chambers – Russia, in spite of that, I repeat once again, that on a cover of the Constitution of the Russian Federation it is written, that this is a federal state. There, from the moment of acceptance of the Constitution, Russia is not a federal state. For example, we can take this modality.

Mr.Creanga – according to your speech, if there is such a modality, how do you look at the representation of minorities in the Parliament?

Mr.Negru – It depends on what do we understand as a minority. Because at the present we haven't national minorities, we haven't them. And knowingly in our Constitution the term of minority is not approved, and it is not necessary to confuse two different things – a national minority and a linguistic minority are two different things. A national minority, for example – Romanians from Bukovina, for example Ukrainians. They were born there, they have buried the ancestors there, but in the circumstances on their own territory they appeared under a heel of others, this we can call a national minority. We have no national minorities. Our demographic situation, practically, is the same as in other countries. France has come round with with several millions of arabs, for example, Germany with almost 3 million of Turks and by the way many other nations the same, please ... It not a national minority, the question is about linguistic minority, an ethnic group, and in our situation... Are Russians a national minority? No, they are not the national minority, they are an ethnic group. Bulgarians, for example ...

Mr.Creanga – and what about Ukranians?

Mr.Negru – ukranians, yes ... Here is a problem because practice shows that on border there can be situations when, for example they can be, but i think it cannot be approved the idea of a national minority. We can speak about the linguistic minority. By the way, telling the truth, they dominate in comparison with Russian on the territory of Republic of Moldova. And I also speak that in these situations there is a question, for example, if we are looking at the problem of the left bank of Dnestr, but there Moldavians are 40 %, and we know it. And about what minority we can speak, for example a transnistrian minority...

Mr.Creanga – and how do you see the representation in the Parliament?

Mr.Negru – representation, yes ... please, they have to decide...

Mr.Guceac – in the constitutional practice the places in the Parliament are reserved if there is not the necessary number of voices

Mr.Negru – I repeat once again that we do not have such a term as a national minority and consequently we cannot use it.

Mr.Creanga – please Mr.Botan...

Mr.Botan – to a certain extent it is the truth, but here is a problem with representation in the Parliament. If they live compactly on the territory, and we spoke that, there are some standards of OSCE, and again the performance of an electoral system. If they live compactly the territorial districts have to capture everybody in order not to be divided. Because if to carry out the border of district and to divide them and they will be in that part where they live compactly in territory, the majority of them, then we leave them without representatives. Thus, if they live compactly in territory then it is necessary to make districts in order they could be submitted, and also in order to be taken into consideration the border of districts and their number. These are two factors in standards of OSCE. In relation to minorities which are divided, as rom - gipsies, yes in this case practises, as has told mr.Mosneaga, a priori – there are some places are reserved for them, because it is not possible to make districts in order to capture everybody and to provide a representation for them. And, what mr.Mosneaga is speaking about, a priori, is reserved a place, and the way of election is already examining for the majority and is fixing in law.

Mr.Cobineanu – Do you allow me? I have listened very attentively everybody and I want to thank you for inviting us on discussion. One problem, is on what standard there should be a Parliament? I think, that there are not big problems here, in relation to structure, the competence and so on. But, there are some delicate problems – one is the struggle for authority in republic of Moldova between political groups. Who are the members of these political groups? They are connected among themselves by common interests, political similarities, and I would tell even about some solidarity of groups. These political groups were existing, in my opinion, and exist now. In order to be understood – they are existing today in one party, tomorrow in other party, they are transferring from one party in another and so on. I think, that it is impossible today to consider a representative mode in Republic of Moldova, in relation to political groups, in the newest concept of a word, yes these political groups were formed as expressive and active factors in politics. But they, we yet have no political parties, in the newest concept of a word. And it doesnt matter if we want this or no, today in a struggle for authority are involved parties and even everybody. Nevertheless elections will take place, which aspire to be called a representative mode of political groups. I think that it is one of the most intricate problems and if we would have the order and if we would have the ripened political groups, in this case we could speak and would rise

on a step higher. The attitude to authority. I think, that there is no necessity to speak about today's opinion concerning the authority in the Republic of Moldova. It should be changed radically and if we shall manage here we should put accent – on political groups and on changing the opinion concerning authority. And who can change the attitude to authority? The voter. Who is our voter? What about the political culture, even at our deputies in the Parliament, I do not speak about one or other party, they are all identical. Today a political culture in the Parliament is absent, as a whole and not only in the Parliament. So, in relation to the voter, concerning political groups, we still have much work to do, and I suggest that it have to be a separate research and separate conversation... what is the role and place of political groups? It has been told nothing about it, but it was told beautifully that the authority proceeds from the Parliament. But who are there, who they are? Political groups are the future of our republic, of our state. Political groups should participate actively and to be consolidated all time. We do not know, even today, it is spoken about oppositions, about parties representing the majority but when they come with programs, we do not find any difference in these programs, there are only declarations, problems. And if these problems would be studied, would be made a separate research because we call this in Russian "reefs", yes, it's characteristic for all political groups. They will determine structure of the future Parliament and so on, all depends on them. But all the same why we are speaking about national minorities, ... these problems will disappear by themselves if we shall manage to mobilize political groups in this big business in order our Republic to change its appearance, that we have a civilized appearance, a climate of stability. And only when this attitude will be changed – will be changed and the attitude to authority. It is clearly, that here it is spoken first of all about the problem of relations between authorities and the population of the country, about mutual relations between political classes, missions of different public organizations, a concrete role of authorities etc. in front of the population. We speak beautifully, and in my opinion, you agree with me whether or not, there are many modalities and today were spoken about some of them, about structure, about deputies, about districts... If you remember still in 1993 I have drawn some conclusions that it would be nice elections in Republic of Moldova to carry out on districts. I have counted up, 101 district, approximately 30 thousand voters, and again these districts correspond to those interests, which exist in corresponding settlements of districts. In the places where the Ukrainians or Russians live more compactly, they will have their own representative, they know whom it is necessary to choose, but what about the political group... The Key problem concerns to a place and a role of legislature in Republic of Moldova. I agree with everything what was spoken here about, it can be

two-chamber, with one chamber, only this Parliament should work..., but in my opinion there is no yet a concept, and how many we would not try, but without support, without participation of political groups ... in this case who has taken a place ... because it doesn't exist the other exit until there won't be 3-4-5 political parties which will be clearly determined, they should be constitutional and legal if they come to power, if they struggle for authority, for prevalence of authority in the Republic of Moldova. If you were attentive, I have told that from the beginning and till nowadays there are features of obvious struggle between political groups. There is no in the present a real struggle, clear for the voter etc., only then will be everything realized what we are dreaming about. This my opinion to the topic that has been discussed today.

Mr.Creanga – Thanks ...

Mr.Negru – I am sorry, only one minute, please ...

Mr.Creanga – yes, please ...

Mr.Negru – there is one district because, simply, there was a fear, practically the parliament of Moldova represents only this part of Dnestr. And therefore it was created... I speak it to you because I know this problem ...

Mr.Creanga – Mr.Negru, I would like on this theme Mr.Botan to express his point of view.

Mr.Botan – Mr.Negru is right, he knows very well that the draft law about the election of the Parliament since 1993 has been developed, if I am not mistaken, with participation of Mr.Negru and Mr.V.Popa who today regretfully is not present as he was one of authors. I know that this group of authors has convinced former Chairman of Parliament, to accept vote a proportional electoral system. It is the truth that it was spoken about the limited proportional electoral system that means, that the country has been divided into some districts with the majority of mandates and according to number of citizens. So it was necessary to distribute number of mandates in each district. It has been written in the law, according to territorial - administrative division of the second level. It was the organic law. And it was interesting that parliament by the decision, with other words it was the law and by the decision the Parliament has decided to create one national district with 104 mandates, that is precisely what Mr.Negru was speaking about. The motive was that into national district enters and Transnistria. And for that time nobody has

reproached that citizens of Transnistria are not submitted in the Parliament. There is one more factor, which promoted this. A reality that elections according to the list of a party are very cheap, are carried out in only one round, candidates are replaced, one has left, it is not necessary to make already a choice. These are two factors.

Mr.Creanga – and the third factor, there was a fear then, that in a district will remain 10-15 mandates from the side of the left bank of Dnestr and would not be mastered and it will be never possible to obtain the parliamentary majority which could solve...

Mr.Botan – here is an example of Ukraine, before proceeding to a joint system and proportional system, recently in the Ukrainian parliament 1/3 from places have not been submitted, because elections did not take place. In this situation it was necessary to remove a threshold of the statement of elections to 50 % that Ukrainians have made. It seems to me that in 1998, as in the USA, citizens have the right of a choice. If they are present and use it - it is very good, if they not use this right - they should not take offence that others came on elections and took a decision for them.

Mr.Creanga – I think that we have departed from our subject... I want all of you to return to our subject and regarding to this report I want to give two more questions, concerning the right on the legislative initiative. You have noted that fact, that the President should not have the right to the legislative initiative. It is the first question. Also it would be desirable to comment this question under the other corner of vision. If the President will have the right of representation, the right of negotiating how will he represent these agreements to ratification in the Parliament. The second situation, today in the Constitution we have the right of territorial administrative unit Gaguzia for a legislative initiative. Do you see this right as continuation of the contract between subjects, or this right would be given to the Government, deputies, the Constitutional Chamber, the Supreme legal chamber or to the others... And so, you spoke nothing on this theme.

Mr.Volentir – concerning the President, I think that the President should not have the right for the legislative initiative, he could initiate laws only through the federal Government. Concerning the subjects of federation, these can initiate projects of laws as I have suggested, also through the federal Government or with other words through chamber. I would tell that through the supreme chamber could be initiated projects of laws on behalf of the federal Government and projects of laws on behalf

of legislators should be only initiated from the lower chamber, and on behalf of the Government which will present these projects on its own behalf either on behalf of the President, or from the side of the supreme chamber, or the certain federal subject.

Mr.Creanga – Thank you for your answer ...

Mr.Cirnat – I am sorry, it would be desirable to express my thoughts concerning the structure of federal Parliament. The big discussions are caused by memorandum of Kozak, concerning number of senators from Transnistria's side, from the side of Gagauzia and from the side of Republic of Moldova. And when we looked at the number, they are almost equal... And from this point of view I would like to find out how are you looking at the number of senators, how they should be submitted from each subject of federation, and how should be submitted the number of deputies in the lower chamber?

Mr.Volentir – certainly, the number of deputies always is bigger than the number of senators. The applicability of senators is in the representation of the territory, and not people, that's why their quantity can be limited and to be symbolical.

Mr.Creanga – please, Mister Osojanu, your question to Mister Volentir, after that a word will be given to Mister Botan.

Mr.Osoianu – and so you have told that the parliamentary form of board is necessary in a context of prospect of the European integration. Why do you consider that we, for example, the Republic Moldova, being a presidential republic, we have no chances to enter in the European Union. Am I right?

Mr.Volentir – I didn't mean that we do not have chances to enter in Europe. I have meant absolutely another, that realities in Europe are of such nature, that all constitutional systems in Europe are the parliamentary, or half - presidential, with small exceptions, but the majority of the constitutional systems in Europe are parliamentary and there is also the European system, already at a level of the European Union, this system is arranged, as well as in parliamentary state, by principles of parliamentarism.

Mr.Negru – and in our case is the Republic of Moldova a parliamentary republic?

Mr.Volentir – what do we have now is the one thing and what do we wish to have-is ...

Mr.Negru - no, a problem in that you have told that it is a parliamentary republic. Colleagues, I have told that it for very long time is a half-presidential ...

Mr.Creanga – dear colleagues, I ask to keep the order ...

Mr.Botan – He has raised a problem of the number of senators. In Memorandum of Kozak the quantity of senators was not such important. Certainly, there were proposed from Kishinev-13 ...

Mr.Cirnat – 9 and 4 ...

Mr.Botan – yes, you are right $9 + 4$ it is 13, it is equaled ... From this point of view if this is accepted, we can tell: “Sirs in this way it is possible to accept this proposal more or less...” That was interesting in Memorandum of Kozak, for example, that Transnistria had 30 % of places in the senate, but the right of veto had $\frac{1}{4}$ and still there were imperative mandates that have been named by administration. In this case if you even want to buy- it is impossible, because tomorrow he will be called by Smirnov and at his place will put another man, and he will lost all his money...do you understand? So, there was a double protection. Now concerning the senate, it depends on quantity of subjects. As bigger the quantity of subjects, to take for example the USA - 50, the representation is more proportional, each state has 2 representatives, irrespective of quantity of the population. Thus, than quantity is less, representations is done asymmetrically for the benefit of subjects of smaller – Germany – 16 lands, but in the supreme chamber are not submitted proportionally to quantity ..., in order to guarantee rights for smaller. With other words, in our situation, one federal center and two subjects, basically, I would tell Sirs, that this proposal is correct, but an example which I have resulted with the right of veto and the imperative mandate, practically unqualify it completely and anyway equalizes ..., even with one voice, should leave for this side, because as you see the citizens with the right for veto, in this side - 2 million 400 thousand, well let's tell 2 million 200 thousand, in that side, in general - 600 thousand. 100 thousand voters in Gaguzia and 400 thousand in Transnistria... There are the results of elections, in Gaguzia have been registered in 2001 – nearly 100 thousand - at local elections which took place there were 93 thousand, that is, approximately 100 thousand voters.

Mr.Creanga – Mister Botan how do you comment this? So you have told that the offered variant for the imperative mandate without the name from the side of administration of Transnistria, would be durable ...

Mr.Botan – no, I have not told ..., the proposal is correct that representation should be asymmetric, for example not less than for 2 million and 400 thousand of proportional modality, for example will leave 15 mandates, yes? But the others 11 is necessary to leave for the rest in order to protect their interests ...

Mr.Mosneaga – if you look at proportional quantity of the population in this case even here, not on affinity Mr.Botan...

Mr.Botan – It was an example in order to show you, that it already for a long time is disproportional submitted territories because at any moment they can conduct contracts and with these from the side of Kishinev.

Mr.Creanga – How do you think, senators from the side of Kishinev will be elected by the lower chamber in which there will be transnistrian deputies, gagauzian deputies, local deputies which represent other minorities... This fact will be taken in attention or whether it should be taken in attention?

Mr.Botan – certainly, that it should be taken in attention, but I think that it will be impossible to count beforehand what can happen once, somewhere the structure of Parliament in order to take into consideration all these factors. Therefore, I would prefer, exactly just as our today's lecturer have proposed that the senate has been more limited, it is possible 15, I do not know precisely how many deputies and that have been elected in a uninominal district. They will not be equal..

There is other problem which has been lifted and has been discussed by Mr.Popa, if we shall construct usual federation without asymmetry to which we go ..., with 7 subjects, or districts ..., this asymmetry of representation in the senate can already be more reduced, and it more practic, than ... I have not understood this plan of Kozak because it is actually in spite of the fact that calles it as an asymmetric federation, practically all important spheres have been given to ..., with other words, it is asymmetric, but not for the benefit of Kishinev ...

Mr.Cirnat – the democratic principle here is broken because it is clear that the minority dominates in the state Republic of Moldova...

Mr.Botan – it is correct, it should be protected ...

Mr.Cirnat – yes, correctly, it should be protected, but not up to such degree, in harm to the majority. This conclusion should be reached earlier.

Mr.Mocreac – we are speaking “ours”, “not ours”, but who they are?

Mr.Negru – and who are ours, and who are not ours?

Mr.Botan – Mister Mokriak, please allow me to answer at this question ... Three weeks ago, the leader of fraction of the majority was on transfer "Point of view", at Anatolii Golia and Mr.Golia has asked him:“ Do you meet with those deputies from that side », and he has answered that he doesnt, because we are the recognized Parliament, and they are not recognized, and I have reminded that precisely 3 years ago, at the end of May the Parliament has accepted the decision in which it undertook, not less once in two months to meet with the deputies, from that side. That is, what do we want from the people, we are who simply discuss here these problems - if deputies and leaders of fractions forget about their promises ... Everything is OK ...

Mr.Cirnat – Is it possible to give a question? I am interested in some statistical dates, in the last ones, which show, what villages, we speak about the population, the population we know-36 % are Moldavians but if we take every administrative territorial unit separately, how many the Moldavian villages are on the left bank of Dnestr? Whether you have such dates? If you don't have them, I shall tell you– 51 % from villages of a left bank of Dnestr are Moldavian. Has someone asked these 51 villages if they want whether or not federation?

Mr.Botan – they will be asked in the autumn, on a referendum.

Mr.Cirnat – but why? Everything is discussed at a level of the President, and that's all. But look, 51 villages are Moldavian.

Mr.Mocreac – citizens of Republic.

Mr.Cirnat – Mister Mocreac, I agree that they are the citizens of Republic but who have talked to them separately, look really, who have talked? Nobody. Why? In fact they are from area Dubasari. We shall take

Kocieri, Koshnita, Dorotkaia, they are very dissatisfied with what is made in Kishinev. We simply discuss with those from Kishinev.

Mr.Botan – in autumn there will be a population census in Transnistria ...

Mr.Cirnat - but it was necessary to make this population census for a long time ago ...

Mr.Botan – yes, but do you know, what we did we find out after this census? We have found out, that there are transnistran people with the right on self-management ...

Mr.Creanga – please Mister Kiseev, your question.

Mr.Chiseev – In the case of Moldova, the problem will be to find the optimum decision which would help to combine both systems with one on both coasts of Dnestr. I would like to understand you, further you are writing: « it is hard to compare these two constitutional systems ». I would like to know, how do you want to compare, here are your words to combine both systems? Have you caught my question?

Mr.Volentir – yes, you are right, I have noticed that in Transnistria the presidential system of board, but on the right side of Dnestr there was established, in Bessarabian side of Republic of Moldova there is developed absolutely another system – parliamentary. How I see the association of these two systems, I have proposed, in the Federal Constitution principles of formation of federations, as well as of the subjects of federation have been written down. Differently, some countries, inclusive Europe, in federal constitutions determine the state organization and in the subjects of federation. Thus, if at a federal level, for example in the USA presidential system of board, presidential republic, at a level of states - members federations - states are organized as – presidential republics. In Canada if the question is about parliamentary monarchy at a federal level, at a federal level we already have a republic, but also parliamentary. In this context, I have suggested that through the Federal Constitution, or through federal laws to be organized the same system of board at a level of federation and at a level of subjects.

Mr.Chiseev – you have two opinions here and I read them, two concepts: « The Bessarabian part of Republic of Moldova and the Transnistrian part ». Do you offer in the future Constitution these two

concepts: The Bessarabian part of Republic of Moldova and the Transnistrian part?

Mr.Volentir – it is a pity, but I have presented here this report not as the project of the Constitution. This business should be resolved by those who make a decision. I used terms and I can use terms especially as the political scientist, namely any terms for transfer of essence of a question.

Mr.Creanga – please Mister Protsik.

Mr.Protsik – I have general comment and some comments to the lecturer. One general comment, a permanent question appears concerning the problem that rights of Moldavians in Transnistria are not taken into account. I agree with this, everybody knows that in Transnistria there is no democracy and we do not know anything about the privileges of the people which live there. While there will be no democracy, we shall not know what the Moldavians are thinking, what the Ukrainians are thinking, what the Russians are thinking about. But at the same time it is not necessary to assume automatically that the same Moldavians, for example will not want territorial autonomy of Transnistria. That is, that I speak that there can be all the same even at demographic system, there can be an interest to keep a territorial autonomy, because there it is historically a little another process have been developed. It should be remembered, but I absolutely agree that while there is no democracy, and it is necessary to emphasize certainly above this fact – absence of democracy. But at the same time, without knowledge, without results of polls which we can trust and other factors to which we cannot trust that everything there, that the regime oppresses also and everybody absolute against any form of autonomy for Transnistria, a territorial autonomy.

Addressing to the lecturer – the author has done the big work and very serious report and it was very interesting for me to read it. Personally, I have opened many new things, but at the same time there are moments which I would like to scold and as the report was good I shall allow myself to be more critical than usually. The first question is – Memorandum of Kozak. Clearly that it have been rejected and it have been correctly made, but when you prepare the report on such theme it isn't allowed not take into account that has already been done. This Memorandum of Kozak not only was brought and has been thrown off with a parcel from Moscow, I think it was preliminary discussed and by the Moldavian side, there was big debate, and experts worked above these and clearly it is pleasant to you whether or not you should comment on it. You are commenting, speaking that there are different questions on the

senate, there are different forms of the organization and it is possible to make it to be proportional, it is possible it to be disproportional, to a territorial autonomy to give more places than to the basic territory, but you are making some references to the Canadian experience, to others. It seems to me it is very essentially to establish dialogue with what have been already done, in order we wont have a debatable club, but to speak about those problems, which are discussed not only here, but are discussed in the Ministry of Reintegration, which are discussed in many other cabinets in this country, in Transnistria and in the other places. It seems to me that is necessary to work more with that material which have been already done, because it is not the general academic report, and our advice to experts, we should reckon with what the previous experts have made.

The second remark – there is a lot of an analytical material which has been very carefully processed, but here it seems to me that also it is necessary to speak more about examples of the East Europe countries because it is logical, that these countries meet with the same problems as Moldova, that their transition period should be interesting for us, the same about Romania, as you have mentioned it only once. How do they solve this problem, for example presidential and parliamentary elections there occur simultaneously and as a result it has avoided the conflict between executive and legislature, between the President and Parliament? That is such things which occurs on the Balkans when there new constitutional mechanisms suggest for solving these problems, which very specific to transitive societies. Certainly, we haven't enough of such kind of literature and it is difficult to work with it, but in such reports it seems to me is necessary to speak about things which are closer, because in their conversations of Mr.Popa and Mr.Botan sometimes referred to the Russian Federation, but this question is not mentioned in the report, that is not discussed as it would be more useful for experts.

The third – is a stylistic manner of submission of the information, the report. If a person read it up to the end, it really will help and will open his eyes. But even in the beginning it is necessary simply to list what you will speak about in the report, the chapters in order to make the form of the report to be convenient for the people sitting in ministerial cabinets and reading 20 documents in day. The stylistics of the report have to be more focused on the thing that it will be read by consumers, people which make a policy, instead of colleagues, academicians of other universities. Everything, that you have found are competent materials, they are really important but it is necessary to submit them through a prism of discussion of those problems which are discussed scientifically today on each concrete problem, as has been arisen today, for example a problem of senators. Really, it is an elementary question about

proportionality of distribution of places, and it should be undoubtedly specified in the report, such things and then they will be even more useful for the people, which make a decision.

Mr.Creanga – Thanks Mister Protsik. You have caught some aspects. We will work above them, likely. But basically for all of us it was useful, it was certainly nice to hear each subject which further can become a corner stone in discussions, for experts when they will be working on the future Constitution.

I want to thank everybody, that have agreed to come today at our session and we hope, that after summer vacations we shall meet approximately in September, or in October. We hope that evolutions will be good in all aspects, inclusive political etc.

Thanks.

Good-bye.