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SUSPENSION AND TERMINATION OF THE HEAD OF STATE'S MANDATE IN
THE CONTEMPORARY CONSTITUTIONAL ARCHITECTURE OF THE REPUBLIC
OF MOLDOVA

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CONCEPTUAL LANDMARKS OF RESEARCH

Theoretical relevance and practical importance of the problem addressed. In contemporary constitutional doctrine, the institutional architecture of democracy is based on a system of public authorities, functionally distinct, but interdependent in the exercise of state power. In this institutional configuration, the following are distinguished: Parliament, as the supreme representative body of the people and the sole legislative authority; The Executive, broadly constituted by the Head of State and the Government; the judicial authority, which is responsible for the administration of justice; and the Constitutional Court, the sole authority of constitutional jurisdiction.

By exercising their own powers, but also through mechanisms of cooperation and mutual control, these authorities contribute to achieving and guaranteeing constitutional order, the separation and balance of powers, as well as the values specific to the democratic state and the rule of law.

In the described institutional framework, the exercise of state power is carried out through persons holding public office under the Constitution and special legislation. The decision-making role assigned to them necessarily implies compliance with the principles enshrined in the Fundamental Law – an essential premise for the legitimate and responsible performance of the duties related to the office held. Throughout the term of office, compliance with the Constitution represents a fundamental requirement of the conduct of state officials, as it is not just a set of written rules, but expresses the values and spirit of a free and democratic society. Consequently, the supremacy of the Constitution requires compliance with both the letter and the spirit of the constitutional text, officials having not only the moral duty, but also the legal obligation to demonstrate loyalty to the constitutional order and to interpret and apply the Fundamental Law in good faith.

The head of state, as the holder of a public office, constitutes one of the fundamental pillars of state power, having an indispensable role in the organization, functioning and political evolution of the state. The Constitution of the Republic of Moldova established the institution of the head of state in order to satisfy, on the one hand, the need to represent the state, and on the other hand, the need for arbitration and mediation, both between public authorities and in relations between the state and society. In this regard, the presidential institution occupies a distinct place in the constitutional architecture, as it concentrates, in a single public authority, requirements such as stability and limitation of power, continuity of the mandate and the possibility of its interruption, functional independence and responsibility for the manner of exercising constitutional powers. In this perspective, we note that the mandate of the head of state cannot be reduced only to the period in which the holder of the position exercises his powers, but constitutes a complex legal relationship, based on democratic legitimacy, institutional continuity, constitutional responsibility and the supremacy of the Constitution. The beginning of the mandate, its exercise, its suspension and

termination form stages of the same constitutional mechanism, intended to ensure both the continuous functioning of the state and the prevention of the arbitrary exercise of presidential power.

Regarding the institution of the head of state in the Republic of Moldova, we note that the specialized literature includes numerous researches devoted to it. However, the jurisprudential developments and the changes that occurred in the contemporary constitutional context justify the reconsideration of certain aspects related to the presidential status and mandate and require an in-depth and systematic analysis of the suspension and termination of the mandate of the President of the Republic of Moldova. The need for such an analysis is determined by a series of circumstances that substantiated the choice of the research topic, among which we highlight: the change in the method of electing the head of state; clarifying the legal nature of the institution of the suspension from office of the President of the Republic of Moldova, regulated by art. 89 of the Constitution, with the elucidation of the particularities and legal effects of this measure, as well as highlighting new dimensions of the legal regime of the suspension and termination of the mandate of the head of state. At the same time, the institutional blockages generated in connection with the exercise of presidential powers require the identification of adequate constitutional mechanisms to overcome them, in accordance with the provisions of the Constitution and contemporary social realities. The choice of the topic is also determined by the need to comparatively examine the constitutional practice of other states regarding the suspension and termination of the mandate of the head of state, especially in situations where the violation of the constitutional oath was invoked, as well as with regard to the institutional mechanisms used to hold the office holder accountable.

It should be noted that the importance of the institutions of suspension and termination of the mandate of the head of state derives from the imperative of ensuring a balance between the stability of the presidential mandate and the responsibility of its holder for the way in which he exercises his constitutional powers. In this context, it is necessary to emphasize that the mandate of the head of state benefits from protection against political interference and arbitrary revocation, but this protection cannot be transformed into a form of constitutional impunity. When the exercise of the function becomes temporarily impossible, is carried out in serious violation of the Constitution or can no longer continue for objective or legal reasons, the constitutional order must have mechanisms capable of preventing institutional blockage and guaranteeing the continuity of state authority. In such situations, the institution of suspension constitutes a temporary and exceptional mechanism for protecting the constitutional order. It does not abolish the mandate, but interrupts, for a determined period, the exercise of presidential powers.

Therefore, the need to study these institutions is also determined by the existence of the above-mentioned circumstances, for which it is also necessary to identify constitutional remedies, especially in cases where maintaining the head of state in office could affect the functioning of public authorities, the conduct of accountability procedures or respect for the supremacy of the Constitution.

At the same time, it is important to note that the need for the two institutions is manifested mainly in situations of institutional crisis. Thus, if the head of state is temporarily unable to exercise his or her powers, the suspension or finding of temporary impossibility allows the provisional taking over of the position, thus avoiding the blockage of presidential authority. If the impossibility becomes definitive or if the constitutional procedure is completed by dismissal, the termination of the mandate allows the declaration of the vacancy of the position and the initiation of the procedure for the legitimization of a new holder. In both situations, the main purpose is not to sanction the person, but to protect the position and ensure the continuity of the mandate.

Consequently, the suspension and termination of the mandate constitute guarantees of democratic constitutionalism, because they: ensure the supremacy of the Constitution and the obligation to respect it, including by the head of state; prevent the perpetuation of the abuse of power and the emergence of a form of presidential impunity; allow for the engagement of constitutional liability for serious violations; prevent blockages generated by the impossibility of exercising powers; guarantee the continuity of the presidential function through an interim; ensure the legitimate and orderly transmission of authority to the successor; protect the stability of the mandate against arbitrary revocation, by establishing strict grounds and procedures.

In view of the above, the institutions of suspension and termination of the mandate should not be seen exclusively as ways of removing the head of state from office. They form a system of constitutional guarantees designed to harmonize three fundamental values: the stability of the presidential mandate, the responsibility of the holder and the continuity of public power. In the absence of these mechanisms, the mandate could become either excessively vulnerable to temporary political majorities or excessively rigid, allowing the holder to exercise his powers contrary to the Constitution, without the existence of an effective institutional remedy.

From this perspective, it is appropriate to appreciate that the need to ensure the stability and continuity of the presidential office, simultaneously with the establishment of efficient legal mechanisms to prevent and sanction potential abuses of power, constitutes one of the fundamental premises that determine the topicality and scientific relevance of this work.

The research into the institutions of suspension and termination of the mandate of the head of state was also determined by the need to identify constitutional mechanisms capable of ensuring the continuity of the presidential office in situations where its holder can no longer or is no longer entitled to exercise his or her powers. The importance of conducting the research derives from the very position of the head of state in the architecture of public authorities: he or she represents the state, guarantees certain constitutional values and contributes to maintaining institutional balance. Consequently, we note that any impossibility of exercising the office or any conduct contrary to the Constitution can have effects on the entire system of public power. At the same time, it is important to point out that the interest in researching these institutions was also amplified by the

transformations that the status of the head of state has undergone in the evolution of contemporary constitutionalism.

The in-depth study of the doctoral study is also justified by the diversity of situations that may affect the performance of the presidential mandate. Some of these are temporary in nature and support the provisional interruption of the exercise of the duties, without the immediate loss of the quality of holder of the position, while others make it impossible to definitively continue the mandate relationship, requiring the establishment of the vacancy of the position and the initiation of procedures for the designation of a successor. This diversity, as well as the need for a coherent and well-founded approach to the situations described, determines the orientation of the present research towards a clear delimitation between suspension, termination, dismissal, vacancy and interim, as well as towards clarifying the relationship between immunity and liability, concepts that are close, but distinct in their legal nature, grounds, procedure and effects.

In the case of the Republic of Moldova, the analysis of these institutions is further justified by the particularities of the constitutional regime, the successive changes in the method of electing the President, the sometimes tense relations between the President, Parliament and Government, as well as the role of the Constitutional Court's jurisprudence in interpreting presidential powers. The direct election of the head of state gives him increased democratic legitimacy, without automatically determining the extension of his powers. Such a configuration may generate divergences regarding the length of the mandate and the limits of the intervention of other authorities in the event of improper exercise or non-exercise of constitutional powers.

At the same time, the need to deepen the analysis of the institution of suspension of the head of state is determined by the relatively general nature of some constitutional formulas, such as the phrase "serious acts" that violate the provisions of the Constitution of the Republic of Moldova. From this, the idea emerges that, most often, the measure of suspension from office of a person with a public position is instituted in cases related to criminal proceedings, the commission of serious acts or illegalities related to the exercise of office.¹

We note that the lack of sufficiently precise legal criteria for assessing the seriousness of the facts may allow divergent interpretations and may transform a constitutional protection procedure into an instrument of political confrontation. Similarly, the diversity of grounds for termination of mandate requires the exact determination of the moment of production of legal effects and the competent authority to establish the existence of each ground.

Therefore, the research into these institutions was prompted by the need to resolve a fundamental issue of constitutional law: how can the stability of the head of state's mandate be ensured without leading to the lack of accountability and, at the same time, how can his/her

¹ COSTĂCHI, Gh.; HLIPIŢĂ, P. *Organizarea şi funcţionarea puterii în statul de drept*. Ed. a II-a, revăzută şi completată. Chişinău: Î.S.F.E.-P. „Tipografia Centrală”, 2011. 331 p. ISBN 978-9975-78-941-7.

accountability be engaged without allowing his/her arbitrary removal from office. Suspension and termination of the mandate represent different legal responses to this issue, being indispensable mechanisms for protecting the constitutional order, preventing a power vacuum and guaranteeing the continuity of state authority.

Therefore, starting from the current state of research in the specialized literature, as well as from the legal framework in the matter, we consider that there are sufficient premises for carrying out an in-depth study within the doctoral research project on the suspension and termination of the mandate of the head of state. As we noted above, this option is supported by the position that the head of state occupies in the architecture of fundamental public authorities, one of the pillars of the exercise of power in the state, having an essential role in ensuring respect for the constitutional order, the functioning of constitutional institutions and the continuity of the state.

The topicality of the subject is also amplified by the diversity of normative solutions existing in different constitutional systems, as well as by the practical difficulties generated by the interpretation and application of the procedures for suspension or termination of mandate.

The degree of research on the problem. To carry out the scientific research, numerous scientific works from national and international doctrine were used. The analysis of the specialized literature highlights important aspects, including: determining the cases of intervention of the suspension and termination of the mandate of the head of state; the issue of immunity; identifying and systematizing the legal and constitutional principles that govern the responsibility and liability of the head of state.

From the research of the specialized literature, the idea emerges that the issue of suspension and termination of the mandate of the head of state, including aspects related to its suspension, has been the subject of analyses in the doctrine of the Republic of Moldova and Romania, as well as in that of other states. However, the approaches are, for the most part, dispersed and integrated into the established studies of constitutional law. Mainly, it concerns a series of scientific works signed by reputable local authors, such as: Al. Arseni, I. Guceac, Gh. Costachi, S. Agachi, D. Baltag, Gh. Avornic, I. Iacub, I. Muruianu, E. Moraru, B. Negru, T. Cârnaț, V. Popa, P. Hlîpcă; dar și din România: I. Deleanu, T. Drăganu, D.C. Dănișor, M. Constantinescu, I. Muraru, E. S. Tănăsescu, C. Călinoiu, V. Duculescu, C. Calinoiu, M. Enache, Gh. Iancu, C. Ionescu, N. Popa, G. Vrabie, I. Vida, R. D. Popescu, M. Dogaru etc.

In the doctrine of the Republic of Moldova, the institution of suspension and termination of the head of state has been analyzed in the context of the constitutional liability of the President and the balance between the authorities. Professor Alexandru Arseni highlights the constitutional status of the President of the Republic of Moldova, the limits of the exercise of his powers and the mechanisms of liability provided for by the Constitution, emphasizing the exceptional nature of suspension from office. Academician Ion Guceac examines the presidential institution from the

perspective of the principle of separation of powers in the state, paying attention to the constitutional procedures of suspension and the role of the Constitutional Court within them. Professor Gheorghe Costachi approaches the institution of the President of the Republic of Moldova in the context of the organization of state power, highlighting the relationships between the President, Parliament and the Constitutional Court in the application of the mechanisms of constitutional liability. In turn, constitutionalist Teodor Cârnaț analyzes the constitutional liability of the head of state and the constitutional guarantees that accompany the procedure of suspension and dismissal, emphasizing the need to respect the principles of the rule of law.

As for Romanian doctrine, a significant contribution belongs to the constitutionalists Ioan Muraru and Elena Simina Tănăsescu, who examine, in the work "Constitutional Law and Political Institutions", the status of the President of Romania, the procedure for suspension from office and the forms of his liability. The constitutionalist Tudor Drăganu analyzes the institution of the head of state and the mechanisms of constitutional liability in the work "Constitutional Law and Political Institutions". Also, the Romanian doctrinaires Genoveva Vrabie and Cristian Ionescu treat the powers and liability of the President, highlighting the role of parliamentary and constitutional control over the exercise of the presidential function.

At the same time, in addition to the specialized literature, the research utilized a wide range of normative, jurisprudential and documentary support, consisting of the provisions of the Constitution of the Republic of Moldova and relevant normative acts, the jurisprudence of the Constitutional Court of the Republic of Moldova and other constitutional jurisdictions, as well as the regulations enshrined in the constitutions of Romania, Germany and other states included in the research. The documentary base was supplemented by utilizing the opinions and recommendations of the Venice Commission, international legal acts and relevant conventions, as well as studies developed by national and international institutions and civil society organizations specialized in the field.

The purpose of the paper is to conduct an in-depth research into the institutions of suspension and termination of the mandate of the President of the Republic of Moldova, by identifying and examining the theoretical, normative and practical issues related to them, as well as formulating solutions and proposals de lege ferenda aimed at improving the legal and constitutional framework in this matter.

Research objectives. In order to achieve the proposed goal, we established the following objectives:

- Analysis of the theoretical and doctrinal foundations of the institutions of suspension and termination of the mandate of the head of state, as well as his liability, by examining scientific approaches regarding the constitutional status of the head of state and the mechanisms for interrupting the mandate;

Synthesis of the research methodology and justification of the chosen research methods.

The complexity of the investigated issue, as well as the need to examine it from a doctrinal, normative, jurisprudential and comparative perspective, imposed the use of a coherent and scientifically substantiated research methodology, capable of ensuring an integrated approach to its various dimensions. For this purpose, the main scientific research methods were used:

- *systemic method* – used for the corroborated analysis of the constitutional and infra-constitutional provisions regarding the functions, particularities of the mandate, suspension and termination of the mandate of the head of state, taking into account the place of each norm in the legal system. The examination of the norms in correlation with the principles of the supremacy of the Constitution, the rule of law, the separation and balance of powers allowed the identification of the relationships between the analyzed institutions, as well as of possible gaps, inconsistencies and difficulties of interpretation and application;

- *comparative method* – used to examine scientific materials and constitutional regulations from the Republic of Moldova and other states regarding the institution of the head of state, with an emphasis on the suspension and termination of the mandate. The comparative analysis allowed highlighting the similarities and differences between the constitutional models researched, evaluating established legal solutions and identifying good practices relevant for improving the regulatory framework of the Republic of Moldova;

- *logical method* – used in the framework of inductive and deductive analysis, as well as for the interpretation and correlation of legal norms relating to the suspension and termination of the mandate of the head of state. The application of this method contributed to the elucidation of the legal nature, grounds, conditions and effects of these institutions, as well as to the determination of the relationship between them and constitutional responsibility;

- *historical method* – used to examine the genesis and evolution of regulations regarding the suspension and termination of the mandate of the head of state, as well as the mechanisms of constitutional liability. Its application allowed highlighting the transformations of the normative and institutional framework in relation to the constitutional evolution of the institution of the head of state;

- *analytical-synthetic method* – used for the multi-aspect examination of the institutions of suspension and termination of the mandate of the head of state. The synthetic dimension of the research consists in integrating constitutional aspects, related legislation, constitutional jurisprudence and relevant doctrine into a complex approach aimed at substantiating proposals for improving the constitutional framework in order to ensure the stability of the presidential office.

The scientific novelty of the results obtained consists in the complex and multidimensional approach to the institutions of suspension and termination of the mandate of the head of state from the perspective of contemporary constitutional law. The scientific novelty and originality of the

- Determining the legal-constitutional framework applicable to the mandate of the head of state in the Republic of Moldova, its content and particularities, as well as the functions exercised, the immunity and liability of the head of state;

- Analysis of the constitutional grounds for suspension and termination of the mandate of the head of state in the Republic of Moldova, as well as the powers of the public authorities involved in these procedures;;

- Conducting a comparative research of contemporary constitutional models of suspension and termination of the mandate of the head of state, in order to identify and capitalize on normative and institutional solutions relevant for the Republic of Moldova;

- Critical evaluation of the constitutional mechanisms regarding the suspension and termination of the mandate of the President of the Republic of Moldova, by analyzing constitutional jurisprudence and identifying normative gaps, implementation difficulties and risks of institutional blockage;

- Formulation of proposals and recommendations for the law ferenda in order to improve the regulatory framework and legal mechanisms applicable in the researched field..

Given the purpose and objectives of the research, we formulate the following research hypothesis: the exercise of the office by the head of state must be carried out with strict observance of the constitutional limits of his/her powers and with the assumption of responsibility for the manner of their fulfillment. Serious violation of the Constitution requires the engagement of constitutional responsibility and, as the case may be, the application of mechanisms for the suspension or termination of the presidential mandate. In this context, we invoke that the study aims to assess to what extent the improvement of the regulations of the constitutional and legislative framework of the Republic of Moldova regarding the clarification of the grounds, conditions, procedures and effects of the suspension and termination of the mandate of the head of state can ensure the balance between the constitutional responsibility of the office holder, the continuity of the presidential office, the separation of powers and constitutional stability.

The important scientific problem derives from the need to clarify the conditions and legal guarantees under which the prerogative of suspension or termination of the mandate of the head of state can be exercised, without these mechanisms becoming instruments of institutional instability or political instrumentalization. At the same time, it is necessary to determine the extent to which the constitutional and legislative framework of the Republic of Moldova meets the requirements of clarity, predictability, proportionality and legal certainty. Solving this problem involves identifying the deficiencies and gaps in the national regulation, capitalizing on constitutional jurisprudence and the experience of other constitutional systems and substantiating legal solutions aimed at ensuring a balance between the responsibility of the head of state and protecting the stability of the constitutional architecture.

research is expressed by developing a unitary concept and substantiating certain legal and constitutional criteria on the suspension and termination of the mandate of the head of state, by delimiting the legal nature of the grounds, conditions, procedure, purposes and effects of these institutions in relation to the vacancy of office, interim, dismissal and temporary impossibility of exercising presidential powers, embodied in proposals de *lege ferenda*.

Thus, for the first time in the national constitutional doctrine, the present research substantiates a legal-constitutional model adapted to the particularities of the Republic of Moldova, which essentially includes the classification of the forms of suspension, the systematization of the constitutional conditions and procedures applicable to the suspension and termination of the mandate of the head of state, the regulation of the objective criteria for the qualification of "serious acts" and the application of a constitutional test of the necessity and proportionality of the measure, as well as the establishment of a system of procedural guarantees aimed at preventing the political instrumentalization of presidential responsibility. The originality of the study also lies in the integrated analysis of the doctrinal foundations regarding the normative framework, the jurisdictional practice and the comparative experience regarding the constitutional mechanisms for the suspension and termination of the exercise of the mandate of the head of state, as well as the forms of his responsibility, but also identifies the difficulties of interpreting and applying the existing norms and formulates proposals aimed at improving the constitutional and legislative framework in this area.

The theoretical importance and applicative value of the work is determined by the development and consolidation of the conceptual and doctrinal framework regarding the institutions of suspension and termination of the mandate of the head of state in contemporary constitutional law. The study contributes to clarifying the legal nature, constitutional foundations and particularities of the legal mechanisms applicable to the interruption of the exercise of the mandate of the head of state, completing and consolidating the specialized literature. At the same time, the research offers a systemic approach to the analyzed issue by capitalizing on the doctrine, jurisprudence and comparative constitutional experience.

The applied value of the work lies in the possibility of using the research results in improving the regulatory framework and legal-constitutional mechanisms regarding the suspension and termination of the mandate of the head of state². The conclusions and recommendations formulated can serve as support for legislative activity, for the interpretation and application of constitutional norms by the competent authorities, as well as for the development of further research in the field of constitutional law. Likewise, the results of the study can be useful in the teaching process and in the activity of legal practitioners.

Theoretically, the work contributes to the development of legal doctrine through the interdisciplinary analysis of the institutions of suspension and termination of the head of state's mandate, providing a solid conceptual basis for further research in the field.

From a practical perspective, the research formulates solutions aimed at harmonizing national legislation with relevant European standards, streamlining the mechanism for suspending the head of state from office, and strengthening guarantees regarding the legal and responsible exercise of state power.

Approval of results. The doctoral thesis was developed within the Doctoral School of Legal and Economic Sciences of the State University of Moldova (USM), being examined both in the meeting of the Guidance Commission and in the meeting of the Extended Evaluation Commission. The main scientific results were published in specialized scientific journals and approved in important national and international scientific events. These contributions were consolidated by participation in five international and national scientific conferences held in the Republic of Moldova, as well as by the development of nine scientific publications, four of which appeared in category B journals, recognized for their rigorous academic standards, and five represent communications presented at international conferences. These activities highlight the relevance of the topic addressed and the substantial scientific impact of the doctoral endeavor.

Summary of the thesis sections. The doctoral thesis is structured in three chapters, conceived in a logical and methodological sequence, in accordance with the purpose and objectives of the research. The architecture of the work allows for the gradual examination of the investigated issue, from the conceptual and doctrinal foundation of the analyzed institution, the evaluation of the normative framework and the application practice to the formulation of directions for improving the existing regulations, without anticipating the conclusions of the research.

Each chapter represents a certain stage of the scientific approach and contributes to the achievement of a systemic and integrated analysis of the research object, by capitalizing on the methods specific to legal sciences and a comparative approach. The structure of the thesis facilitates highlighting the evolution of the analyzed legal institution, identifying its conceptual and normative particularities, as well as examining the legal mechanisms of application in the context of constitutional transformations and contemporary trends in the development of public law.

Chapter 1, entitled *The current study of the research institutions of the suspension and termination of the mandate of the head of state*, aims to provide a theoretical foundation for the research by critically examining the current state of the doctrine and the legal framework regarding the institutions of the suspension and termination of the mandate of the head of state. In this chapter, we have carried out a synthesis of the specialized literature published in the Republic of Moldova, Romania and other states, with an emphasis on scientific works devoted to the legal nature of the mandate of the head of state, functions and powers, as well as the nature of the institution of the

² BALAN, I. Statutul funcționarului public în tre stabilitate și responsabilitate juridică. Teză de master în drept. Chișinău: Universitatea de Stat din Moldova, Facultatea de Drept, Departamentul Drept Public, 2026, p. 7.

suspension and termination of the mandate of the head of state. In the course of the research, we have highlighted a still insufficient systematization of the institutions of the suspension and termination of the mandate of the head of state both in doctrinal and normative terms. Although these institutions are examined in general works on constitutional law, their approach is, as a rule, fragmentary, being carried out in connection with the status of the President, constitutional liability, immunity or relations between public authorities. Consequently, a unified conception has not yet emerged regarding the legal nature, grounds, procedures and effects of the suspension and termination of the presidential mandate.

In the same context, we note that the doctrine devoted to the institution of the head of state mainly addresses the legal nature of the presidential mandate, the place and role of the head of state in the system of public authorities, the presidential functions and their related attributions, as well as the relations of the presidential institution with the Parliament, the Government and the Constitutional Court. Distinct attention was paid by the authors to the constitutional responsibility of the head of state, the regime of immunity and inviolability, the grounds for suspension and termination of the mandate, the dismissal procedure, as well as the institutions of vacancy and interim office.

Attention was also paid to the conceptual delimitation of the institutions of suspension and termination of the mandate of the head of state. Studies published in the Republic of Moldova highlight the existence of several doctrinal guidelines regarding the legal nature of suspension. According to some opinions, this represents a form of constitutional liability, while, according to other approaches, suspension constitutes a temporary and preventive measure, accessory to the dismissal procedure. At the same time, the specialized literature highlights the need to delimit suspension of a sanctioning-procedural nature from the temporary and non-attributable impossibility of exercising one's powers, as well as suspension from the definitive termination of the mandate.

At the same time, the existence of reasoned scientific discourses on the necessity of the presidential institution, the democratic legitimacy of the head of state and his role in guaranteeing state continuity and the balance between public authorities was noted. It was found that, although there are numerous contributions regarding the presidential institution and the responsibility of the head of state, the issue of suspension and termination of the mandate is mainly approached fragmentarily, within the framework of general works on constitutional law. The lack of a unitary and systematic research of these institutions determined the deepening of their legal nature, the grounds, conditions, procedures and effects they produce, directly influencing the structuring of the following chapters of this work.

The analysis of the specialized literature allowed the identification of doctrinal polemics regarding the legal nature of suspension, its relationship with dismissal and constitutional liability, determining the content of the phrase "serious acts", the extent of presidential immunity, the role of

Parliament, the Constitutional Court and the electoral body, as well as the delimitation of suspension from temporary impossibility, vacancy of office and interim.

In **chapter 2**, entitled *The functions and particularities of the mandate of the head of state in the Republic of Moldova*, we analyzed the legal and constitutional configuration of the institution of the head of state in the Republic of Moldova. Particular attention was paid to the role and place of the President in the system of public authorities, his relations with the Parliament, the Government and the Constitutional Court, as well as his position within the principle of separation and balance of powers.

In the chapter, we analyzed the functions of representation, guarantee, mediation, democratic legitimization and ensuring state continuity, highlighting their contribution to maintaining constitutional balance. With reference to the powers of the President of the Republic of Moldova, we retained, in particular, the thesis according to which the exercise of certain powers highlights the relationship of collaboration and constitutional interdependence between the head of state and the Parliament. In the field of defense, the quality of the President of the Republic of Moldova as Supreme Commander of the Armed Forces does not grant him unlimited prerogatives, because the fulfillment of powers at this level presupposes a relationship of collaboration between the President and the Parliament. Also, regarding the functions of the head of state, the thesis was outlined according to which he, as a representative of the entire people, must exercise his mandate with impartiality and independence, remaining outside any political affiliation. Compliance with these requirements, in conjunction with the exercise of other constitutional functions, confers legality and legitimacy to the acts issued by the head of state, values indispensable to the consolidation of the democratic state and the rule of law.

At the same time, we investigated the content and particularities of the presidential mandate, as well as the constitutional guarantees designed to ensure its independent, continuous and constitutional exercise. The analysis highlighted the need to correlate the democratic legitimacy of the head of state with the limits of his powers and with the responsibility for the manner of exercising the mandate.

In **chapter 3**, dedicated to the theme *The constitutional foundations and legal regime of the suspension and termination of the mandate of the head of state*, the constitutional foundations and legal regime of the institutions of suspension and termination of the mandate of the head of state were examined, essential mechanisms for guaranteeing the constitutional balance and the responsibility of the presidential authority in a state governed by law. Increased attention was paid to determining the legal nature, essence and features of suspension, understood as a temporary measure that may have a sanctioning or non-sanctioning nature, as well as its delimitation from interim, vacancy of office and temporary impossibility of exercising powers. Therefore, the suspension provided for in art. 89 of the Constitution represents a constitutional measure attributable

to the President, integrated into the procedure of his liability for serious violation of the Constitution. In contrast, the temporary impossibility provided for in art. 91 of the Constitution represents an objective state of affairs, which does not express a fault and does not aim to sanction the holder, but to guarantee the continuity of the presidential office by establishing the interim.

At the same time, the grounds, conditions, procedures and effects of the termination of the mandate were examined, highlighting the definitive nature of this institution and its relationship with the constitutional responsibility of the head of state. The research in this chapter was aimed at clarifying the legal nature of the suspension of the mandate, as well as at identifying the constitutional grounds and legal conditions that determine the termination of the exercise of the presidential function.

Also, the solutions established in constitutional jurisprudence and comparative law were analyzed in order to highlight the convergences and differences between the regulatory models applicable in states with a political regime similar to that of the Republic of Moldova. The use of constitutional jurisdictional practice and regulations from other states allowed the identification of normative solutions and procedural guarantees relevant to the national constitutional order, as well as the evaluation of the existing regulatory framework.

In this context, the gaps and difficulties of interpretation of the existing regulatory framework were noted and the need to configure a coherent, predictable and proportional mechanism was highlighted, capable of protecting both the stability of the presidential mandate, the supremacy of the Constitution and the balance between public authorities. These findings formed the basis for the formulation of proposals for improving the national constitutional legislation, in accordance with the requirements of the rule of law, the principle of separation of powers and that of constitutional responsibility.

The final compartment, *General conclusions and recommendations*, includes the conclusions drawn from the research, as well as proposals for resolving the problems identified regarding the suspension and termination of the mandate of the head of state and for improving the regulatory framework in the field in the Republic of Moldova.

Keywords: head of state, mandate, functions, suspension, termination of mandate, resignation, dismissal, liability of the head of state, forms of liability, immunity, inviolability, constitutional control, comparative law.

THESIS CONTENT

In **Chapter I**, entitled *The current study of the research institutions of the suspension and termination of the mandate of the head of state*, a systematic examination of the specialized literature devoted to the researched issue is carried out, by capitalizing on the doctrinal contributions published in the Republic of Moldova, Romania and in other legal systems, in order to identify the current level of research, the main directions of approach and the aspects that require in-depth scientific investigation. The views and concepts formulated by the researchers Al. Arseni, I. Guceac, Gh. Costachi, S. Slusarenco, V. Zaporozjan, D. Baltag, Gh. Avornic, I. Iacub, I. Muruianu, E. Moraru, B. Negru, T. Cârnaț, V. Popa, P. Hlipcă și cercetătorii români I. Deleanu, T. Drăganu, D. C. Dănișor, M. Constantinescu, I. Muraru, E. S. Tănăsescu, C. Călinoiu, V. Duculescu, C. Calinoiu, M. Enache, Gh. Iancu, C. Ionescu, N. Popa, G. Vrabie, I. Vida, R. D. Popescu, M. Dogaru ș.a., were addressed in the present study, constituting the theoretical and methodological foundation for the development of the scientific approach, the shaping of the author's own vision and the formulation of the conclusions resulting from the research.

The doctrinal analysis aims to identify and systematize the main doctrinal concepts, the opinions expressed in the specialized literature, as well as the normative solutions established in comparative constitutional law, with an emphasis on the regulations of the constitutional system of the Republic of Moldova. The research highlights the legal nature, role and purpose of the analyzed institutions, the conceptual delimitations existing in the doctrine, as well as the main theoretical and practical problems generated by their application.

The analysis of the situation in the investigated field allowed to ascertain the fact that, in the specialized literature, the concepts of public authority, public dignity, mandate and responsibility are examined as elements to establish the framework in which the presidential institution operates. The research of doctrinal sources highlighted that the mandate is not an asset or a patrimonial right of the holder, but the legal form through which a person is temporarily authorized to exercise powers belonging to the authority. Therefore, the protection of the mandate does not exclude responsibility, but aims to ensure the functional independence necessary to carry out the duties³. In this context, constitutionalist Ion Deleanu argues that the suspension and termination of the mandate are not technical incidents, but components of the mechanism through which the constitutional order reconciles the stability of the mandate, the responsibility of the holder and the continuity of the state. The presidential mandate must be protected against arbitrary revocation, but it cannot be opposed to the Constitution as a justification for the failure to fulfill obligations or the discretionary exercise of powers⁴. We share this opinion, since the stability of the presidential mandate constitutes a guarantee

³ ARSENI, A., COSTACHE, Gh. *Mandatul parlamentar – înputernicire politico-juridică întru realizarea suveranității naționale prin reprezentare*. În: *Revista Națională de Drept*, 2013, nr. 4, 15 p.

⁴ DELEANU, I. *Instituții și proceduri constituționale*. București: C.H. Beck, 2006. 724 p.

against arbitrary revocation and politically motivated interference, without however being able to acquire the significance of an absolute constitutional immunity. The democratic legitimacy of the head of state does not exempt him from the obligation to respect and execute the Constitution, nor can it justify the failure to fulfill constitutional duties or the discretionary and abusive exercise of the entrusted powers. On the contrary, the protection of the mandate is justified only as long as it is exercised within the limits, for the purpose and in compliance with the requirements established by the Supreme Law.

At the same time, the analysis of the doctrine allowed highlighting the evolution of the concept of the liability of the holder of power, from the traditional conception of the irresponsibility of the sovereign to the modern constitutional principle according to which any holder of public power is subject to the Constitution and is responsible for the exercise of his or her powers within the limits of the constitutional order. In this evolution, immunity and inviolability have ceased to be interpreted as absolute exemptions from liability, being qualified as functional guarantees. They protect the freedom to exercise the mandate, but cannot be transformed into a privilege of impunity. In the same sense, the doctrine emphasizes the dual purpose of the guarantees, namely, defending the independence of the function and maintaining the possibility of engaging in liability for conduct incompatible with the constitutional order⁵. Within the conceptual delimitations, suspension is defined as a temporary interruption of the exercise of powers, without the termination of the constitutional relationship of investiture. Termination of the mandate represents the definitive termination of this relationship. Vacancy of office is the legal situation produced by the intervention of a definitive cause of termination of the mandate, and the interim constitutes the provisional mechanism through which the continuity of the exercise of presidential powers is maintained. Confusion between these concepts may lead to the application of the wrong procedure, to the involvement of an incompetent authority or to the unjustified restriction of the incumbent's guarantees⁶.

In the subchapter devoted to legal approaches, the suspension and termination of the mandate of the head of state were analyzed through the prism of the forms of constitutional, political and criminal liability, as well as the relationships between them. In the context of doctrinal approaches, constitutionalists Ioan Muraru and Elena Simina Tănăsescu argue that constitutional liability has its own object: protecting the supremacy of the Constitution, the balance between authorities and the continuity of institutions. It can intervene for conduct that causes serious harm to the constitutional order, even if the elements of a crime are not met. Therefore, constitutional and criminal liability must be delimited according to the basis, purpose, competent authority, procedure and effects⁷.

⁵ MURARU, I.; TĂNĂSESCU, E. S. *Drept constituțional și instituții politice*. Ed. a IX-a. București, Lumina Lex, 2001, 561 p.

⁶ IORGIOVAN, A. *Tratat de drept administrativ*. Vol. I. București: All Beck, 2005, 311 p.

⁷ MURARU, I.; TĂNĂSESCU, E. S. *Drept constituțional și instituții politice*. Vol. II. Ed. a 15-a. București: C.H. Beck, 2017, 270p

As regards art. 89 of the Constitution, the doctrinal and jurisprudential analysis reveals the mixed nature of the suspension and dismissal procedure, as well as the particular importance given to the phrase "serious acts", enshrined in this constitutional norm. Although the content and scope of the respective notion have constantly been the subject of doctrinal debates, the normative framework does not provide an exhaustive list of acts susceptible to be qualified as serious violations of the Constitution and which, by their nature and intensity, could justify the initiation of the procedure for the suspension of the head of state. Therefore, the open nature of the notion allows the constitutional mechanism to be related to the variety of possible conduct, but, at the same time, generates the risk of a purely political assessment.

In the same framework, legal approaches to incompatibilities, immunity and the procedure for impeachment were analyzed. As a result, we formulated the finding that incompatibilities aim to protect the independence and impartiality of the office, while immunity has a functional purpose and cannot be absolute in a democratic state. In the case of criminal acts, the constitutional framework allows for the lifting of immunity and impeachment, but the present research finds that the procedure requires additional clarifications regarding the competent authority, the effects on the mandate and the relationship between criminal prosecution and constitutional liability.

Following the analysis undertaken, the current level of scientific investigation of the issue addressed was determined, the main doctrinal and normative directions relevant to the research topic were identified, as well as the aspects insufficiently elucidated in the specialized literature. At the same time, the scientific problem of major importance was formulated, the solution of which constitutes one of the central landmarks of the scientific approach carried out, while the research objectives and methodological directions necessary to achieve the proposed goals were outlined.

Chapter 2. Functions and particularities of the mandate of the Head of State of the Republic of Moldova, is dedicated to the analysis of the position of the presidential institution in the system of public authorities, of the functions exercised and the guarantees of the mandate. The study of these aspects is indispensable for the research of the institutions of suspension and termination of the presidential mandate, as it allows to clarify the legal-constitutional framework of the exercise of the mandate. In this context, the analysis of the content, nature and limits of the mandate, as well as of the functions exercised by the head of state constituted the necessary premise for understanding the grounds, mechanisms and effects of its suspension and termination.

We allow ourselves to state that the state cannot be conceived without an authority that represents it at the highest level, even if the intensity of the functions of the head of state differs according to the form of government and the political regime. The head of state personifies the continuity and legitimacy of the state and fulfills a function of internal and external representation⁸.

⁸ IORGIOVAN, A. *Tratat de drept administrativ*. Vol. II. București, 1996, p. 283.

At the same time, it is appropriate to highlight that the place of the head of state cannot be determined only by the number of attributions, but also by his role in ensuring continuity, representation and institutional balance. Direct election gives the President his own democratic legitimacy, but does not transform him into an autonomous center of executive power. For this reason, clarity of relations with the Parliament, the Government and the Constitutional Court is essential for the prevention of conflicts and for the coherent functioning of accountability mechanisms.

In the constitutional architecture, the position of the head of state is essentially determined by the configuration of the political regime and the particularities of the constitutional system. The scope of powers, the relations with the Parliament and the Government, the method of designation, as well as the accountability mechanisms differ depending on the parliamentary, presidential or semi-presidential nature of the governing regime. Therefore, the place of the head of state cannot be established in an abstract and uniform manner, but must be assessed by reference to the set of constitutional relations between public authorities and to the institutional balance specific to each state.

As a result of the research, the conclusion was drawn that the President of the Republic of Moldova asserts himself in the constitutional architecture of the state both as a factor of institutional balance and as a true magistracy of influence, this position being determined by the nature, extent and importance of his constitutional functions and powers. Special attention was paid, in this framework, to the evolution of the presidential institution in the Republic of Moldova, by reporting on the successive transformations of the constitutional regime, in order to highlight how the changes in the constitutional architecture of the state influenced the legal status, institutional position, powers and mechanisms for exercising the mandate of the head of state. In this regard, the establishment of the position in 1990, direct election since the beginning of the 90s, the adoption of the Constitution in 1994, the transition to election by Parliament in 2000 and the return to direct election following the Constitutional Court Decision no. 7 of 4 March 2016 reconfigured the relationship between popular legitimacy and the extent of its powers. The return to direct voting strengthened the legitimacy of the incumbent, without however automatically modifying the constitutional distribution of powers or the predominantly parliamentary nature of the system⁹.

As a result of the doctrinal and functional analysis of the constitutional status of the head of state, the need to systematize his main functions into the following categories was outlined: the representation function, the guarantee function, the mediation function and the legitimization function. Such a classification allows highlighting the complex and plurivalent character of the presidential institution, as well as delimiting the main dimensions of the role exercised by the head of state in the constitutional architecture. It should be noted that these functions cannot be analyzed

⁹ Hotărârea Curții Constituționale a Republicii Moldova nr. 7 din 4 martie 2016 privind controlul constituționalității unor prevederi ale Legii nr. 1115-XIV din 5 iulie 2000, pct. 172-185 și 207.

in isolation, as they complement and condition each other, contributing to the proper functioning of the institutional mechanism.

Thus, the *function of representation* confers on the Head of State the vocation to personify the unity and continuity of the state both internally and in international relations. This expresses the constitutional authority of the President to act on behalf of the state within the limits of the powers assigned by the Constitution and to project, externally, the will and legal-political identity of the state. In this sense, the President represents the Republic of Moldova in international relations and participates in the implementation of foreign policy. In the field of defense, the function of representation intersects with the constitutional attributions as Supreme Commander of the Armed Forces, exercised within the limits established by the Fundamental Law.

Regarding the *mediation function*, the research highlighted the specific position of the head of state in the mechanism of separation and balance of powers. By its nature, it involves the constitutional intervention of the President in order to prevent or overcome institutional tensions and to promote dialogue between public authorities. It was found that mediation does not amount to substituting the powers of other authorities nor to placing the President in a position of superiority over them, but rather involves exercising a balancing and conciliation function within the limits of the constitutional order. Consequently, it is reiterated that the mediation function contributes to maintaining cooperation between authorities, ensuring institutional relations in accordance with the principle of separation of powers, as well as strengthening the link between the state and society.

Regarding the *guarantee function*, the research highlighted the protective dimension of the presidential mandate. By virtue of this, the head of state is called upon to ensure compliance with the fundamental values and principles enshrined in the Constitution, and to maintain the sovereignty, independence, unity and territorial integrity of the state. It is found that the status of guarantor of the constitutional order implies not only the existence of specific powers, but also the obligation of the holder of the mandate to exercise his or her powers in compliance with legality, constitutional loyalty and the limits established by the Supreme Law.

As a result of the examination of the legitimization function, the connection between the institution of the head of state and the principle of popular sovereignty was highlighted. Thus, it was deduced that the democratic legitimacy of the President, resulting from the method of designation and the representative nature of the mandate, confers on him a political and constitutional authority of his own. However, this legitimacy is not unlimited and cannot constitute a basis for extending powers beyond the constitutional framework. On the contrary, it presupposes a permanent correlation of the authority conferred on the holder of the position with the responsibility to act in accordance with the Constitution.

In light of the above, it was concluded that the functions of representation, mediation, guarantee and legitimization complement each other and configure the complex constitutional status

of the head of state. Moreover, they justify the role of the President as a balancing factor within the mechanism of public power and, at the same time, substantiate the need for effective accountability mechanisms.

Regarding the mandate of the head of state, the research highlighted the complex legal-constitutional particularities of its exercise, resulting from its representative, constitutional, temporary, personal and continuous character, as well as from the democratic legitimacy enjoyed by the holder of the position.

It is worth mentioning that the analysis of the presidential mandate focused on its duration, beginning and end, extension in exceptional situations, incompatibilities, immunity, guarantees and institutional resources granted after the end of the mandate. An essential feature is that the mandate cannot be reduced during the exercise of the function, this expressing the legal-constitutional relationship within which the holder is invested with the authority necessary to carry out the constitutional duties. According to the Constitution, the mandate begins upon taking the oath and continues until the oath is taken by the successor, which expresses the principle of continuity of the presidential function. Extension can only occur by organic law and exclusively in case of war or catastrophe, not being an automatic effect of the occurrence of the exceptional situation¹⁰.

Another defining element of the head of state's mandate is the interference between the stability of the position and the possibility of activating constitutional mechanisms of accountability. Suspension and termination of the mandate constitute, from this perspective, components of the legal regime of the mandate, being intended to ensure both respect for the constitutional order and the continuity of the exercise of state authority. The guarantees of the mandate have, in turn, a functional character, aiming to ensure the independence of the authority, the stability of the exercise and the continuity of the presidential activity, without removing responsibility. In this sense, immunity, inviolability, incompatibilities and the fixed duration of the mandate constitute a system of protection of the position, not of the person. Suspension and termination become the mechanisms through which the protection of the mandate is correlated with the obligation to respect the Constitution.

Therefore, the mandate of the head of state presents a complex legal-constitutional structure, determined by its representative, temporary, personal and continuous nature, as well as by its constitutional regulation. The representative character results from the fact that the holder of the position acts on behalf of the state and expresses the continuity of state authority; the temporary character is determined by the constitutional duration of the exercise of the position; the personal character derives from the direct link between the mandate and the person vested in the position; the continuous character is justified by the need to ensure the permanence of the exercise of the specific attributions of the head of state; and the constitutional character results from the fact that the basis,

¹⁰ SLUSARENCO, S. Particularitățile prelungirii mandatului unor funcții de demnitate publică, p. 222.

content, limits, guarantees and modalities of termination of the mandate are established, mainly, by the norms of the Supreme Law. These particularities highlight the specificity of the presidential mandate and the need to examine it in close correlation with the mechanisms of responsibility, suspension and termination.

Chapter 3, entitled *The constitutional foundations and legal regime of the suspension and termination of the mandate of the head of state*, represents the central part of the research and is devoted to examining the nature, grounds, procedures, jurisdictional practice and comparative models. Suspension is analyzed, in a first stage, by referring to the regime of public dignified positions. Thus, Law no. 199/2010 on the status of persons with public dignified positions defines suspension as the cessation, for a certain period, of the performance of duties and the payment of salary rights, unless the special law provides otherwise. In the case of the head of state, suspension, however, has an autonomous constitutional regime, since it affects an elected authority and the relations between the powers of the state¹¹.

The suspension of the presidential mandate is qualified as an exceptional, temporary and reversible measure. It does not extinguish the investiture relationship and does not, by itself, produce a vacancy in the office. Its purpose is to protect the constitutional order and prevent the continuation of conduct incompatible with constitutional requirements until the dismissal procedure is completed. The provisional nature of the suspension distinguishes it from the definitive sanction, and the accessory nature links it to a subsequent constitutional procedure. The doctrinal analysis of the legal nature of the institution of suspension highlights three perspectives: as a form of constitutional liability, as a preventive and provisional measure and as a mixed legal and political institution. Thus, the present paper proposes an integrative qualification of the institution of suspension provided for by art. 89 of the Constitution. In this sense, suspension cannot be confused with a vote of no confidence and must be interpreted restrictively, precisely because it intervenes on a legitimate electoral mandate.

Regarding the termination of the mandate, the research allowed the delimitation of its causes into ordinary, voluntary, objective and sanctioning. Thus, *expiration of the term of office* it is the normal way of termination; *resignation* represents the unilateral manifestation of the holder's will; *decesul și definitive impossibilitate* have an objective character; *dismissal* constitutes a sanctioning consequence, and *the final conviction* may produce the effects provided for by the Constitution. The fact that these situations lead to the vacancy of the position does not mean that they can be subject to the same procedure. Thus, each case requires distinct rules regarding the finding, the moment of production of the effects and the applicable guarantees¹².

¹¹ LEGEA nr. 199 din 16 iulie 2010 cu privire la statutul persoanelor cu funcții de demnitate publică. În: Monitorul Oficial din 12.08.2011, nr. 131-133, art. 411
¹² Constituția Republicii Moldova, 29 iulie 1994 (*in vigoare* 27.08.1994); Republicat: Monitorul Oficial din 13.11.2024, nr. 466, art. 635

A distinct problem identified in the research is the delimitation between temporary impossibility and deliberate refusal to exercise the attributions. Impossibility is an objective state that affects the holder's capacity to act, while refusal is a voluntary conduct and must be assessed through liability mechanisms. Constitutional jurisprudence from 2017 to 2019 allowed the establishment of the interim for the exercise of obligations refused by the President. The solution given by the Court unblocked the functioning of the institutions, but extended the notion of temporary impossibility beyond its objective meaning¹³. Subsequently, by Decision No. 23 of August 6, 2020, the Constitutional Court reoriented its jurisprudence, establishing that the deliberate refusal to execute a constitutional obligation should not be resolved by establishing *an ad hoc interim*, but through the mechanism provided for by Art. 89 of the Constitution. This finding reinforces the distinction between impossibility and liability and confirms that jurisdictional interpretation cannot create a parallel procedure that replaces the express text of the Constitution.¹⁴ In this context, the role of the Constitutional Court acquires particular relevance for maintaining the legal character of the temporary suspension procedure. According to the powers, the Court must verify the existence of the imputed facts, their connection with the constitutional norms, compliance with the powers and the procedure and reaching a sufficient threshold of seriousness. At the same time, from the perspective of the research carried out, it is necessary to strengthen the binding character of the Court's opinion, so that the Parliament cannot vote on the suspension when the constitutional jurisdiction finds that the necessary conditions have not been met.

Regarding this procedure, the comparative analysis confirms the absence of a universal model. In Romania, suspension is decided by Parliament, after consulting the Constitutional Court, and dismissal belongs to the electorate. This model maintains the symmetry between direct election and removal by popular vote, but the advisory nature of the Court's opinion leaves the procedure with a strong political dimension. The majority required in Parliament and the experiences of the 2007 and 2012 procedures provide useful benchmarks for assessing thresholds and guarantees¹⁵. In Germany, a model with a strong jurisdictional aspect is established. *The Bundestag* or *Bundesrat* can impeach the Federal President for intentional violation of the Basic Law or a federal law, and the Federal Constitutional Court decides on the loss of office. The participation of the constitutional court in the resolution of the merits gives the procedure a more pronounced legal structure and limits the political component in the initiation of the accusation¹⁶.

In Italy, the President's liability is limited to acts of "high treason" and attacks on the Constitution, a solution compatible with indirect election and the neutral position of the head of state.

¹³ Hotărârea Curții Constituționale, nr. 28 din 17 octombrie 2017 privind interpretarea unor prevederi constituționale referitoare la imposibilitatea temporară de exercitare a atribuțiilor Președintelui.

¹⁴ Hotărârea Curții Constituționale, nr. 23 din 6 august 2020 pentru interpretarea art. 89, 91 și 98 alin. (1) din Constituție.

¹⁵ DEACONU, Șt. Drept constituțional. București: C.H. Beck, 2020, pp. 345-348.

¹⁶ Grundgesetz für die Bundesrepublik Deutschland, art. 61.

In Austria, the Federal Assembly can call a referendum on the dismissal of the President; the rejection of the proposal by the electorate produces political consequences for the legislature that initiated the procedure. This mechanism seeks to discourage the misuse of dismissal and to distribute the constitutional risk between the authorities involved¹⁷.

The present research also capitalizes on the constitutional experience of other states. In this regard, the Constitution of Brazil lists the categories of presidential conduct considered to be attacks against the Constitution, such as affecting the free exercise of powers, political and social rights, internal security or the integrity of the administration. An indicative list reduces uncertainty and may inspire the formulation of general criteria in the Constitution of the Republic of Moldova, without transforming the norm into a rigid and exhaustive list¹⁸.

As regards the consequences of the dismissal of the Head of State, the case of *Paksas v. Lithuania* is relevant for the analysis of the limits of subsequent political restrictions. The European Court of Human Rights examined the compatibility with the Convention of the permanent and non-revisable ban on running for public office, provided for by Lithuanian law, and ruled that such a restriction was not compatible with the requirements of the Convention. At the same time, the Court accepted the compatibility with the requirements of the Convention of a temporary ban, with the possibility of review after a minimum period, so that the protection of the constitutional order was reconciled with the principle of proportionality¹⁹.

¹⁷ Costituzione della repubblica italiana, art. 90.

¹⁸ Constituição da república federativa do Brasil, art. 85.

¹⁹ Curtea Europeană Drepturilor omului. *Paksas c. Lithuania* [mc], cererea nr. 34932/04, hotărârea din 6 ianuarie 2011, § 102.

GENERAL CONCLUSIONS AND RECOMMENDATIONS

The completion of the study dedicated to the institutions of Suspension and Termination of the Head of State's Mandate in the contemporary constitutional architecture of the Republic of Moldova is materialized in the formulation of general conclusions and recommendations derived from the theoretical, normative, jurisprudential and comparative analysis of the investigated issue.

The personal contribution to the research of the topic can be presented in the following theses:

- 1) national and international doctrinal views on the constitutional status of the head of state, the nature of the presidential mandate, the mechanisms for suspension and termination of the mandate, as well as the forms of liability were analyzed, identifying the main conceptual controversies and insufficiently researched aspects in the specialized literature (chapter 1, par. 1.1);
- 2) the position of the head of state in the system of public authorities was substantiated and his main constitutional functions were defined (capitolul 1, par. 2.2), determining the content, particularities and guarantees of the presidential mandate, in correlation with the principle of constitutional responsibility (chapter 1, par. 2.3);
- 3) the constitutional grounds for the suspension of the presidential mandate were identified and analyzed, its legal nature was determined and its delimitation from temporary impossibility, interim and vacancy of office was achieved (chapter 3, par. 3.1);
- 4) the grounds, procedures and effects of termination of mandate were systematized, with the delimitation of forms of termination of law from those of sanctions (chapter 3, par. 3.2);
- 5) Constitutional jurisprudence and comparative experience regarding the suspension of the head of state from office were evaluated, identifying normative gaps, difficulties of interpretation and risks of institutional blockage, and proposing relevant normative and institutional solutions to be capitalized on in the context of the Republic of Moldova. (chapter 3, par. 3.3);
- 6) A coherent legal-constitutional model was substantiated regarding the suspension and termination of the mandate of the head of state and proposals for *lege ferenda* were formulated aimed at specifying the grounds and procedures.

Overall, the research results allowed for the outline of a unified vision on the suspension and termination of the mandate of the head of state, viewed not in isolation, but as elements of a complex constitutional mechanism, intended to ensure the supremacy of the Constitution, the continuity of state power, the balance between public authorities and the accountability of the holder of the presidential mandate.

As a result, the main scientific results obtained in the research, which contribute to solving the important scientific problem, can be summarized in the following general conclusions regarding the suspension of the mandate of the head of state:

1. In order to determine the nature of the institution of suspension of the mandate, the suspension of the mandate of the head of state represents a temporary and exceptional legal-

constitutional institution, which interrupts the exercise of presidential powers, without determining the termination of the mandate. The current normative framework does not sufficiently highlight this conceptual autonomy. Consequently, it would be appropriate to enshrine, in the normative framework, the purpose and effects of suspension, by delimiting it from the termination of the mandate and dismissal.

2. The suspension of the mandate of the head of state should not be conceived exclusively as a sanction, since it also fulfills a preventive, conservative and protective function of the constitutional order. The current constitutional regulation does not sufficiently individualize these purposes, which favors restrictive or predominantly political interpretations. Thus, it is necessary to recommend recognizing the institution of the suspension of the mandate of the head of state as a provisional measure of constitutional protection, applicable until the definitive resolution of the situation that determined it.
3. The analysis carried out requires the delimitation of the suspension of the mandate of the head of state with a sanctioning character from the suspension in the event of interruption of the exercise of the function for objective reasons. The first situation constitutes a stage of constitutional liability and implies culpable conduct, while the second is determined by the temporary and non-imputable impossibility of the holder. The Constitution of the Republic of Moldova does not provide for concretization in this regard. In order to avoid divergent interpretations and the application of inappropriate procedures, it would be appropriate to expressly specify in the Constitution and develop, through an organic law, distinct legal regimes, with their own grounds, procedures and effects.
4. The Constitution of the Republic of Moldova does not specify the circle of violations for which the suspension of the head of state from office occurs. In this situation, suspension for violation of the Constitution cannot be justified by simple political divergences, loss of confidence of the parliamentary majority or the existence of a reasonably different legal interpretation. The absence of sufficiently precise criteria creates the risk of transforming the procedure into an instrument of political revocation. Consequently, suspension should be allowed only for serious constitutional violations, individualized and demonstrated by verifiable facts and evidence.
5. Currently, the phrase "serious acts violating the provisions of the Constitution", provided for in art. 89 of the Constitution of the Republic of Moldova, presents a high degree of generality and does not provide sufficient benchmarks for the qualification of presidential conduct. For these reasons, it is necessary to develop normative and jurisprudential cumulative criteria regarding the violated constitutional value, the form of guilt, the repeated nature of the conduct, the extent of the consequences, the impairment of fundamental rights and the possibility of using less intrusive remedies.

6. The suspension procedure has a mixed legal-political nature, since the Parliament formulates the accusation and decides on the suspension, the Constitutional Court verifies the circumstances invoked, and the electoral body decides on the dismissal. The insufficiently determined nature of the powers of these authorities can generate conflicts and contradictory interpretations. In order to remedy this deficiency, it is proposed to expressly delimit the role of each participant and to recognize the binding nature of the legal findings formulated by the Constitutional Court.

7. It should be noted that the qualified majority of two-thirds constitutes a guarantee against the circumstantial use of the institution of suspension of the mandate of the head of state, but exclusively numerical protection is insufficient, since it cannot substitute for the precision of the accusation, the conclusive nature of the evidence and the motivation of the parliamentary decision. Thus, some minimum requirements regarding the content of the suspension proposal, the evidentiary standard and the motivation of the adopted acts should be expressly established by regulation.

8. The current regulation of the Constitution of the Republic of Moldova does not sufficiently develop the procedural guarantees of the President targeted by the suspension procedure. In order to ensure a fair constitutional trial, it is necessary to enshrine the right to full information on the charges, access to the materials of the procedure, granting a reasonable term for the defense, presentation of evidence, hearing in Parliament and motivation of the decisions adopted.

9. The institution of suspension must respect the principles of necessity and proportionality and constitute a constitutional remedy of last resort. The lack of a prior assessment of alternative means may lead to the excessive application of the measure. Thus, before initiating the suspension procedure, the possibility of eliminating the violation by reviewing the constitutionality of the presidential act, resolving the conflict between the authorities or through other less intrusive constitutional remedies must be examined. The element of originality would be the development of a constitutional test for the suspension of the mandate of the head of state, which would allow for an objective verification of the legitimacy of the measure and which would be regulated by organic law.

10. The constitutional practice of suspending the mandate of the head of state in 2017–2019 highlighted the risk of qualifying the deliberate refusal to exercise an attribution as an *objective temporary impossibility* and of repeatedly establishing the interim period. The solution established by the Constitutional Court Decision no. 23 of August 6, 2020 requires examining the deliberate refusal through the liability mechanism provided for in art. 89 of the Constitution. However, in order to prevent the recurrence of such practices, this mechanism must be expressly reflected in the normative framework.

11. In order to determine the nature of the institution of suspension of the mandate of the head of state, the effects produced by this mechanism are relevant, namely the *temporary interruption of the exercise of presidential powers*. Thus, from the moment the suspension decision

enters into force, the President can no longer issue decrees and can no longer exercise the powers provided for by the Constitution. Another effect is the temporary *maintenance of the mandate holder in office*. The suspension mechanism does not, by itself, extinguish the mandate. The holder remains formally invested until dismissal or, as the case may be, until the cause of the suspension ceases.

12. During the suspension period, the interim office is established. The exercise of presidential powers is provisionally taken over, in the order established by art. 91 of the Constitution, by the President of the Parliament or the Prime Minister. In such a situation, the interim does not constitute a new presidential mandate, but a temporary form of exercising certain powers, intended to prevent the emergence of a power vacuum. One effect of the suspension is that the exercise of the powers of the *person ensuring the interim is limited*. The person exercising the interim must perform only the powers necessary for the continuity of the office and the proper functioning of the authorities. Its legitimacy also derives from the provisional nature of the office, which justifies the avoidance of decisions with irreversible constitutional effects, in the absence of an objective necessity.

13. The suspension of the mandate of the head of state does not resolve the allegations made and does not automatically result in dismissal. This opens the stage in which the electoral body is to pronounce itself through a referendum, organized, according to art. 89 paragraph (3) of the Constitution, within 30 days at most. Another effect of the suspension is that, if the dismissal is approved by referendum, the mandate ends definitively and the position is vacant. However, if the dismissal is not approved or the procedure is terminated for another legal reason, the suspension must end and the holder must resume the exercise of the mandate. During the suspension, the guarantees exclusively related to the exercise of the position may be suspended. In this regard, the legislation must specify which rights, facilities and institutional resources are maintained and which are suspended, without prejudice to the guarantees necessary for the defense and dignity of the position. At the same time, the obligation of institutional neutrality must be respected, so that the Office of the President must ensure the orderly delivery of the necessary documents and information to the interim, without being used in support of one of the parties involved in the dismissal procedure.

14. The current regulation of the institution of suspension of the mandate does not sufficiently ensure the balance between the stability of the presidential mandate, the responsibility of the holder and the continuity of state authority. Thus, it is necessary to configure a coherent legal-constitutional model, based on legality, legal certainty, proportionality and constitutional loyalty, which would allow for the sanctioning of serious violations of the Constitution and, at the same time, prevent the political instrumentalization of the suspension.

General conclusions regarding the termination of the mandate of the head of state:

15. In order to determine the nature of the termination of the mandate of the head of state, it is necessary to establish that this represents an autonomous legal-constitutional institution through

which the vesting relationship between the holder and the presidential office is established. Unlike suspension, this institution produces irreversible effects on the mandate and determines, as the case may be, the vacancy of the office and the triggering of the constitutional mechanisms to ensure the continuity of state power. The termination of the mandate may occur as a natural effect of the expiration of the constitutional term and as a result of the manifestation of the holder's will through resignation, for objective reasons - the definitive impossibility of exercising the attributions or death - or as a result of the engagement of constitutional liability through dismissal. The diversity of these grounds requires distinct legal regimes, adapted to the nature of each situation.

16. The expiration of the constitutional term is the usual way of terminating the mandate. The extension of the exercise of the function until the swearing-in of the new President aims to ensure institutional continuity, but cannot substantiate the unjustified extension of the mandate. *continuității instituționale, dar nu poate fundamenta extinderea nejustificată a mandatului.*

17. Resignation is a unilateral, personal and irrevocable act by which the head of state renounces his mandate. The regulatory framework does not sufficiently regulate the form, the moment of its effects and the possibility of withdrawing the resignation. In order to avoid such a situation, in order to ensure legal certainty, it is necessary to expressly establish the authority to which the resignation is addressed, the written form and the exact moment when it becomes final. The definitive impossibility of exercising presidential powers represents an objective basis for termination of the mandate, but the notion does not benefit from sufficiently clear normative criteria. There are no rules regarding the nature of the impossibility, the duration necessary to qualify it as final, the procedure for ascertaining it and the admissible evidence. It is necessary to regulate a procedure that combines the objective specialist assessment with the finding of the Constitutional Court.

18. The distinction between definitive impossibility and temporary impossibility is essential, since the former determines the termination of the mandate and the vacancy of the position, while the latter only justifies the provisional taking over of the duties. In the absence of precise temporal and material criteria, there is a risk of premature termination of the mandate or, on the contrary, of maintaining a prolonged institutional incapacity. Dismissal constitutes the sanctioning form of termination of the mandate and the consequence of engaging constitutional liability for serious violations of the Constitution. It is worth noting that the application of the institution of resignation to the head of state cannot be based on simple political divergences or the loss of parliamentary support, but only on determined, proven facts and proportional to the severity of the measure. It would be appropriate to specify in a normative manner the elements of constitutional liability and the applicable evidentiary standard. Therefore, in this doctoral study it was proposed to establish a condition according to which the dismissal of the head can intervene in the case of the commission of a constitutional offense.

19. The death of the incumbent results in the *de jure* termination of the mandate and the immediate vacancy of the position. Although this ground does not generate major conceptual difficulties, the legislation must specify the competent authority, the act by which the official finding occurs and the moment from which the interim presidential position is activated.

20. In the event that the termination of the mandate does not remove legal liability for acts committed during the exercise of the function, functional immunity must be delimited from impunity, so that the protection of the mandate does not prevent accountability for conduct that exceeds the limits of the constitutional powers. Thus, there is a need to clarify the scope of the effects of immunity after the termination of the mandate. The interim represents the institutional effect of the vacancy of the function, but not a way of continuing the mandate of the former incumbent. In this regard, the current regulation requires specifying the limits of the powers of the interim President, in order to distinguish the powers indispensable to the continuity of the state from the decisions that, by their nature, must be reserved for the holder of a full electoral mandate.

21. The regulatory framework of the Republic of Moldova regulates the causes, procedures and effects of the termination of the mandate in a fragmentary manner. Among the main gaps are: the lack of legal definitions; the insufficient delimitation between termination, vacancy and interim; the absence of criteria for establishing definitive impossibility; the incomplete nature of the resignation procedure; as well as the unclear legal effects on the immunity and liability of the former incumbent.

22. In order to eliminate these deficiencies, it is proposed to develop the constitutional framework through an organic law on the mandate of the President of the Republic of Moldova. This should separately regulate each ground for termination, the competent authorities, the procedure for establishing it, the moment of its effects, the procedural guarantees, the limits of the interim period and the legal consequences following the termination of the mandate.

23. The opportunity to configure the mechanism for the termination of the mandate is outlined, in such a way as to reconcile the finality of the termination with the stability of the mandate, the responsibility of the incumbent, the democratic legitimacy and the continuity of the presidential office. The clarity and predictability of the regulation are indispensable conditions for preventing arbitrariness, conflicts of competence and institutional blockages.

24. Based on the scientific results obtained in the research, the *important scientific problem* solved consists in carrying out original research on the peculiarities of the institutions of suspension and termination of the mandate of the head of state, contributing to the substantiation of a coherent legal-constitutional model, adapted to the particularities of the Republic of Moldova. The conclusions and recommendations formulated highlighted the need to clarify the grounds, conditions, procedures and effects of these mechanisms, as well as the need to strengthen the

guarantees of legality, predictability, proportionality and legal certainty in order to ensure the balance between the responsibility of the head of state and the stability of the constitutional architecture.

In this sense, the research results and the conclusions formulated based on the research hypothesis substantiate the following recommendations de *lege ferenda* .:

It is recommended to systematize, within a unified regulatory framework, the norms regarding the suspension, termination of the mandate and liability of the President of the Republic of Moldova, thereby developing the constitutional provisions regarding the following aspects:

1. Amendment of Article 81 of the Constitution of the Republic of Moldova, which will have the following content: „Article 81. Immunity and criminal liability

(1) The President of the Republic of Moldova benefits from functional immunity for opinions expressed and legal acts committed in the exercise of constitutional powers, within the limits established by the Constitution.

(2) Functional immunity cannot be invoked for acts that are not directly related to the exercise of the mandate and do not constitute a cause for exoneration from criminal liability.

(3) The Parliament may decide to impeach the President of the Republic of Moldova for treason or for another serious crime committed in connection with the exercise of the mandate, with the vote of at least two-thirds of the number of elected deputies.

(4) The proposal for impeachment may be initiated by at least one third of the number of elected deputies, shall be brought to the attention of the President without delay and must include a description of the facts, the preliminary legal classification and the evidence on which it is based.

(5) Before adopting the decision to impeach, the Constitutional Court verifies compliance with the constitutional competence, conditions and procedure. The opinion of the Constitutional Court is mandatory.

(6) The jurisdiction of the Supreme Court of Justice, in accordance with the law, shall be vested in the President. The President shall be dismissed by operation of law on the date on which the conviction becomes final.

(7) The termination of the mandate does not prevent the conduct or continuation of criminal prosecution for acts not covered by functional immunity."

2. It is proposed to detail the provisions of Article 89 of the Constitution of the Republic of Moldova by establishing the cases and objective criteria for qualifying "serious acts", taking into account the violated constitutional value, the form of guilt, the repeated nature of the conduct, the extent of the consequences and the impact on the functioning of public authorities:

„(1) In the event of culpably committing serious acts that violate the provisions of the Constitution, the President of the Republic of Moldova may be suspended from office by the Parliament, with the vote of two-thirds of the number of elected deputies, after obtaining the consent of the Constitutional Court.

(2) Serious acts, within the meaning of paragraph (1), are actions or inactions that substantially affect the constitutional order, the separation and balance of powers, the sovereignty, independence, unity or territorial integrity of the state, fundamental rights and freedoms or the normal functioning of public authorities.

(3) When assessing the seriousness of the acts, the constitutional value violated, the form of guilt, the repeated or systematic nature of the conduct, the extent of the consequences, the danger to the constitutional order and the impairment of the functioning of public authorities are taken into account.

(4) Suspension may only be ordered for individualized and demonstrated facts, when the measure is necessary and proportionate to the gravity of the violation and constitutes a last resort to protect the constitutional order.

(5) The proposal for suspension may be initiated by at least one third of the number of elected deputies and shall be brought to the attention of the President without delay. The proposal must include the exact description of the imputed facts, the constitutional norms allegedly violated, the evidence and the motivation of the serious nature of the violation.

(6) The President has the right to know the charges and evidence, the time necessary to prepare the defense, the right to be assisted, to present evidence and explanations, and to be heard by Parliament and the Constitutional Court.

(7) The Parliament's decision on the suspension must be motivated and based on the facts examined by the Constitutional Court.

(8) Dacă propunerea de suspendare este aprobată, în cel mult 30 de zile se organizează un referendum pentru demiterea Președintelui.

(9) If the dismissal is not approved by referendum, the suspension shall cease by law on the date of confirmation of the results of the referendum by the Constitutional Court."

3. Supplementing the Constitution of the Republic of Moldova with the article 89¹ cu next table of contents:

„Article 89¹. Consequences of dismissal

(1) A person dismissed from the position of President for committing a constitutional offense may be temporarily prohibited from running for the position of President of the Republic of Moldova or from holding public positions established by law..

(2) The ban is applied only by decision of the Constitutional Court, for a period of between five and ten years, depending on the nature and gravity of the act, the consequences produced and the conduct of the holder..

(3) The ban must be individualized, necessary and proportionate and may be reviewed, at the person's request, after the expiration of at least half of the established term.

(4) The establishment of a perpetual ban is prohibited."

The time limitation is justified by the case of *Paksas v. Lithuania*, in which the European Court considered the permanent and irreversible ban on standing for parliamentary elections disproportionate.

4. Modifying the article 90 of the Constitution of the Republic of Moldova, which will have the following content: „Article 90. Termination of the mandate and vacancy of office

(1) The mandate of the President of the Republic of Moldova shall terminate in the event of:

- a) expiration of the term of office;
- b) resignation;
- c) dismissal by referendum;
- d) dismissal as a result of final conviction, under the terms of article 81;
- e) permanent inability to perform the function;
- f) death.

(2) The resignation takes effect on the date of submission of the written request to Parliament, unless a later date is indicated in its content. The resignation is irrevocable from the moment it takes effect

(3) Definitive incapacity represents the objective, continuous and irreversible inability of the President to exercise the essential duties of the office. This is established by the Constitutional Court based on medical, temporal and functional criteria established by organic law.

(4) The vacancy of the position occurs on the date of termination of the mandate and is ascertained by the Constitutional Court, except for the expiration of the mandate and death, under the conditions provided by law.

(5) Within two months of the date on which the vacancy occurred, elections for a new President shall be held."

5. It is proposed to amend Article 91 of the Constitution of the Republic of Moldova with the following content:

„Article 91. Interim position

(1) If the position of President becomes vacant, if the President is suspended from office under the terms of Article 89 or if he is temporarily objectively unable to exercise his powers, the interim is ensured, in order, by the President of Parliament or the Prime Minister.

(2) Temporary impossibility represents the objective and reversible incapacity of the holder to exercise the duties of the position for a determined period. It has no sanctioning nature and is ascertained by the Constitutional Court, under the terms of the organic law.

(3) The deliberate refusal of the President to fulfill a constitutional obligation does not constitute a temporary impossibility and cannot lead to the timely establishment of the interim. Such conduct can be examined exclusively within the framework of the procedure provided for in Article

(4) The interim ceases by law upon the disappearance of the cause that determined it, as established by the Constitutional Court, or upon the swearing-in of the new President."

6. Article 92 of the Constitution of the Republic of Moldova is supplemented with paragraph (2) with the following content: "Regime of liability of the interim President":

„(2) The person who ensures the interim is responsible for the acts and deeds committed during this period under the same constitutional and legal conditions applicable to the President of the Republic of Moldova."

7. Article 135 of the Constitution of the Republic of Moldova is amended as follows::
to the paragraph (1), letter f) will have the following contents:

„f) ascertains the circumstances justifying the suspension from office, dismissal, temporary or permanent inability to exercise the office, vacancy and interim of the office of President of the Republic of Moldova, verifies compliance with the impeachment procedure and decides on the application and review of the prohibitions provided for in Article 89";
the article is supplemented with the paragraph (3) with the following table of contents:

„(3) The opinions and decisions of the Constitutional Court delivered in the matters provided for in paragraph (1) letter f) are binding on Parliament and on other public authorities."

8. A draft organic law of a unitary nature is proposed for adoption on the regulation of the grounds, conditions, procedures and effects of the suspension and termination of the mandate, as well as the liability of the President of the Republic of Moldova. The draft law will also regulate the temporary and definitive impossibility of exercising the office, the interim, as well as the forms of legal liability of the holder of the mandate. The article entitled "Main concepts" of the draft law will define the following concepts: constitutional offense; serious act; sanctioning suspension; temporary impossibility; definitive impossibility; vacancy of the office; interim; functional immunity. The draft law will also establish a proportionality test, applicable to the suspension procedure.

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ADNOTARE

Balaban Mihai. Suspendarea și încetarea mandatului șefului statului în arhitectura constituțională contemporană a Republicii Moldova specialitatea 552.01 – Drept constituțional. Chișinău, 2026

Structura tezei: Introducere, 3 capitole, concluzii generale și recomandări, 163 de pagini text de bază. Rezultatele obținute sunt publicate în 9 lucrări științifice.

Cuvinte-cheie: șef de stat, mandat, funcții, suspendare, încetarea mandatului, demisie, demitere, răspunderea șefului de stat, formele răspunderii, imunitate, inviolabilitate, control constituțional, drept comparat.

Scopul lucrării constă în cercetarea aprofundată a instituției suspendării și încetării mandatului șefului statului în vederea conturării principiilor și particularităților care le caracterizează, prin realizarea unei abordări comparative a reglementărilor constituționale și a practicii constituționale din Republica Moldova și din alte state cu scopul identificării modelelor constituționale existente și a formulării unor propuneri de *lege ferenda* pentru perfecționarea cadrului normativ național.

Obiectivele cercetării: elucidarea particularităților referitoare la suspendarea mandatului șefului statului; identificarea temeiurilor și condițiilor constituționale ale încetării mandatului șefului statului ca garant al legitimității funcționării mecanismului de stat; analiza comparativă a modelelor constituționale cu privire la mandatul șefului statului, cu evidențierea similitudinilor și deosebirilor de reglementare a suspendării și încetării mandatului; examinarea jurisprudenței relevante a Curții Constituționale în domeniu; elucidarea esenței funcțiilor instituției șefului statului ca instituție etatică și personală în cadrul puterilor de stat.

Noutatea și originalitatea științifică. Noutatea științifică a lucrării constă în abordarea comparativă a instituțiilor suspendării și încetării mandatului șefului de stat, care a permis evidențierea asemănărilor și deosebirilor dintre modelele constituționale analizate, identificarea lacunelor normative și fundamentarea unei concepții unitare, bazate pe criterii juridico-constituționale clare și coerente. S-a fundamentat propunerea elaborării unei concepții unitare și a unui sistem coerent de criterii juridico-constituționale aplicabile suspendării și încetării mandatului șefului de stat.

Rezultatele obținute care contribuie la soluționarea unei probleme științifice importante sunt reflectate în principalele concluzii științifice promovate pentru susținere, iar problema științifică importantă soluționată, vizând cercetarea complexă a instituției suspendării, încetării mandatului șefului statului, precum și a răspunderii acestuia și a abordărilor științifice cu privire la statutul constituțional al șefului statului și la mecanismele de întrerupere a mandatului

Problema științifică importantă soluționată constă în definirea și identificarea criteriilor privind suspendarea și încetarea mandatului șefului de stat, în conturarea criteriilor de delimitare a acestora, precum și în identificarea garanțiilor procedurale minime impuse de standardele europene, fapt ce permite fundamentarea teoretică necesară pentru optimizarea legislației naționale în domeniu. **Semnificația teoretică.** Rezultatele investigației realizate sunt benefice pentru dezvoltarea continuă a teoriei dreptului constituțional în privința statutului șefului statului, în special prin elucidarea circumstanțelor de suspendare și încetare a mandatului, teza constituind o sursă monografică pentru cercetătorii preocupați de această problematică.

Valoarea aplicativă a lucrării. Rezultatele obținute pot servi drept repere orientative în cercetarea ulterioară a problemei abordate, precum și ca suport teoretic în procesul didactic din cadrul cursurilor de specialitate, fiind totodată utile la revizuirea legislației în domeniu, inclusiv la nivel constituțional, prin alinierea consecințelor demiterii la standardele CEDO, contribuind astfel la consolidarea unei practici constituționale coerente.

Implementarea rezultatelor științifice: rezultatele cercetării pot fi valorificate în activitatea autorităților și a persoanelor competente să interpreteze și să aplice normele constituționale, precum și în procesul didactic din cadrul facultăților de drept ale instituțiilor de învățământ superior.

Mihai Balaban. Suspension and Termination of the Mandate of the Head of State in the Contemporary Constitutional Architecture of the Republic of Moldova. Specialty 552.01 – Constitutional Law. Chişinău, 2026

Structure of the thesis: Introduction, three chapters, general conclusions and recommendations, and 163 pages of main text. The research results have been published in nine scientific papers.

Keywords: head of state, mandate, functions, suspension, termination of mandate, resignation, removal from office, liability of the head of state, forms of liability, immunity, inviolability, constitutional review, comparative law.

Purpose of the research: to conduct an in-depth study of the suspension and termination of the mandate of the head of state in order to define their underlying principles and specific features. The research adopts a comparative approach to constitutional regulations and constitutional practice in the Republic of Moldova and other states, with a view to identifying the existing constitutional models and formulating *de lege ferenda* proposals for improving the national regulatory framework.

Research objectives: to clarify the specific features of the suspension of the mandate of the head of state; to identify the constitutional grounds and conditions for the termination of the mandate of the head of state as a guarantee of the legitimate functioning of the state mechanism; to conduct a comparative analysis of constitutional models concerning the mandate of the head of state, highlighting similarities and differences in the regulation of its suspension and termination; to examine the relevant case law of the Constitutional Court; and to elucidate the essence of the functions performed by the head-of-state institution as both a state and a personal institution within the system of state powers.

Scientific novelty and originality. The scientific novelty of the thesis lies in the comparative examination of the suspension and termination of the mandate of the head of state. This approach has made it possible to highlight the similarities and differences between the constitutional models under consideration, identify regulatory gaps, and substantiate a unified concept based on clear and coherent legal-constitutional criteria. The thesis substantiates the proposal to develop a unified conceptual framework and a coherent system of legal-constitutional criteria applicable to the suspension and termination of the mandate of the head of state.

The results contributing to the solution of an important scientific problem are reflected in the principal scientific conclusions submitted for defence. They derive from a comprehensive examination of the suspension and termination of the mandate of the head of state, the liability of the officeholder, the scientific approaches to the constitutional status of the head of state, and the legal mechanisms for interrupting the exercise of the mandate.

The important scientific problem addressed consists in defining and identifying the criteria governing the suspension and termination of the mandate of the head of state, establishing safeguards for distinguishing between these institutions, and identifying the minimum procedural safeguards required by European standards. These findings provide the theoretical foundation necessary for improving the relevant national legislation.

Theoretical significance. The findings of the research contribute to the continued development of constitutional law theory concerning the status of the head of state, particularly by clarifying the circumstances in which the mandate may be suspended or terminated. The thesis constitutes a monographic source for researchers interested in this field.

Practical value of the research. The findings may serve as reference points for further research into the issues examined and as theoretical support for specialised university courses. They may also contribute to the revision of the relevant legislation, including at the constitutional level, by aligning the consequences of removal from office with the standards established by the European Court of Human Rights and thereby promoting a coherent constitutional practice.

Implementation of the scientific results: the research findings may be used in the work of public authorities and persons competent to interpret and apply constitutional provisions, as well as in the teaching process at law faculties within higher education institutions

Balaban Mihai. Приостановление и прекращение мандата главы государства в современной конституционной архитектуре Республики Молдова. Специальность 552.01 – Конституционное право. Кишинёу, 2026

Структура диссертации: введение, три главы, общие выводы и рекомендации, библиография, 163 страницы основного текста. Полученные результаты опубликованы в девяти научных работах.

Ключевые слова: глава государства, мандат, функции, приостановление, прекращение мандата, отставка, отрешение от должности, ответственность главы государства, формы ответственности, иммунитет, неприкосновенность, конституционный контроль, сравнительное право.

Цель исследования состоит в углублённом изучении институтов приостановления и прекращения мандата главы государства для определения характеризующих их принципов и особенностей. Исследование основано на сравнительном анализе конституционного регулирования и конституционной практики Республики Молдова и других государств, направленном на выявление существующих конституционных моделей и формулирование предложений *de lege ferenda* по совершенствованию национальной нормативно-правовой базы.

Задачи исследования: раскрытие особенностей приостановления мандата главы государства; определение конституционных оснований и условий прекращения мандата главы государства как гарантии легитимного функционирования государства; сравнительный анализ конституционных моделей мандата главы государства с выявлением сходств и различий в регулировании его приостановления и прекращения; исследование релевантной практики Конституционного суда; раскрытие сущности функций института главы государства как государственного и персонализированного института в системе государственной власти.

Научная новизна и оригинальность. Научная новизна диссертации заключается в сравнительном исследовании институтов приостановления и прекращения мандата главы государства, позволившем выявить сходства и различия между рассматриваемыми конституционными моделями, определить проблемы нормативного регулирования и обосновать единую концепцию, предложенную на ясных и согласованных конституционно-правовых критериях. Обосновано предложение о разработке единой концепции и согласованной системы конституционно-правовых критериев, применимых к приостановлению и прекращению мандата главы государства.

Результаты, способствующие решению важной научной проблемы, отражены в основных научных выводах, выдвигаемых на защиту. Они получены в результате комплексного исследования институтов приостановления и прекращения мандата главы государства, ответственности лица, занимающего эту должность, научных подходов к его конституционному статусу, а также правовых механизмов прерывания осуществления мандата.

Решённая важная научная проблема заключается в определении критериев приостановления и прекращения мандата главы государства, установлении критериев разграничения данных институтов, а также выявлении минимальных процессуальных гарантий, предусмотренных европейскими стандартами. Полученные результаты создают необходимую теоретическую основу для совершенствования национального законодательства в данной области.

Теоретическая значимость. Результаты проведённого исследования способствуют дальнейшему развитию теории конституционного права в части, касающейся статуса главы государства, в особенности посредством раскрытия обстоятельств приостановления и прекращения его мандата. Диссертация представляет собой монографический источник для исследователей, занимающихся данной проблематикой.

Практическая значимость работы. Полученные результаты могут служить ориентирами для дальнейшего исследования рассматриваемой проблемы, а также теоретической основой для преподавания профильных дисциплин. Они могут быть использованы при пересмотре законодательства в данной области, в том числе на конституционном уровне, путём приведения последствий отнесения от должности к соответствию со стандартами Европейского суда по правам человека, способствуя тем самым формированию согласованной конституционной практики.

Внедрение научных результатов: результаты исследования могут быть использованы в деятельности органов публичной власти и лиц, уполномоченных толковать и применять конституционные нормы, а также в учебном процессе юридических факультетов высших учебных заведений

MIHAI BALABAN

SUSPENSION AND TERMINATION OF THE HEAD OF STATE'S MANDATE IN
THE CONTEMPORARY CONSTITUTIONAL ARCHITECTURE OF THE REPUBLIC
OF MOLDOVA

SPECIALTY 552.01 CONSTITUTIONAL LAW

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