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A study of Executive accountability in multi-party democracies - the issuing of Executive decrees and their treatment in the Legislature in different institutional settings across time: Italy (1947-2006), Argentina (1983-2006) and Romania (1992-2007)*

**The empirical information the current paper is based on has been collected by the author during research missions to Bucharest (June – October 2006), Rome (December 2006 – January 2007) and Buenos Aires (March – May 2007).*

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Abstract

The current paper explores the capacity of the Argentine, Italian and Romanian Legislatures to hold the Executive branch of government accountable for its policy initiatives issued by emergency Executive decree, rather than normal legislative proposals (NPL).

The major questions the paper attempts to answer are: what makes Executives prefer to promote their policy views extensively by Decree, rather than NPL, even when the situation is not of emergency and necessity? What explains the capacity and/or willingness of the Legislatures to hold the Executive accountable by amending or rejecting the Executive decrees that infringe with their primary legislative function?

I argue that the issuing of Executive decrees is a rational policy promotion strategy when the Executive faces bargaining problems in Legislature, while the level of Executive accountability to Legislature function of amending and rejection rates of Decrees is determined by the constitutional definition of these acts in favour of either one of the two branches of government. Furthermore, when the Decree is constitutionally defined to enable to the Executive to prevail over the Legislature, the former will issue them excessively, namely at a rate that is higher than required by the bargaining problems that it confronts in Legislature.

Keywords

Executive decrees, Legislature, accountability, veto players, democracy, Italy, Argentina, Romania.

I. INTRODUCTION

The current paper is focusing on the Executive decree issued under the constitutionally defined pretense of urgency and necessity. This is a legislative act that bypasses the Legislature in the process of policy making[1]. The Executive decree of urgency and necessity differs from normal procedure legislation initiated by the Executive (NPL) in one fundamental aspect. The Decree is a *de-facto law*, and not a simple legislative proposal: it requires only forwarding to the Legislature in order to have legal effect, under the constitutionally defined pretense of necessity and urgency, before it enters the legislative debate. The Executive does not have to consult the Legislature about its policy options promoted through this type of Decree, as it does not need to wait for the outcome of legislative deliberations. The Decrees are eventually discussed in Legislature, but the policy scrutiny takes place ex-post, when these unilateral policy acts had already generated legal effects for a specific period of time, sometimes years.

In contrast, a piece of legislation initiated by Executive through normal procedure (NPL) is not a law as such, but a simple *legislative proposal*. It requires debate and approval in Legislature before it can have legal effect, therefore involving waiting time on the part of the Executive, policy scrutiny in Legislature and inter-institutional bargaining.

It is precisely this difference that explains the scholarly attention given to the Executive decrees of urgency and necessity (Carey and Shugart, 1998). It had been claimed that the excessive use of these acts represents the usurpation of the Legislatures' legislative prerogatives, which in turn is considered a serious infringement with the principle of separation among the main powers within the State[2]. The ideals of democracy and democratic representation are called into question when the Executive branch of government ends up legislating extensively above the Parliament or Congress, taking on functions that are the institutional prerogative of other branches of government, through the abusive use of a resource (the decree power) constitutionally defined to be used *only* in exceptional circumstances.

An important clarification ought to be made here: the use of emergency decrees is democratically legitimate (from a legal standpoint), since the power to issue emergency decrees is constitutionally defined. However, the abuse of this constitutional provision, i.e. use of emergency decrees even when the Executive is not confronting a situation of urgency and necessity, is not democratically legitimate. This abuse becomes possible because the Constitutions leave it to the latitude of the Executive to decide what an emergency situation is. What brings into question the democratic aspect of governance by Decree is the abusive use but also the very large number of these acts in some countries: the Executive issues more Decrees than normal legislative proposals, but also when the number of approved Decrees is higher than the number of approved Executive-initiated legislation through normal legislative proposals. In some new democracies, the large number of this type of Executive decree had been associated with the practices of the previous non-democratic regimes, and therefore considered antithetical to the ideal of democratic consolidation (O'Donnell, 1994, 1996; Linz

[1] Carey and Shugart (1998) provide a detailed categorization of Executive decrees according to their constitutional definition and their subsequent policy bargaining power.

[2] The concern refers to the *excessive use* of decrees, not necessarily to the existence of constitutional provisions granting the Executive decree power of any type, including the Decree of urgency and necessity.

and Stepan, 1996)[3]. It had rightly been pointed out that scholars tended to associate governance by Executive decree with capricious usurpation and abuse of authority (Carey and Shugart, 1998: 1). The excessive issuing of Executive decrees leads to a policy-making process in which the Legislatures tend to be bypassed, lowering the quality of democracy in any country, be it a new or an established democracy. Italy had experienced a situation where specific legislation had been in place for more than a decade without even being debated and passed in its Parliament, since the Italian Executive re-issued its own Decrees (only with slight formal modifications) every time these Executive acts lapsed in Parliament, after failing a 60 days constitutional deadline for decision (Della Sala and Krepel, 1998; Della Sala, 1988).

According to the view of the democratic consolidation literature, Italy would be considered a democracy that confronts the same problem as the new democracies in Latin America and Eastern Europe. However, the empirical evidence that I will present later proves that the volume of Executive decrees in Italy is significantly lower than the volume of Executive initiated NPL. Furthermore, the Executive decrees are highly amended or rejected in the Italian Parliament.

I compare countries that democratized over the last 25 years (Argentina and Romania), to an established democracy (Italy) in order to identify possible similar causal patterns affecting the capacity of their respective Legislatures to hold the Executive accountable[4]. The study cases cover the whole continuum of political systems, ranging from presidential (Argentina), semi-presidential (Romania) to parliamentary (Italy)[5]. Furthermore, their past experience with democracy is radically different: Romania had experienced different non-democratic regimes since 1938, emerging out of a 42-year long communist dictatorship in 1989. Argentina's current democratic regime has been in place since 1983, preceded by a military government (1976-1983) and intermittent democratic governments since 1955. Italy is the only case study that has enjoyed an uninterrupted democracy since 1947.

The case studies selection highlights that the use of Executive decrees is neither a characteristic of the new democracies across the world, nor a practice specific of presidential regimes. This two-fold diversity in the universe of case studies (different political systems and different past experience with democracy) expands the theoretical relevance of the current paper from the field of democracy theory to the field of institutional studies focusing on policy making across political systems.

[3] Democratic consolidation is understood to represent the capacity of the new democracies to avoid a return to some form of authoritarianism.

[4] The theoretical relevance of comparing new and established democracies hinges on their potential differences. Differences in nature lead to a classification of democracies according to democratic types in which the new democracies belong to different categories than established democracies (O'Donnell, 1994, 1996, 1999, 2003), whereas differences in degree lead to a classification of democracies according to the level of democratic quality in which the new democracies belong to the same category as the established democracies, only exhibiting a lower democratic quality (Dahl, 1971; Schmitter and Karl, 1991; Schmitter, 2003; Smulovitz and Perruzotti, 2000).

[5] I consider Italy as having a strong parliamentary system, although not one of the Westminster type, given the exclusive dependence of the Cabinet on the Parliament and the election of the Italian President by the Parliament (Woldendorp, Keman and Budge, 2000).

II. CONCEPTUAL, THEORETICAL AND METHODOLOGIACAL CLARIFICATIONS

The concept of accountability polarized the academic attempts to define it almost to the same extent as the concept of *democracy*, which had elicited significant scholarly attention and disagreement in the context of the literature on democratic transition and consolidation.

In a seminal article, Schmitter and Karl (1991: 74) defined "modern representative democracy" as necessarily entailing the capacity to hold the rulers accountable: democracy is "a regime or a system of governance in which rulers are held accountable for their actions in the public realm by citizens, acting indirectly through the competition and cooperation of their representatives".

Given the importance of this concept in the context of democracy studies, a disciplined conceptualization has to account for the important dimension of "punishment". The capacity to "punish" is an integral part of political accountability (O'Donnell, 2003; Schmitter, 1999; Maraval, 1999), as long as the perceived availability of sanctions constitutes the fundament of credible and effective action on the part of the agents of accountability

Different forms of accountability make recourse to different resources and mechanisms of enforcement (Schedler, 1999: 22-23). The kind of resources the agents of accountability can make use of in the act of holding the subjects accountable define their position and influence their capacity to hold the subjects accountable.

Executive accountability to the Legislature encompasses two dimensions (Schedler, 1999: 12-15). The first is answerability through oversight and investigation: the Legislature can demand *information* from the Executive, aiming to oversee and/or investigate the activity of the Executive, both prospectively and retrospectively; the Legislature can demand *explanation* from the Executive, aiming to oversee and/or investigate the activity of the Executive, both prospectively and retrospectively.

The second is punishment through policy scrutiny actions (Schedler, 1999; Stark and Bruszt, 1998) and/or demand for activation of other agents of accountability (i.e. penal investigation institutions, courts of accounts, etc.): the Legislature has the legally ascribed power to punish the Executive by imposing sanctions of non-legal nature aiming to uphold Executive accountability through increased policy scrutiny and/or keep the Executive within the limits of legality.

When various Agents hold accountable the subjects of accountability, they often cross the borders between State and society, in an interaction that oppose actors who engage different resources. From the perspective of accountability, the Executive branch of government is the Subject of accountability, while the Legislature is the Agent of accountability. The action of the Legislature to hold the Executive accountable encompasses both dimensions of accountability defined by Schedler (1999, 12-15): answerability and punishment.

I therefore define Executive accountability in relation to the Legislature as being the capacity of the later to use its constitutional resources to demand information and explanation from the Executive, both prospectively and retrospectively, while being able and willing to use its legally ascribed power to punish the Executive through non-legal sanctions aiming to impose an extended Executive accountability through policy scrutiny and amendments and/or keep the Executive within the limits of legality, either through its own direct non-legal punishment or by demanding the activation of Agents of mandated horizontal accountability who can impose legal punishment.

An important issue needs clarification here. The current paper compares three countries that have substantially different political systems: Italy has a parliamentary system, Argentina has a federal presidential system, while Romania has a semi-parliamentary political system. I will next attempt to explain how accountability can be conceptualized across political systems.

The contemporary policy-making process involves acts of delegation of policy-making authority, in which "*those authorized to make political decisions conditionally designate others to make such decisions in their name and place*" (Strøm et al., 2003: 19). This observation holds true in any political system, presidential or parliamentary. Voters delegate to politicians, either legislators or elected Presidents, while legislators delegate to cabinets and Presidents delegate to Executive agencies, as shown in Table 1 in Annex 1.

TABLE 1

However, any delegation of policy-making authority is accompanied by various mechanisms of accountability, through which the Principals hold their Agents accountable, so that the power entrusted to them will not be abused. The policy-making process exhibits both components (delegation and accountability) in parliamentary systems, while exhibiting *only the accountability component* in presidential systems, as shown in Graph 1 in Annex 2.

GRAPH 1

In presidential systems voters elect both the Congress members and the Presidents, delegating policy-making power and holding both accountable through regularly held free and fair elections. However, legislators *do not delegate* policy-making power to Presidents on a constant regular basis, unless circumstances out of the ordinary require it. Even in such circumstances, delegation of legislative functions occurs only for clearly defined periods of time and on specifically mentioned policy-issues. I will deal more extensively with this apparent contradiction (accountability without delegation represented by the dotted arrow in Graph 1) later in the current section.

Executive accountability to the Legislature can be understood as *an institutional control function* (the Legislature has the constitutionally granted power to withdraw its support for the Executive leading to Cabinet removal in parliamentary systems), but also as *a policy-making function* (the Legislature has the constitutionally granted power to expose the Executive legislative proposals to policy scrutiny). Both presidential and parliamentary systems exhibit the same functions of accountability: *institutional control* and *policy-making*, only with different intensities and different mechanisms of imposition.

In presidential systems, *the institutional control* function allowing the Legislature to remove the Executive is reduced to a substantially diminished form: the impeachment procedure. *The policy-making function* however is correspondingly enhanced, through the increased policy scrutiny for the Presidential legislative initiatives sent to the Legislature for consideration and approval.

In parliamentary systems, *the institutional control* function is substantially stronger, since the Parliament has a variety of resources to remove an Executive that is made of its own members and is entirely dependent on its support. *The policy-control* function is correspondingly weaker than in presidential regimes, given the parliamentary origin of the Executive. It is assumed that a Parliament supporting an Executive has no incentives to amend the latter's policies *to the same extent* as a Congress in presidential systems, since the Parliament itself delegated the Executive to implement the policy platform of the supporting legislative coalition. That is not to say amending or rejection of Executive policy initiatives are absent from parliamentary systems. To the contrary, the Parliament is capable to hold the Executive accountable depending on the legislative resources granted to the former by Constitution.

It had been emphasized that the longer and more linear the chain of accountability, the higher the risk of agency loss on the part of Principals (Lupia, 2003). Agency loss is the difference between the actual consequences of delegation and what the consequences would have been had the Agent been "perfect". Here perfect is understood a hypothetical Agent who does what the Principal would have done if the Principal had unlimited information and resources to do the job herself (Lupia, 2003: 35). Agency loss describes the consequences of delegation from the principal's perspective.

However, how can Executive accountability to the Legislature be conceptualized outside the Principal – Agent framework? It can be argued that in presidential systems the Congress cannot hold the President accountable since it cannot act as a Principal in relation to its Agent given its diminished capacity to remove the President.

I argue that in presidential systems both the President and the Congress are Agents of the electorate, who equally entrusted them with policy-making powers. They can act towards holding each other accountable in the system-specific framework of checks and balances. The policy-making function of accountability makes it possible that two agents (Congress and President) can hold each other accountable when acting in the name of their *common Principal*, the electorate. Therefore, although the Legislature is not the principal of the Executive in presidential systems, it still has a democratic mandate from voters to hold the Executive accountable, *only in a different manner than in the parliamentary systems*.

Executive accountability outside Principal – Agent framework is made possible by political parties, which provide the link between the Executive and the Legislature. They play a fundamental function in making delegation and accountability work *within* or *outside* the Principal – Agent framework (Mueller and Strøm, 2000). While political parties influence all stages of delegation and accountability in a linear chain in parliamentary democracies (see figure (a) above), in presidential democracies they link the Executive and the Legislature through the mechanism of checks and balances. This in turn compensates for the substantially diminished *institutional control function* of accountability by a strengthened *policy-making*

function of accountability. Therefore, it is expected that a Congress will attempt to expose the presidential legislative proposals to closer policy scrutiny than a Parliament.

It appears that differences across political systems are epiphenomenal as far as delegation and accountability are concerned. Both systems display the same function of accountability, *with a difference in degree and the accompanying mechanisms of imposition*. Furthermore, political parties structure the Executive-Legislature arena in different ways in parliamentary and presidential systems, according to the constraints imposed by the constitutional design, but with the ultimate purpose of reaching policy-making decisions (Strøm, 2003: 69).

I will operationalize Executive accountability by establishing if the Executive indeed governs by Decree rather than simple legislative proposals sent to the Legislature through normal procedure (NPL). The indicator is the volume of Executive decrees compared to the volume of Executive initiated NPL. The ratio between these two legislative instruments will reveal the intentions of the Executive in undermining the legislative function of the Legislature. This is a simple intermediary measure that captures a simple picture: opting between two policy-promotion strategies in relation to the Legislature (the Executive decree and the NPL, each one with its own constitutional definition) the Executive will choose the one which provides the most efficient solution for its bargaining problems in Legislature.

This ratio is instrumental in establishing two relevant aspects of governance through Emergency decrees. The first is the volume of Decrees compared to the volume of NPL for the whole period under observation in each country case, indicating if a country is indeed ruled by Decree or not. The second is the over time trend of Decree issuing. If the ratio is increasingly in favor of Emergency decrees, then this will indicate that this particular legislative resource is preferred by the Executive, providing an incentive to explore the causes of such preference.

Secondly, I establish the rejection and amending rates of Executive decrees in Legislature. The lower the amending and rejection rates, the lower the Executive accountability. I will also attempt to identify the factors that influence the capacity of Legislatures to reject and amend the Decrees. This is the only measure of accountability in the paper, given that it entails punishment through rejection and amending of Decrees, as I have argued earlier. An Executive that issues a large volume of Executive decrees (even larger than the volume of NPL) still rules accountable to the Legislature as long as these acts are rejected or amended. The need to issue a large volume of Decrees has a different cause than the capacity of the Legislature to reject or amend the Decrees. From this perspective, a large volume of Decrees accompanied by low rejection and amending rates indicates a low level of Executive accountability.

Thirdly, I compare the ratio issued Decrees/issued Executive-initiated NPL to the ratio approved Decrees/approved Executive-initiated NPL, revealing the level of Legislature acquiescence to the undermining of its legislative function. The ratio issued Decrees/issued NPL reveals the intentions of the Executive to undermine the legislative function of the Legislature. The ratio approved Decrees/approved NPL reveals the capacity of the Executive to rule unaccountable to the Legislature. From this perspective, any difference between the two ratios indicates the role of the institutional structure in setting the capacity of Legislatures to hold the Executive accountable.

III. EXECUTIVE ACCOUNTABILITY FUNCTION OF PARTISAN AND INSTITUTIONAL VETO PLAYERS

I place the argument of the current paper within the partisan and institutional veto-player model explaining how policy decisions are made. The formal institutional configuration of power (set in the Constitution and parliamentary rules of procedure) and the informal partisan configuration of power (the types of legislative coalitions generated by specific party systems) interact with each other and determine how decisions are made (Tsebelis, 1995, 2000, 2002).

Institutional and *partisan* veto players are defined as "individual or collective actors whose agreement (by majority rule for collective actors) is required for a change of status quo" (Tsebelis, 1995: 289). The potential of reaching decisions decreases with the number of veto players, their lack of congruence (dissimilarity of policy positions among veto players), their cohesion (similarity of policy positions among the units of each veto player).

In the context the current paper, partisan veto players are the political parties that form the legislative coalitions supporting the Executive. The behavior of each of these coalition partners is conditioned by its importance in coalition and by the coalition structure itself. According to the assumptions of the veto-player model, the more fragmented and polarized a legislative coalition (high number of veto-players), the more difficult to reach a policy decision.

I argue that governance by Decree is a *rational* policy promotion strategy of the Executive branch of government when the configuration of partisan veto players in Legislature leads to legislative coalitions that are either incapable to reach policy decisions (fragmented and polarized) or simply unwilling to negotiate policy decisions (based on the solid majority of one partner in the presence of ideologically close or ideologically disinterested partners). Three types of legislative coalitions can be formed according to the partisan veto-player model:

TYPE 1: "Weak" coalitions exhibiting a high number of veto players (i.e. fragmented and polarized coalitions with many parties that are ideologically distant from each other and no major coalition partner). This type of coalition is not capable to reach negotiated policy decisions, given its structure. The immediate outcome is legislative deadlock and the tendency of the Executive to overcome it by promoting its policy views by Decrees.

TYPE 2: "Dictatorial" coalitions exhibiting a low number of veto-players (i.e. low fragmentation and polarization with a small number of parties, in which one major coalition partner can impose its policy views on the junior partners) (Peleg, 1981). This type of coalition does not have to negotiate policy decisions, given its structure. The immediate outcome is a "dictatorial" Executive promoting policy by Decree since it has no constraints to negotiate policy initiatives from the more junior partners.

TYPE 3: "Balanced" coalitions exhibiting a moderate number of veto-players (i.e. moderate fragmentation and polarization coalitions with an average number of parties and a major coalition partner that cannot impose its views upon the junior partners). This type of coalition has to negotiate policy decisions and its structure allows it to successfully conclude negotiations. The immediate outcome is an Executive promoting legislation through normal

procedure legislative proposals rather than Decrees.

In the context of the current paper, institutional veto-players refers to the policy-powers of each one of the two branches of government in *proposing* and *controlling* the policy agenda[6]. The branch that can institutionally veto the other's policy views (and therefore evade any attempt to negotiate policy) will prevail in case of divergence. I further argue that governance by Decree becomes a *successful* policy promotion strategy (high number of Decrees passing in Legislature and low number of amendments – if at all) when the configuration of institutional veto power between the Executive and the Legislature favors the former. The stronger the institutional veto power of the Executive, the higher the number of Decrees passing in Legislature and the lower the number of legislative amendments of these acts.

An important note ought to be made here: if the institutional veto-power grants the Executive *total agenda setting powers* that allow it to unilaterally prevail in the policy-making process through the use of Decrees[7], the configuration of partisan veto players in the Legislature becomes irrelevant, as long as any attempt to force policy negotiation upon the Executive can be easily thwarted by recourse to a Decree that is impossible to reject or amend.

The Decree of urgency and necessity can be a special legislative proposal that requires compulsory debate and decision in Legislature (strong institutional veto-power in favor of Legislature), or it can be a de-facto law issued by the Executive that does not require debate and decision in Legislature (strong institutional veto-power in favor of the Executive). This situation is encountered when the Constitution does not clearly specify the legal status of the Decree, combined with a favorable interpretation on the part of the Justice system that endorses the constitutional limbo.

Furthermore, the Decree of urgency and necessity can be tacitly rejected if it lapses (although it generates legal effects for a limited period of time) when the Legislature does not discuss and decide on it within a constitutionally defined deadline (strong institutional veto-power in favor of Legislature). Opposite, the Decree can be tacitly approved if it automatically becomes law when not discussed and decided on within a constitutionally defined deadline (strong institutional veto-power in favor of Executive). The strength of Executive veto on the decision of the Legislature plays a very important role[8]. The Executive can/cannot veto the decision of the Legislature on a Decree, while the Executive veto is

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[6] I introduce this finer-grained distinction between *proposing* the policy agenda and actually *controlling* it in order to capture the *varying degrees* of Executive involvement in the legislative process; i.e. the Italian Executive has the power to propose any policy issue it deems necessary in its joint meetings with the heads of the parliamentary groups when the policy agenda is decided, but the formal configuration of this joint agenda-setting body allows it little room for maneuver in influencing the final decisions of what stays on the agenda and in what form.

[7] This would be a situation where the Constitution defines the Executive DNU as not requiring a decision in the Legislature to act as a full law and to be treated as such by the Court system of the country, while being extremely difficult (or outright impossible) to reject or amend in the Legislature.

[8] The strength of the Executive veto on the decision of the Legislature varies from country to country. Some Executives can veto the decisions of Legislatures, some others cannot. The veto of some Executives can be easily overridden by the Legislature, whereas the veto power of some Executives is very difficult to override. The capacity of the Legislature to override the Executive veto is given by the constitutional requirements regarding the number of votes necessary for such action: some Constitutions require a low (easy to assemble) number of legislative votes, other Constitutions require a high number of votes (such as 2/3 majorities), very difficult to achieve particularly when the electoral system produces highly fragmented Legislatures with a high level of ideological polarization.

easy/difficult to override.

The above legal features that define a Decree combine differently in different institutional systems, setting the strength of Executive power when using this constitutional resource (and therefore the level of Executive accountability to the Legislature function of Decree rejection and/or amending).

From this perspective, I argue that the configuration of institutional veto power between the Executive and the Legislature is causally relevant. The more it favors the former, the larger the number of Decrees passing in Legislature and the lower the number of legislative amendments. If the formal configuration of power grants the Executive total agenda setting powers allowing it to unilaterally prevail in the policy-making process, then the coalition types described above become irrelevant, as long as any attempt to hold the Executive accountable by policy bargaining becomes futile.

The veto-player structures (partisan and institutional) constitute the lowest common causal denominator across regime types, providing a good understanding of how political parties and formal constitutional arrangements *interact with each other* across political systems in determining how decisions are taken (Tsebelis, 1995, 2000, 2002).

IV. PARTISAN AND INSTITUTIONAL VETO PLAYERS ACROSS COUNTRY CASES

IV. 1. ITALY: LEGISLATIVE FRAGMENTATION AND HIGH DECREE ISSUING

Democrazia Cristiana (DC), the major post-war Italian political party, never won a majority of votes that would have enabled it to govern on its own, except the elections of 1948 (Cotta and Verzichelli, 1996: 4; Mershon, 2002: 69). The purpose of all governing coalitions assembled around DC since 1948 had been the relegation of the Communist party (PCI) to a permanent opposition status, given its anti-system programmatic orientation. The DC had attempted various coalitional formulae, bringing together parties that were ideologically opposed to each other, while fearful of electoral loss due to being part of an oversized governing coalition (Mershon, 2002: 42-44; Cotta and Verzichelli, 1996).

A number of political cycles emerged, each characterized by one specific coalition formula: **Centrism** (1948-1960: 13 governments among DC-PLI-PSDI-PRI), **Center-Left** (1960-1975: 17 governments among DC-PSI-PSDI-PRI), **National Solidarity** (1976-1979: 3 governments among DC-PCI-PSI-PSDI-PRI-PLI; the only attempt to involve the communists in the act of governing) and the **Pentapartito** (1980-1992: 14 governments among DC-PSI-PSDI-PRI-PLI) (Cotta and Verzichelli, 1996). The only difference among these coalitional phases, with the exception of the National Solidarity phase, is the inclusion or exclusion of one of the smaller parties. These had been in and out of each coalition, created severe instability by staying in the coalition but opposing the policies of the senior partner, particularly during the Center-Left phase and the Pentapartito phase (Krepel, 1997).

The immediate consequence had been a diminished Executive capacity to pass NPL in Parliament and the ensuing recourse to DL in order to compensate for this incapacity, as shown in Table 2 in Annex 1[9].

TABLE 2

A few clear trends stand out immediately. *Firstly*, the Italian Executive tended to issue an increasingly larger number of emergency Decrees, or Decreti Legge, the specific name of these acts in Italy (from here onwards DL) since 1948 (from 3% under Centrism to 29% under the new political system since 1996). *Secondly*, there appears to be a correlation between the tendency to issue DL and the success rate of Executive initiated NPL (i.e. number of approved NPL) (last column in Table 2): the less approved the NPL, the higher the number of DL. *Thirdly*, Italy has been ruled by DL during the 1993-1996 period of transitional politics. *Fourthly*, the new political system exhibits the same high number of DL compared to NPL as the Pentapartito (29% DL vs.71% NPL compared to 30% DL vs. 70% NPL).

However, when comparing the success rate of NPL (the number of approved NPL) during Pentapartito (69%) to the NPL success rate during the new political system (84%), one may ask the legitimate question why the Italian Executives still chose to promote their policy views by DL after 1996, when the success rate of their NPL had been comparatively higher than ever before? I will further explain each of the above observations.

The trend of increased governance by DL is explained by the largely fragmented and polarized Executive coalitions between 1948 and 1993, which qualify as Type 1 "weak" coalitions, exhibiting a high number of veto players, i.e. fragmented and polarized with many parties that are ideologically distant from each other and no coalition partner that could facilitate negotiation or simply impose its policy views on the more junior partners without the risk of coalition break up. Type 1 coalitions offer unstable legislative support to what MP Machiavelli quoted in the opening of the paper described as a "weak Executive, which constantly has to confront not only the opposition, but also its own internal dissent".

I will next run a double-tailed Pearson correlation attempting to check if the NPL success rate is indeed the cause of Decree issuing. The negative correlation between the success rate of NPL and the tendency to rule by DL is reasonably strong **(,656**)** even when using data for the whole period under observation (1948 – 2006)[10]. The deviant units of analysis according to the Table 2 earlier are the Italian cabinets in power during the Transition period and all those since 1996. A closer exploration of their composition and their legislative output can reveal the causes of deviance.

[9] The information on the ratio DL/NPL until the Fanfani V Cabinet of 1983 (up until the end of the 8th Italian Parliament) is found only in a small compiled book in the Library of the Italian Chamber of Deputies, edited by the printing office of the Chamber: Le legislature repubblicane nelle statistiche parlamentari (*my own translation*: Legislative statistics of the Republican Legislatures), La Camera dei Deputati – Segreteria Generale, Ufficio stampa e pubblicazioni, Roma, 1985. The book also contains information on the amending rate for DL and Normal procedure legislation. However, while the information on DL is organized for each Executive, the information on Normal procedure legislation is organized only for each Parliament, preventing a correlation between the volume and success rate of the two types of legislative proposals for each Executive coalition.

[10] With a number of 33 units of analysis at 0 level of significance.

The dynamic of DL issuing and treatment throughout the Transition period heralds the highest level of Decree issuing in Italy, after almost half a century of unsuccessful attempts to overcome the fragmentation and polarization of the party system, as shown in Table 3 in Annex 1.

TABLE 3

The Italian party system collapsed in the early 1990s and the impossibility to assemble political cabinets imposed "technical" Executives, whose primary function had been the governing of the country while the new party system was in the making. The only attempt to form a political cabinet, the Berlusconi I Executive, did not last. The technical cabinets of Ciampi and Dini initiated most of their legislation by DL. Even the political cabinet of Berlusconi I initiated most of its policy by DL, given the political instability. There is clearly no correlation between the success rate of NPL and the tendency to govern by DL during the Transition period.

Once eliminating the units of analysis (Cabinets) of the Transition period, the correlation between the success rate of NPL and the number of DL becomes stronger increasing at **(,769**)** confirming the argument of the current paper[11].

The second set of deviant units of analysis is made of Italian cabinets in place after 1996, with the emergence of a new electoral and party system. It noticeably exhibits the same tendency of the Executive to rule by DL as before 1996, despite the seemingly higher success rate of NPL, as shown in Table 4 in Annex 1.

TABLE 4

For the first time in Italian politics, Type 2 "dictatorial" coalitions emerge. The new Italian center-right does not confront the same political circumstances the DC confronted for almost 50 years. DC had always had to build oversized coalitions and make policy concessions, often times not being capable to reach agreement with its coalition partners over policy sensitive issues. The new Italian center right does not have to organize oversized coalitions to support the Executive, therefore reducing the number of coalition partners to the political parties that it really is closest to in ideological and policy terms.

The cabinets of Berlusconi II and III have a success rate of 97% of NPL, while still issuing a high number of DL compared to normal procedure proposals (see Table 4 in Annex 1). These two cabinets are based on Type 2 "dictatorial" coalitions, given their capacity to pass through the Legislature any type of legislative initiative without having to negotiate with the Opposition. These are Executives that MP Machiavelli quoted in the opening of the paper refers to as "*strong, authoritarian Executive"*. This assumption is confirmed by the success rate of their DL, as I will show in the next section of the paper.

Highly relevant, the "new" Italian center left Executives of D'Alema I and II and Amato II exhibit a strikingly low success rate of their NPL (71%, 55% and 38%), compared to

[11] With a number of 33 units of analysis at 0 level of significance.

Berlusconi II and III. This confirms that the Italian center-left continues to produce "weak" Type 1 coalitions even after the change of the political system, with a high number of veto players, incapable to conclude policy negotiations and issuing DL in order to overcome the low success rate of their NPL.

Once the cabinets of Berlusconi I (of the Transition period), Berlusconi II and III (of the new system period) are excluded from the sample of units of analysis, the correlation between the low success rate of NPL and the number of DL further increases to a high of **(,801**)**[12].

Therefore, the Italian Executive has confronted specific bargaining problems in Parliament across the decades and has issued an increasingly large number of DL to overcome them. I will next explore the capacity of the Italian Parliament to hold the Executive accountable by rejecting or at least amending the DL, since this legislative resource attempts to promote policy by evading legislative scrutiny.

IV. 2. ITALY: HIGH DECREE ISSUING AND HIGH EXECUTIVE ACCOUNTABILITY

The success rate of the Italian DL has been decreasing, while the amending rate has been increasing across decades, as shown in Table 5 in Annex 1. The success rate of DL in Italy has been 57% and the amending rate 77%, between 1948 and 2006 (see row Total in Columns II and III in Table 5 in Annex 1). Overall, the DL has a low success rate and a high amending rate, which indicates that the Italian Executive rules accountable to the Parliament, despite the increasing volume of DL issuing since 1948.

TABLE 5

However, the relevant empirical finding in Table 5 is the trend of a decreasing success rate of DL from the Centrist phase to the Transition phase (see Column II DL success rate in Table 5 above). It decreased spectacularly from 97% success rate (Centrism) to a very low 28% success rate (Transition period). Inversely, the DL amending rate increased from 53% under Centrism to around 80% under Pentapartito and the Transition phases (see Column III in Table 5 above). The trend is that of a very strong Executive accountability to Parliament: the higher the DL issuing, the lower the success rate and higher the amending rate.

The Italian DL is regulated primarily by the Constitution of December 1947. Just out of Second World War, the Italian political establishment designed the Constitution attempting to prevent a new dictatorship by putting in place institutional mechanisms that would make it difficult for the Executive to bypass the Parliament, without denying the later the possibility to react in circumstances of crisis and instability (Della Sala and Kreppel, 1998: 177). Article 77 of the 1948 Constitution reflects these concerns by granting the Executive the possibility to issue DL which come into effect immediately, but expire after 60 days if not discussed and decided on in the Parliament. The DL is therefore a special legislative proposal, with immediate legal effect under the pretense of urgency and necessity. The Executive does not have any veto power on the decision of the Parliament. Most often, the Parliament ignores the DL, particularly if they promote sensitive policies, as a very cost efficient manner of dealing with them, leading to tacit rejection after the passing of the 60 days constitutional deadline.

[12] With a number of 27 units of analysis at 0 level of significance.

The legal status of special legislative proposal for the DL and the rule of tacit rejection, combined with the inexistence of veto power on the part of the Executive grants the Parliament almost total power when dealing with DL (this might not be the case with other legislative resources and it certainly does not imply that the Italian Parliament is a locus of fervent policy-making).[13]

The institutional veto player power strongly in favor of the Italian Parliament explains the high Executive accountability to Parliament, even during the Transition phase of Italian politics, despite the very high volume of DL issuing as shown in Table 6 in Annex 1.

TABLE 6

The Transition phase is the only one when Italy is governed by technical Cabinets mainly by DL, in extraordinary political circumstances, as explained in the previous section exploring the functioning of the partisan veto players. The Executive initiated 75% of its policies through DL and only 25 % through NPL (Columns I and IV in Table 6). However, the level of Executive accountability to the Parliament is still high, given the low DL success rate (28% in Column II in Table 6) and the high DL amending rate (78% in Column III in Table 6).

IV.3. ARGENTINA: LEGISLATIVE FRAGMENTATION, CONGRESSIONAL DEADLOCK AND THE ISSUING OF DECREES

The Argentine Presidents rarely enjoy a majority in both the Chamber of Deputies and the Senate (Negretto, 2004: 555). However, the Argentine Presidents have always benefited from a partisan support between 45% and 51% since 1983, particularly in the Chamber of Deputies.

Such legislative partisan representation, combined with a constantly low number of effective parties in Congress[14], should insure a disciplined partisan support for the President. However, the literature accounts for sufficient circumstances when the President could not count even on the support of his own party (Llanos, 2001; Magar, 2001; Palanza, 2005; Panizza, 2000).

Empirical information indicates that President Menem encountered congressional opposition to his NPL initiatives *even when his own party had more than 50% of congressional seats*, as shown in Table 7 in Annex 1.

TABLE 7

Empirical information on the success rate of presidential NPL sent to Congress indicates that Argentine political parties do oppose the President, regardless of occasional convergence of ideological identities, as shown in Table 8 in Annex 1.

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[13] The unstable nature of legislative coalitions leads to avoiding the initiation and passage of important legislation, with a tendency to initiate legislative proposals that once approved are called “leggine”, an euphemism for legislation of narrow policy importance (DiPalma, 1977).

[14] Between 2.3 and 2.7 in the Senate and between 2.2 and 3.3 in the Chamber between 1983 and 1999 (Molinelli, Palanza and Sin, 1999: 305-306).

TABLE 8

All Argentine Presidents confronted congressional opposition to their NPL, as indicated by the average 62% success rate of these acts for the whole period under observation. The explanation rests with the regionalized Argentine party system, which makes the distinction between *party discipline* and *legislative discipline* an instrumental one, as opposed to party systems where the national leadership controls the legislative behavior of legislators through the floor leaders. The Argentine electoral rules place the power of nomination in the hands of influential local party leaders, through the control of a closed-lists PR system (Jones et. al, 2000: 3-4). Furthermore, the party leadership is not a unified one: although the national leadership exerts a certain degree of influence on provincial level leadership, the locus of partisan power stays at provincial level, which is made of a constellation of district-level party organizations[15].

In order to pursue their careers, which most often involve only one, maximum two mandates in Congress, the Argentine legislators obey the authority of local leaders, who control the access to electoral list (Jones et. al, 2000: 5). The local leaders sometimes recommend or even mandate voting against the national party line, if their personal political fortunes or the constituency interests are at stake. In order to obtain the collaboration of legislators, the floor leadership of each party has to insure the support of provincial party bosses, sometimes by pressuring the President to offer them financial incentives (Jones et al., 2000: 5). Therefore, the Argentine political parties are not as disciplined as assumed. They do oppose the President in Congress, as proved by the low success rate of presidential NPL.

The current paper assumes that the Executive is issuing Decrees in order to overcome legislative opposition to its NPL. However, the negative correlation between the success rate of NPL and the issuing of emergency Decrees (in Argentina this type of decree is called Decreto de Necesidad y Urgencia, or DNU from here onwards) is almost zero for the whole period under observation **(-,066)**[16]. This is particularly puzzling, given the rather low success rate of NPL shown earlier. Once eliminating the deviant case studies of Presidents Adolfo Saa and Eduardo Duhalde, who ruled Argentina mainly by DNU is times of economic crisis under the imperative of urgency and necessity, the two-tailed Pearson correlation increases to **(-,232)**[17]. The correlation is not as strong as in the Italian study case, but this finding had been expected. A negative slope of the linear regression indicates some reasonable relationship between the success rate of NPL and the number of DNU, as shown in Graph 2 in Annex 2.

GRAPH 2

[15] Examples of factionalized parties are the Japanese Liberal Democrats (Cox and Rosenbluth, 1995 quoted in Jones et al., 2000: 4, fn. 11) and the Italian Christian Democrats (see Sartori, 1982). Both in the case of Japan and Italy, the factions are not regional, but form around leaders, according to the varying degrees of ideological orientation within the same party (Sartori, 1982; Baron, 1996 quoted in Jones et. al, 2000: 4, fn. 11). The formation of factions in the Argentine parties is centered on strong leaders controlling resources at the local level and it is mainly resource oriented, rather than policy oriented.

[16] With a number of 29 cases at .73 level of significance.

[17] With a number of 24 units of analysis at a .27 level of significance.

The congressional resistance to NPL, as reflected in their success rate, is indeed part of the cause of a high number of DNU, *but this is not entirely relevant for causality*, as in the case of Italy. Therefore, Argentine Presidents do issue more DNU than required by the success rate of their NPL. I will explain this empirical finding next in the section dealing with the institutional veto player structure of accountability.

IV.4. ARGENTINA: WEAK CONGRESS VETO PLAYER POWER AND INEXISTENT ACCOUNTABILITY

When the Argentine president issues a DNU, he or she is actually issuing law (Rubio Ferreira and Goretti, 1998: 33) since the DNU *does not need* to be approved in Congress to act as a full law and be considered as such by the Courts of the country.[18] The President only needs to inform the Congress that he has issued a DNU, presenting the legislative body with a *de jure* fait-acompli, and not only with a *de facto*, political one.

The 1853 Constitution did not include any specific provisions regulating the DNU, but various presidents had made use of it claiming that circumstances out of the ordinary require them to do so (Rubio Ferreira and Goretti, 1995: 78). [19] This legal limbo has been strengthened by the decision of the Argentine Supreme Court, which ruled in 1990 that DNU are valid legislative instruments of the President, with the occasion of deciding the constitutionality of DNU 36/1990 creating a forced public loan system (Negretto, 2004: 551).

Firstly, the legal status of the DNU strategically favors the agenda-setting power of the President through the para-constitutional rule of tacit approval (Negretto, 2004: 552). *Secondly*, given that a DNU is equal to a law passed by Congress, it can be amended or rejected accordingly: proposing and passing a new law. However, the President can entirely veto or partially modify with a line veto any law passed by the Congress. Furthermore, overriding the presidential veto requires a two-thirds majority in the Congress, almost impossible to achieve, given the high fragmentation of the Argentine Congress and the specific legislative coalitional dynamic, as I had shown in the previous section.

Therefore, the institutional veto player configuration allows the President to sustain a DNU in its initial form with the support of only one third of legislators, imposing his policy views under a highly favorable institutional set-up (Negretto, 2004: 552-553). The outcome is that the vast majority of DNU have a very high success rate as shown in Table 9 in Annex 1.

TABLE 9

[18] I acknowledge the useful explanations offered by Delia Ferreira Rubio during my research trip to Argentina in March-May 2007, who eloquently explained that according to Kelsen's law pyramid (1989) the DNU had been equal to a law passed by Congress, on the second place as importance in the body of law, after the Constitution, but existing and being used outside the constitutional system. After the constitutional reform of 1994, the DNU retains its place within the pyramid as equal to a law passed by the Congress, superior to other types of decrees, only this time included in the constitutional system by article 99.3.

[19] There is an ongoing legal-constitutional debate about the status of the DNU in Argentina before 1994 (see Rubio Fereirra and Goretti, 1995, 1998), but the para-constitutional use of this instrument had been made possible by a flexible interpretation of its nature by the Supreme Court of the country.

Previous literature showed that the success rate of the Argentine DNU had been 92%, while the amending rate had been inexistent, if legislative inaction and ratification are counted together as favorable responses to the DNU (Negretto, 2004: 553). The current paper shows a success rate of 99% (see Table 9), close enough to previous empirical findings to indicate a reasonably high degree of reliability of empirical information.

The constitutional reform of 1994 retained the same legal status of the DNU in Article 99.3: it remains a law and it has not been transformed into a special legislative proposal. This constitutes an actual reinforcement of the President's power (Rubio Ferreira and Goretti, 1995: 89) as long as the same legal status of full law is transformed from para-constitutional to constitutional, formalizing the strong presidential agenda setting power.

Most importantly, the 1994 Constitution stipulates that the Congress has to pass a specific law for setting up a bicameral Committee dealing with procedural matters regarding the treatment of DNU. The special Committee has not been set up until 2006, for almost 12 years after the constitutional reform of 1994. Therefore, the rule of tacit approval established by the above mentioned 1990 Peralta decision of the Supreme Court regulated the legal validity of DNU until 2006 (Negretto, 2004: 553).

The use of DNU has increased after the 1994 constitutional reform, as compared to the use of presidential NPL, as shown in Table 10 in Annex 1, confirming the important role of institutional veto powers exclusively in favor of the President.

TABLE 10

An important observations needs clarification: presidential NPL is met with resistance by the fragmented congressional coalitions and its success rate is not as high as previous literature assumed, *but not necessarily because they are rejected*. The Argentine Congress acts more like a "blunt veto-player" [20] than an active one, when it comes to presidential NPL (Jones et. al, 2000: 6): it does not vote against them, but simply drags-on discussions without any final decision until these legislative proposal become "caduco", namely lapse after two years of congressional inaction[21]. The complicated legislative procedure that allows parties to send one piece of legislation from one Chamber to another up to five times (until the reform of 1994) and still up to three times (after the reform of 1994) is a gatekeeping resource that parties do use when delaying the presidential NPL[22].

The Argentine members of the Congress developed a different practice in dealing with the DNU. They issue *Declarations* (an official act of the Congress, but with no legal effect) literally asking the President to reconsider a specific DNU on policy grounds[23]. Only 10

[20] On a continuum of legislative efficiency, a blunt veto-player Congress would rank somewhere between the extreme rubberstamp institution assumed by the democratization literature and the ideal locus of policy design and supervision described by the literature on the US Congress, being a situation in which the Congress *reacts*, rather than *acts*, doing so sporadically and inefficiently.

[21] Law 13.640 on the sanctioning of legislative proposals (http://www1.hcdn.gov.ar/dependencias/camunicipales/archivo/ley13640.html)

[22] http://www1.hcdn.gov.ar/dependencias/dip/congreso/diagrama_del_mecanismo_de_sancio.htm

[23] An example would the the Project of Declaration 3995-D-2001 initiated by a group of deputies from the Opposition parties FREPASO, ARI and Frente para el Cambio. It had been approved in the Chamber on October 24, 2001, asking the

congressional legislative initiatives challenging DNU either with rejection or amending have ended up in congressional debate and decision between 1999 and 2007: 1 had been retracted by the Congress members who initiated it, 1 had been a declaration appealing to the good will of the President to reconsider a DNU, 1 had been rejected by the Congress, 5 passed in one chamber but lapsed in the other becoming *caduco*, and only 2 had passed the congressional debate and succeeded in either rejecting or amending a presidential DNU.

Although President Kirchner issued less DNU than NPL, he ended up ruling unaccountable to Congress not necessarily because his intentions, but because of the institutional veto player structure of accountability excessively in his favor (see Table 11 in Annex 1) which leads to a higher volume of approved DNU compared to the volume of approved NPL (see last column), although the DNU issuing rate is lower (see first column). The fact that President Kirchner issued numerically more DNU than President Menem (Capriata, 2006) becomes entirely irrelevant. The theoretically relevant aspect is the volume of DNU compared to the volume of NPL and, most importantly, their comparative success rate, as shown in Table 11 in Annex 1.

TABLE 11

The Argentine President issues DNU excessively when confronting opposition in a fragmented Congress, as a cost-efficient policy promotion strategy, particularly when the DNU grants the President total institutional veto player power to impose policy without having to negotiate and compromise.

IV.5. ROMANIA: LEGISLATIVE FRAGMENTATION AND HIGH DECREE ISSUING

The Romanian Executive coalitions are built more on the desire to gain access to power than on ideological proximities. The life of an Executive coalition is in reality highly conditioned by the relations among party leaders, by the specific interests of each member of the Executive coalition as well as by its importance in coalition.

Romania had been governed by seven Executive coalitions between 1992 and 2008, all being the outcome of post-electoral negotiations and/or intra-coalition reshuffling. Coalition-building based on ideological proximities is more likely to occur when the center-left is in power, resulting in stable cabinets. The types of coalitions in power in Romania are highly instrumental in establishing causality as far as the issuing of emergency Decrees is concerned (this type of Decree is called in Romania Ordonanta de Urgenta a Guvernului, or OUG from here onwards) in the broader context of legislative politics, as shown in Table 12 in Annex 1[24].

TABLE 12

(Contd.)

President to annul DNU 815/2001 dealing with the reform of the social security system, particularly regarding public transport passes and meal vouchers for employees.

[24] The empirical information for the Romanian study case does not contain information regarding the Executive-initiated NPL for one unit of analysis (Cabinet) between 1992 and 1996. The available empirical information shows only the number of successful Executive initiated NPL, but not the total number of issued NPL. This shortcoming is due to the low institutional capacity of the Romanian Parliament in the early 1990s as well as to the relocation of the institution and its Departments (including the Archive and the Library) to new premises.

There are two important empirical findings in the case of Romania. Firstly, there is no correlation between the NPL success rate (a tentative 93%) and the strikingly large number of OUG (a tentative 48% of all Executive initiated legislation). Secondly, the Vacaroiu Executive stands out among all units of analysis in all three study cases (Italy, Argentina and Romania) as being the only one that issued a very low number of OUG (19) compared to the number of NPL (at least the 369 that had been successful). I will explain each of these findings by exploring the forming and functioning of each Executive coalition.

The Vacaroiu Executive is a center-left minority government (the main party FDSN had 34.3% of legislative seats) with external legislative support from leftist/nationalist parties (PUNR: 8.8%, PRM: 4.7%, PSM: 3.8%, PDAR with only Senate Representation, together totaling 17,3% of legislative seats) (Stefan and Grecu, 2004; Radu, 2000). The very narrow legislative support (51,6%), made the Executive particularly vulnerable to legislative negotiations. This is a Type 3 "balanced" coalition: it has a moderate number of ideologically close partisan veto-player, which is conducive of successful policy negotiations.

Despite the large number of parties accessing the Parliament (13) and the high number of effective parties in the Legislature (5.86)[25] the configuration of power allowed FDSN to form a mostly informal but effective legislative alliance with the "Red" opposition of non-reformist/nationalist parties, which offered external parliamentary support in exchange for policy compromises, joining the Executive only for brief periods of time (Radu, 2000). The "Red" opposition has been significantly more cohesive than the "democratic" opposition, made of three highly fragmented partisan alliances **CDR** (PNTCD: 12%, PNLCD: 0.8%, PAC: 3.8%, PNLAT: 3.2%, PER: 1.1%) **USD** (PD: 12.6%, PSDR: 2.9%) and **UDMR** (alliance of associations representing the Hungarians living in Romania).

FDSN proposed a governing agenda in accordance with its own ideological orientation, but also pleasing its non-reformist legislative partners, which pressured the Executive for policy concessions, but nevertheless supported it (Radu, 2000: 54-55, 65). The very narrow parliamentary support of FDSN/PDSR (51,6%) increased the blackmailing potential of all the parties supporting the Executive. Despite their individually low number of seats, they are all partisan veto-players since the withdrawal of any of them would have taken down the Executive. Only the ideological proximity kept the coalition together. Confronted with an Executive bypassing them, the legislative "Oppositions" (the Red and the Democratic one) could have easily joined forces and throw out an Executive which did not have more than 34.3% of the legislative seats by initiating and supporting a motion of censorship.

The next three Executive coalitions governing Romania between 1996 and 2000 (headed by Prime Ministers Ciorbea, Vasile and Isarescu) had been ideologically heterogeneous. They had been based on the center-right CDR alliance, but brought together parties that were ideologically opposed, with the only purpose of outmaneuvering the PDSR out of power. The actual winner of the November 1996 elections had been the leftist PDSR, with 26,5% of the votes, a modest electoral outcome compared to its 34,5% in 1992. However, the Executive coalition had been decided after political negotiations among all political parties that opposed PDSR, which could not form the coalition itself together with its former allies PUNR and

[25] Calculation using the Laakso & Taagepera (1979) formula on the basis of empirical information from Stefan and Grecu, 2004.

PRM, given their low total of legislative seats of 37,2%

The number of parties accessing the Parliament remained 13, but the number of effective parties has increased to 6.16 (Stefan and Grecu, 2004), indicating a high level of legislative fragmentation. The opposition had been comprised of ideologically closed PDSR, PRM and PUNR (former coalition partners between 1992 and 1996) totaling 37,2% of the seats in Parliament, reverting the power balance between Executive and Parliament, as compared to the Vacaroiu Executive.

The Ciorbea, Vasile and Isarescu Executives have issued a strikingly large number of OUG, compared to the Vacaroiu Executive analyzed earlier, as shown in Table 13 in Annex 1.

TABLE 13

These three Cabinets had been based on Type 1 "weak" coalitions that needed to bargain in order to reach policy decisions given its high fragmentation, but could not conclude negotiations efficiently given its high polarization. The immediate consequence is the issuing of a large number of OUG.

The constant internal bickering among the coalition partners translated into a constant instability, reflected in the number of prime-ministers that headed it between 1996 and 2000: Victor Ciorbea (1996-1998), Radu Vasile (1998-2000) and Mugur Isarescu (2000). The coalition instability is also reflected in the long delays of important Executive initiated legislative proposals (Pavel and Huiu, 2003: 363-364).

In terms of partisan veto players, the actual number is only four, since only four parties have the capacity to lead to Executive downfall by withdrawing their parliamentary support (PNTCD, PNL, UDMR and PD). However, the ideological polarization makes the veto players behave in a different way: instead of making use of their blackmail capacity in order to reach a negotiated policy compromise, the veto players constantly blocked each other and brought the decision making process to a constant stand still.

What is striking in the case of these three Executives is the high success rate of their NPL (see Table 13 in Annex 1), which does not justify the recourse to OUG as a rational policy promotion Executive resource. A first hand content analysis of the NPL indicates they are highly irrelevant policy-wise, therefore non-contentious. Most of the important policy measures are actually promoted by OUG, as I will explain in the section dealing with the institutional partisan veto player structure of accountability.

The only Type 2 "Dictatorial" coalition governing Romania had been the Nastase Executive (2000 – 2004). The Nastase Executive has issued 47% OUG of the total volume of its own legislation, despite the high success rate of its NPL (95%), as shown in Table 14 in Annex 1.

TABLE 14

The explanation is the structure of the Executive, which allows it to avoid negotiation

with any of the two "oppositions" given the comfortable majority based on its own 40% of legislative seats and ideologically disinterested junior partners. The Nastase Cabinet is a center-left government of 52.6% legislative support, but based on strong/dictatorial major coalition partner that can impose its will on the ideologically disinterested junior coalition partners: PSD (40%), PSDR (3.1%), UDMR (7.8%), PUR/PC (1.7%). UDMR is not concerned with economic policy issues as long as its demands for minority rights are satisfied. Furthermore, the smaller PUR/PC and PSDR are effectively annexes of PSD, without whom they would not have accessed Parliament.

The number of effective parties in Parliament decreased significantly (4.08) with the introduction of a higher electoral threshold in 2000[26]. The Executive faced again two oppositions in the Parliament: the xenophobic/extremist **PRM** (24.3% legislative seats) and the "democratic" opposition of **PD** (8.9% of legislative seats), **PNL** (8.7% of legislative sets) and **Minorities** (5.2%). However, it did not need to negotiate with any of them, given its comfortable majority.

The last two Romanian Executives the current paper has focused on are the center-right minority cabinets of Tariceanu I and II, based on an ideologically heterogeneous coalition. They are both Type 1 "weak" coalitions with a high number of veto-players that are ideologically opposed, incapable to conclude policy negotiations. The incapacity of the coalition partners (or the Executive and the Opposition in the case of the Tariceanu II cabinet) to conclude constructive negotiations and reach policy decisions through compromise is reflected in the legislative output of the coalition and the high recourse to OUG as a preferred agenda setting instrument, as well as in the desertion of coalition members leading to the current minority Executive Tariceanu II.

The Tariceanu Executives have issued more OUG than NPL (53% vs. 47%), despite the high success rate of NPL (95% and 94%) as shown in Table 15 in Annex 1. Again, the content of the NPL is highly irrelevant from a policy point of view, just as with the other Executives analyzed earlier.

TABLE 15

Tariceanu I has started as a minority cabinet (46.46% of legislative seats) comprised of ideologically opposed PNL (19.3%), PD (14.46%), UDMR (7%) and PUR/PC (5.7%). The fragmentation and polarization led to coalition breakup and the formation of another minority cabinet, the Tariceanu II Executive. This has even lower legislative support (26.3%), based on an ideologically disinterested alliance of PNL (19.3%) and UDMR (7%), governing in a constant instability since March 2007.

The resilience of minority cabinets Tariceanu I and II in the presence of a numerically stronger opposition (the social democratic PSD with 34% of legislative seats and the extremist/xenophobic PRM with 14.5%) is explained by the post-electoral coalition maneuvering. The 2004 elections had been won the PSD, in an electoral alliance with PUR/PC. The newly elected President of the country running on a PNL-PD ticket had feared cohabitation with a social-democratic PSD Executive, managed to buy-out the versatile

[26] Calculation using the Laasko & Taagepera (1979) formula on the basis of empirical information from Stefan and Grecu (2004).

PUR/PC and convinced the Hungarian minority to accept an Executive with the PNL-PD alliance by offering it more policy concessions and more Executive positions in post-electoral negotiations. The incapacity of PSD itself to form an opposition legislative coalition with the extremist PRM insured the staying in power of Tariceanu I cabinet until its own fragmentation and polarization brought it down in March 2007. Even the Tariceanu II could not be replaced by the Opposition (PSD and the former Executive partners of PD and PUR/PC) because of electoral calculations given the approaching elections in 2008. The Opposition can act as a veto player in relation to a minority Executive, but their ideological distance and the electoral-minded opposition behavior explained above turn the OUG into a preferred policy promotion strategy rather than the negotiation of NPL.

Romania stands out as compared to Italy and Argentina: there is no correlation between the success rate of NPL and the number of OUG. I will explain it in the next section dealing with the legal status of Decrees in the three study cases.

IV.6. ROMANIA: INFORMALLY STRONG EXECUTIVE VETO PLAYER POWER AND LOW ACCOUNTABILITY

The Romanian Constitution of 1991 allowed the Executive to issue OUG in exceptional cases of urgency and necessity (Title III, Chapter 4, Article 114, paragraph 4)[27]. The OUG has legal effect only after being sent to the Parliament for approval, under the status of a special legislative proposal: although it has immediate legal effect under the pretense of emergency, it still has to be approved in Parliament before it formally becomes a law. However, this legal status does not constitute any institutional veto player advantage for Parliament in the absence of any further constraints (such as the rule of tacit rejection in the Italian case) since it does not bear on the actual chances of success of the OUG.

Furthermore, the Constitution does not mention any procedural rules regarding an OUG that stays in the Parliament for years without any decision, remains mute regarding the re-issuing of OUG that had been rejected in the Parliament, it does not mention policy areas that are the reserved domain of the Parliament. The OUG can be issued at will, according to the 1991 Constitution, on any policy issues. It can also be re-issued without any constraints if rejected or heavily amended.

The Romanian Executive enjoys total *informal* agenda setting power through OUG, given the inexistence of precise and firm constitutional regulations on the issuing or treatment of these acts. As a consequence, the OUG is increasingly issued throughout the years, as the Executives had to tackle the increasingly pressing problems of economic and political transition, as shown in Table 16 in Annex 1.

TABLE 16

Firstly, Romania is almost ruled by OUG since 1992 until the present day: 46% of the approved legislation issued by the Executive has been promoted by OUG, while the remaining 54% by NPL. *Secondly*, the increased use of OUG is not correlated to the level of

[27] http://www.cdep.ro/pls/dic/act_show?ida=1&idl=1&tit=3#t3c4s0a114

success rate of Executive-initiated NPL, as in the case of Italy. All Romanian Executives enjoyed high success rate of their NPL, despite the fragmentation and the polarization of the Parliament. This is explained by the policy irrelevant content of the NPL, given that close to 100% of policies are promoted by OUG. *Thirdly* and most importantly, the success rate of OUG is very high, with an average amending rate. This is already indicative of a Parliament that is acquiescent of the Executive practice of governance by OUG, although it could make use of its own institutional resources to hold the Executive accountable.

The constitutional reform of 2003 regulated the OUG more clearly than the Constitution of 1991, without necessarily placing institutional constraints on its use or better regulating its treatment in the Parliament. The OUG becomes full law *by tacit approval* if the Chamber where it had been sent initially does not act on it within 30 days (Chapter IV, Article 115, paragraph 5 of the 2003 Romanian Constitution). This is exactly the opposite regulation compared to the tacit rejection present in the Italian study case. But even this major change is not entirely relevant. It does not regulate what happens to an OUG that had been decided on within 30 days in the Chamber where it had been sent, but drags on for months or years in the second Chamber. There are cases of OUG after the constitutional reform which still take a long time to reach a final decision in the second Chamber, even if the first Chamber decides within the new constitutional deadline of 30 days.

The explanation for this persisting constitutional loophole is the fact that the Romanian political parties had not been concerned with holding the Executive accountable for policy promoted by OUG. Their major concern had been the very large number of OUG without any decision, which stayed in the Parliament for years, sometimes being handed over from one legislative cycle to the next one.

All other 2003 constitutional provisions regarding the OUG hardly constitute an impediment on its issuing or treatment, referring more to questions of political principle than actual legislative practice. It comes to no surprise that the Constitution of 2003 did not produce any major change, except the increased approval rate of OUG, given the new rule of tacit approval.

TABLE 17

The continuation of the institutional and partisan veto-player structures insured the prominence of the OUG as a preferred policy promotion instrument of the Romanian Executive. Table 17 indicates that the issuing rate is almost the same (46% after the reform compared to 49% before), the amending rate stays almost the same (54% after the reform compared to 51% before), while the volume of approved OUG compared to the volume of approved NPL is almost the same (47% OUG vs. 53% NPL before the reform compared to 46% OUG vs. 54% after the reform). The only change is the success rate of OUG, which increases from 83% before the reform to 95% after the reform, because of the strengthened institutional veto player power in favor of the Executive through the introduction of the tacit approval rule (see Table 17).

Furthermore, the Romanian Parliament is characterized by full bicameralism, in which none of the Chambers has prevalence over the other, exhibits a highly complicated legislative procedure leading to legislative deadlock and delay of legislative initiatives (Stefoi-Sava, 1995). The presence of a high number of effective parties in the Parliament, as I had shown earlier, turns the passage of legislation into a prolonged and uncertain process. Hundreds of

pieces of legislation have passed from one Legislature to another after elections, without being decided on for years, regardless of which institution initiated them, the Executive or the Parliament (Pavel and Huiu, 2003).

Confronted with the prospect of endless delays in the Parliament for its NPL, the Romanian Executive prefers to promote legislation by OUG, which at least has immediate legal effect. The OUG follows the same institutional course in the Parliament as the NPL and they might be equally rejected or amended. However, even though the Romanian Executive does not enjoy the veto powers of the Argentine Presidents on any legislation coming out of Legislature, it can still amend any legislation coming out of the Parliament by issuing OUG promoting its own policy views. The outcome is an Executive which usually issues new OUG changing the content of previously issued ones, changing the content of laws passed in the Parliament, or amending the amendments made by the Parliament to a particular OUG. In a disorganized legislative process, the Executive rules *informally* unaccountable to the Parliament in the absence of constitutional provisions regulating how the OUG can be used.

It is entirely up to the Parliament to further reject or change the OUG amending its decisions, but such attempts can be costly and inefficient. It can be costly, since the OUG already generated legal effects and expose the political parties to the difficulties of continuously reversing legislation already in effect for years. It can be inefficient, given that reversing an OUG is done by issuing a legislative proposal which follows the complicated legislative course, in a long drawn process with an uncertain outcome.

Another important aspect that differentiates Romania from Italy requires explanation: if the Romanian Executive enjoys such a high success rate of its normal procedure legislative proposals (which is not always the case in Italy), what explains its alleged need to issue such a high number of OUG? The high success rate of legislative proposals initiated by the Executive through normal procedure shown in Tables 16 and 17 is misleading. Almost all policy relevant legal initiatives had been promoted by OUG. An evaluation of the policy content of OUG and Executive-initiated NPL indicate that close to 100% of the later is concerned with international treaties, membership in international organizations or irrelevant issues of territorial administrative nature, such as renaming municipalities or changing their administrative status from rural to urban.

VI. ACCOUNTABILITY ACROSS COUNTRY CASES: A COMPARATIVE INTERPRETATION OF EMPIRICAL RESEARCH FINDINGS

As shown in Table 18 in Annex 1, the highest level of Executive accountability to the Legislature is found in Italy (only 57% DL are successful, while 77% are amended). The level of Executive accountability is inexistent in Argentina (99% of DNU are successful, while the amending rate is inexistent). The level of Executive accountability is generally low in Romania: the OUG success rate is high (87%), while less than half of OUG are amended (41%).

TABLE 18

The empirical information in Table 18 reveals that the level of Executive accountability in Romania is closer to Argentina than to Italy in terms of Decree success rate (only 12% less successful OUG than the successful DNU in Argentina, compared to 30% more successful OUG than successful DL in Italy). In terms of Decree amending rate, Romania ranks in between Italy and Argentina (41% difference to Argentina compared to 36% difference to Italy).

The high level of Executive accountability to Parliament in Italy is insured by the strong institutional veto player power of the later granted by the clear definition of the rule of tacit rejection and the specific constitutional provisions denying the Executive any veto power on the decision of the Parliament regarding a DL. The strong Parliament institutional veto player power is reflected in the high amending rate and low success rate of the Executive DL, *even when the volume of Decree issuing is increasing over time,* as I have shown earlier. The re-issuing of lapsed DL emerged as surrogate of veto power against the decision of the Parliament throughout the decades, as I have shown earlier. As I have also shown, this peculiar legislative behaviour of the Italian Executive does not insure the success of a DL, given that it cannot influence the decision of the Parliament in any way.

The Argentine President governs completely unaccountable to Congress as far as the legislative treatment (amending and rejection) of the DNU is concerned. This is insured by the strong institutional veto player power of the President granted by the para-constitutional legal status of the DNU of full law and the formally strong presidential veto power on any piece of legislation passed in Congress, including laws initiated by Congress rejecting or amending a presidential DNU. The peculiar legal status of the Argentine DNU constitutes an informal rule of tacit approval. It is informal given the lack of constitutional provisions that would make the congressional decision on a DNU compulsory, while its tacit approval nature rests with the fact that a DNU is considered approved even when not decided on in Congress.

The level of Executive accountability to Legislature is rather low in Romania. It is closer to Argentina than to Italy in terms of success rate and ranks in between the two other country cases in terms of amending rate, as I have already shown earlier. The low level of accountability is not inexistent, as in the case of Argentina. It is rather low because of the peculiar constitutional design which does not regulate the OUG approval and amending procedure or the strength of Executive veto power on the decision of Parliament.

The Romanian Constitution of 1991 does not formally make impossible the amending or rejection of OUG through a strong Executive veto power, but it does not deny the Executive the possibility to use it any way it deems necessary. The informal legislative practice makes possible that an OUG stays undecided in Parliament for long periods of time, while generating legal effects (which constitutes a strong but informal institutional veto power of the Executive) and once rejected or amended the decision of the Parliament can be easily changed through the issuing of another OUG. In the case of Romania, the low Executive accountability to Parliament is not the outcome of formal constitutional provisions, as in the case of Argentina, but arises informally out of legislative practice: the Executive speculates the constitutional ambiguity in its favour.

Significant for the large degree of freedom induced by the constitutional ambiguity, the Romanian Executive issues a substantially larger volume of OUG (48%) than the volume of DNU issued by the Presidents of Argentina since 1983 (23%). Despite the higher volume of

Decree issuing, the level of Executive accountability to the Legislature is higher in Romania than in Argentina (13% of OUG are rejected compared to only 1% rejected DNU in Argentina, while 41% OUG are amended, compared to no DNU amendment at all). Simply formulated, Romania has a larger volume of Executive decrees than Argentina, but exhibits a higher level of Executive accountability, while the level of Executive accountability is inexistent in the case of Argentina, despite the comparatively lower volume of Executive decrees.

The cause of Decree issuing is the same across country cases: the bargaining problems the Executive confronts in the Legislature. The Argentine political party system generates Type 1 "weak" (fragmented congressional coalitions), primarily because of its federal organization with a strong influence of local party leaders on the voting behaviour of legislators. The Italian and Romanian party systems generate either Type 1 "weak" legislative coalitions or Type 2 "dictatorial" legislative coalitions. Type 1 "weak" coalitions issue Decrees to overcome legislative opposition to their NPL, while Type 2 "dictatorial" coalitions issue Decrees because they can promote legislation through any kind of legislative resource and choose the one that is the most cost efficient.

The only Type 3 "balanced" Executive coalition in the paper is the Romanian Vacaroiu Cabinet (1992-1996). It did not issue a large volume of Decrees because its structure made policy negotiation necessary and possible. This coalition type had not been replicated throughout the years, given the fluid nature of the Romanian political party system, as I have shown earlier.

However, the legislative behaviour of partisan coalitions defined in terms of partisan veto players does not explain the *excessive* recourse to Decree, namely the issuing of more Decrees than necessary given the legislative opposition to Executive initiated NPL, as shown in Table 19 in Annex 1.

TABLE 19

Romania stands out when compared to Italy and Argentina: its Executive initiates almost half of its legislation through Decree, at a rate that is more than double than the case of Argentina (48% Decrees in the case of Romania compared to only 23% in the case of Argentina), even when the success rate of its NPL is the highest (94%) compared to Italy (83%) and Argentina (62%).

The strongest negative correlation between the success rate of Executive-initiated NPL and the volume of Decree issuing is found in the case of Italy (-,801), as I have already shown earlier when exploring the causes of Decree issuing in this study case.

However, the cases of Argentina and Romania do not exhibit the same correlation as the Italian study case. The negative correlation is inexistent in Argentina for the whole period under observation (1983 – 2006), despite the significantly lower NPL approval rate (62%) compared to Italy (83% successful NPL) and Romania (94% successful NPL). The correlation between the NPL success rate and the volume of Decrees in Argentina increases to (-,232) after the elimination of the deviant units of analysis, as I have shown earlier. This degree of correlation does not indicate a strong causal relation.

The case of Romania presents no correlation at all between the success rate of Executive-initiated NPL and the tendency to issue Decrees. The Romanian Executives issue almost half of their legislative production through Decrees, despite the fact that the success rate of Executive-initiated NPL is 94%. The literature on democratic transition and consolidation reviewed earlier, particularly the strand placing explanatory power on political culture (O'Donnell, 1994, 1996, 1999, 2003), would conclude that Romania comes closest to the "delegative" democracy model, since its Executive prefers to govern by Decree so extensively, even when the success rate of its NPL is 94%.

As I have already showed earlier, the Argentine and Romanian Executives do confront bargaining problems in the Legislature. However, the same Executives do issue *more Decrees than made necessary* by the legislative opposition to their NPL. As I have already shown for Argentina and Romania, the legal status of the Executive decree (particularly the differences between the constitutional definition of the Decree and the constitutional definition of the NPL that grant institutional veto player power to the Executive) can explain the *excessive* recourse to the Executive decree, namely the issuing of a volume of Decrees that is *larger than what is required by the legislative opposition to Executive-initiated NPL* (not the issuing as such). When the legal definition of the Decree allows the Executive to prevail over the Legislature *formally or informally*, then the Executive will issue more Decrees than required by the legislative opposition to its NPL.

It becomes clear that the Decree power will be abused if the Executive enjoys stronger institutional veto player powers when using this legislative resource compared to the institutional veto player power that it enjoys when promoting its policy views by NPL. The stronger the institutional veto player power of the Executive when using the Decree, the more likely the abuse of this potentially powerful resource through excessive issuing.

At this point of the argument another comparison becomes more relevant. I will next compare the ratio issued Decrees/issued NPL to the ratio approved Decrees/approved NPL, namely the ratio between the approved Decrees and the approved NPL. The first ratio reveals the intentions of the Executive to undermine the Legislature, while the second ratio reveals the willingness of the Legislature in each of the three country cases to comply with the intentions of the Executive, as shown in Table 20 in Annex 1.

TABLE 20

In the case of Italy, the strong institutional veto player power in favor of the Parliament leads to a situation where the intensions of the Executive to bypass the Parliament (18% issued DL/82% issued NPL) are curtailed through a reduced volume of approved DL in the body of total Executive initiated legislation (13% approved DL/87% approved NPL). In a hypothetical scenario, if the Italian Executive would aim to rule Italy mainly by Decree, the institutional veto player structure of accountability in favor of the Parliament would constrain the "dictatorial" intentions of the Executive and would automatically diminish the volume of Decrees in the body of approved Executive initiated legislation.

In the case of Argentina, the institutional veto player power exclusively in favor of the President distort the intentions of the later, as indicated by the difference between the 23% volume of Decree issuing and 33% volume of approved Decrees in the body of total approved President initiated legislation. Argentina ends up with a higher volume of legislation

promoted through Decrees than initially intended by the President himself/herself. The institutional veto player structure of Argentina makes the presidential legislative behavior more "dictatorial" than it actually is by automatically increasing the volume of DNU in the body of approved presidential initiated legislation.

In the case of Romania, the acquiescence of the Parliament to the will of the Executive when promoting legislation through Decree is reflected in the almost equal ratio of issued DL/NPL (48%/52%) compared to the ratio approved DL/approved NPL (46%/54%).

From the perspective of this theoretically relevant comparison, the Romanian political parties organize the Legislature-Executive arena by allowing the Executive to promote policy by Decrees extensively, as long as the Parliament has the institutional possibility to reject or amend them. The Romanian Parliament rejects and amends the OUG (although not as extensively as the Italian Parliament), unlike the Argentine Congress, which is incapable to reject or amend presidential policy promoted by DNU.

The empirical findings shown in Table 20 indicate that a country may end up being ruled by Decree if the institutional veto player structure excessively increases the success prospects of this Executive resource to the extent that it distorts the intentions of the later.

VII. CONCLUSION

The current paper offered an alternative explanation to the assumption that new democracies are ruled by Executive decree as outcome of a specific "dictatorial" culture which perpetuates after the collapse of their authoritarian regime (O'Donnell, 1994, 1996, 1999). The disciplined comparison of three study cases with three different political systems and radically different experiences with democracy revealed the role of institutional and partisan structures in generating a peculiar style of governance and their capacity to keep it under control.

The current paper has attempted to improve the findings of previous literature focusing on emergency Executive decrees from the perspective of democratic consolidation. I have offered a better conceptualization of accountability, I have attempted to explain causality through a better categorization of legislative coalitions according to their structure and bargaining problems they generate, I have measured the level of Executive accountability to the Legislature in all three country cases.

Inspired by the important issues raised by the literature on democratic transition and consolidation regarding the large number of these acts (O'Donnell, 1994, 1996, 1999), the paper has focused on the role of institutions and party systems in generating this peculiar governance practice (Carey and Shugart, 1998; Mainwaring, 1990, 1991, 1992-1993; Jones, 1997; Mainwaring and Shugart, 1997). This literature is pivotal in understanding causality: Executives use emergency Decrees when confronting legislative opposition to their legislative proposals through normal procedure (NPL). The more fragmented and polarized the legislative coalitions supporting the Executive, the lower their capacity to agree on NPL, making the recourse to Decree necessary to overcome legislative deadlock.

I have also interpreted the Executive decrees as bargaining resources and I have argued for the necessity to compare the volume of Decree issuing to the volume of other bargaining

resources (such as NPL), in order to establish empirical correlations between the success rate of NPL and the issuing of Decrees. Such correlations can only be established by relating the volume of Decrees to the volume of NPL. It is assumed that the lower the success rate of Executive-initiated NPL, the higher the volume of Decrees. The simple number of Decrees does not allow for this theoretically relevant correlation. None of the previous literature attempted to test empirically this causally relevant correlation using as indicators the volumes of Decrees and NPL.

I have offered a better categorization of legislative coalitions supporting the Executive according to their level of fragmentation and polarization by bringing in insights from the literature on how partisan veto players interact with each other in determining how policy decisions are made (Tsebelis, 1995, 2000, 2002). I have argued that the bargaining strategies of the Executive and the capacity of the Executive decree to solve them arise equally in coalitions with fragmented and polarized veto players and coalitions with one "dictatorial" partner which can impose its policy views on the numerically unimportant junior partners (Peleg, 1981).

The definition of legislative coalitions in terms of partisan veto players captures and explains the bargaining problems confronted by the Executive and the role of Executive decree as a specific bargaining solution across political systems. However, none of the previous literature defined a third type of legislative coalitions, which does not issue a large number of emergency Decrees. The definition of Type 3 "balanced" legislative coalitions represents a specific contribution of the current paper to the existing literature. The structure and functioning of this type of coalition can be deducted logically from the comparison of Type 1 "weak" and Type 2 "dictatorial" coalitions. If the first is not capable to conclude negotiations and reach policy decisions given its structure, while the second does need to negotiate given the capacity of the senior partner to impose its policy views, what is the type of coalition that can successfully conclude negotiations, while none of its partners is capable to impose its policy views upon the others? The immediate answer is a coalition type in which the senior partner is dependent on the support of the junior partners, a coalition type in which the senior partner is not strong enough to impose its policy view upon the junior partners, while it is ideologically close enough to them to successfully conclude policy negotiations.

Type 3 "balanced" legislative coalitions supporting the Executive reflect the essence of democratic policy making: policy negotiation, accommodation and compromise, which in turn represent the guarantee of a high level of policy inclusion of societal interests represented by the coalition supporting the Executive. The very structure of this type of legislative coalition constrains the Executive behaviour by conditioning its support on the policy measures that are closest to the interests of all coalition partners and the appropriate bargaining resources used to promote policy. The Decree as a formal constitutional resource is still available to the Executive, but the recourse to its use would immediately lead to legislative opposition. In parliamentary democracies, where the Cabinet can be easily removed by the legislative coalition it is a part of, Type 3 "balanced" legislative coalitions would lead to Executive downfall if the later would use Decrees rather than NPL, as shown the country chapter focusing on Romania, particularly on the Vacaroiu Cabinet (1992 – 1996).

Type 3 "balanced" legislative coalitions have a diminished leverage on the Executive in presidential systems, where the presidential tenure in power cannot be ended before elections,

given the popular vote directly electing the Executive. The capacity of legislative coalitions to force the President to negotiate policy in the absence of the treat of office removal is determined by the relations between the President and the congressional majority, as well as by the constitutional resources that the legislative coalitions can use when dealing with this powerful bargaining resource of the Executive, as shown in the country case of Argentina.

Another contribution of the current paper to the research on the topic is the actual measure of the level of Executive accountability function of success and amending rates of emergency Executive decrees in Legislature. Exploring the capacity of Legislatures to reject or at least amend the Executive decrees can be more instrumental in establishing if the former are indeed rubberstamp institutions. Such exploration provides a more solid basis for theoretical claims regarding the capacity of Legislatures to hold the Executive accountable. I have compared the legal/constitutional definition of the emergency Decree to the legal/constitutional definition of the Executive-initiated NPL according to the literature on institutional veto players (Tsebelis, 1995, 2000, 2002). Defining the two legislative resources of the Executive according to their respective veto player power is instrumental in understanding the preference of the Executive for emergency Decrees.

The institutional veto player power of the Executive when using the emergency Decrees also explains *the excessive issuing* of these acts, namely the issuing of a higher volume of Decrees than made necessary by the legislative opposition to the Executive initiated NPL. An Executive based on Type 1 "weak" coalitions will issue only as many Decrees as necessary, if the level of institutional veto player power offered by the Decree constitutional definition is low. This is the case of Italian Executives supported by Type 1 "weak" legislative coalitions.

However, Executives supported by the same Type 1 "weak" legislative coalitions will issues Decrees *excessively* if the constitutional definition of the Decree grants them strong (*formal or informal)* institutional veto player power. The higher the institutional veto player power of the Executive when using Decrees, the more excessive the volume of Decree issuing. This is the case of Argentine Presidents who confront Type 1 "weak" congressional coalitions making the passage of NPL difficult and uncertain. It is also the case of Romanian Executives supported by Type 1 "weak" legislative coalitions, as I have explained extensively in the country case chapter and the chapter comparing across country cases.

Executives supported by Type 2 "dictatorial" coalitions will issue a higher volume of Decrees than made necessary by the legislative opposition to their NPL, regardless how strong their institutional veto player power is according to the constitutional definition of the Decree. These Executives issue Decrees rather than NPL simply because their structure insures the passage of policy using any type of legislative resource. It is important to notice that this is the case of the Nastase Cabinet in Romania and all the Berlusconi Cabinets in Italy, despite the radically different institutional veto player power of the Executive in the two countries (informally strong in the case of Romania, formally weak in the case of Italy).

Executives supported by Type 3 "balanced" coalitions will not issue Decrees regardless of how strong their institutional veto player power is when using this resource, *as long as the legislative coalitions can remove the Executive from power*, if the Legislature is bypassed through the use of Decrees. This is the case of the Vacaroiu Cabinet in Romania (1992-1996), as I have extensively explained in the country case chapter.

The current paper leaves unanswered a few questions that can be addressed by future research work on the topic. How does the typology of coalitions function in presidential systems and in parliamentary systems with minority Cabinets? The legislative coalitions have no capacity to remove the President from power in presidential systems, whereas minority Cabinets in parliamentary or semi-parliamentary systems should be constrained by their low number of legislative seats to negotiate with the Opposition and promote legislation exclusively by NPL as long as they could be removed from power at any moment when bypassing the Legislature. Do partisan veto players interact differently in presidential systems than in parliamentary systems, or in the case of Cabinets which do not have more than 50% legislative support? What is their effect on the tendency of the Executive to issue Decrees, either excessively or proportionately to the legislative opposition to the NPL?

The empirical information the current paper is based on presents some shortcomings preventing an accurate evaluation of how Presidents solve their bargaining problems when confronted with Type 3 "balanced" coalitions or when benefiting from the unconditional support of Type 2 "dictatorial" coalitions. The Argentine party system leads to the formation of only one type of legislative coalition, namely Type 1 "weak", preventing a comparison to Type 2 "dictatorial" or Type 3 "balanced" coalitions within the same political system. Furthermore, the level of institutional veto player power can be different across different presidential regimes when using the emergency Executive decree.

Therefore, the findings of the current paper do not warrant stronger claims regarding the interaction between congressional coalitions and Presidents function of issuing of Decrees across presidential systems *in general*. Nevertheless, the exploration of the Argentine study case revealed the importance of institutional veto player power in determining the excessive issuing of Decrees and the incapacity of the Congress to hold the President accountable by rejecting or at least amending these powerful legislative bargaining resources. Presidents who enjoy total institutional veto player power through Decree will make use of this powerful resource excessively, namely more than made necessary by the legislative opposition to presidential NPL.

The findings of the current paper can be further improved by bringing into analysis various presidential systems, where the Presidents confront different types of congressional coalitions (depending on the partisan systems present in different presidential systems), while possessing different levels of institutional veto player power when using the Decrees of urgency and necessity (depending on the constitutional definition of the legal status and conditions of treatment of this legislative bargaining resource in different presidential systems).

The second issue that remains only partly explained by the coalition typology put forth in the current paper is that of minority Cabinets in political systems where the Executive mandate is entirely dependent on legislative support. According to the coalition typology defined earlier, the minority Cabinets should promote most of their policy initiatives through NPL rather than Decrees, given their low number of legislative seats and the need to negotiate policy with the Opposition. However, the theoretical expectation is contradicted by empirical information, as the units of analysis Tariceanu I and Tariceanu II indicate in the country case of Romania.

These two minority Cabinets issued more than half of their legislative production through Decree, given the incapacity and unwillingness of the legislative Opposition to remove them from power, as I have extensively explained in the country case chapter. The Tariceanu I Cabinet could not be removed from power given the impossibility of legislative collaboration between the social democratic PSD and the extremist party PRM. The Tariceanu II Cabinet had not been removed from power before elections, even after some parties deserted the coalition supporting the Executive, given the electoral calculations of all political parties in Parliament.

The same situation is found in Italy between 1947 ad 1993, when minority Cabinets had been put in place immediately after elections in order to govern the country while the political parties negotiated the coalition formula that would offer legislative support to the Executive. The Italian minority Cabinets governed sometimes for months if the political parties encountered difficulty in reaching a consensus regarding the composition of the legislative coalition to support the Executive. The protracted negotiations had been impossible to conclude at times, given the nature of the Italian party system. This situation has been recurrent throughout the decades, leading to so-called "crisi al buio", literally meaning crisis in darkness, when minority Cabinets were not removed from power out of political calculations (Cotta and Verzichelli, 1996).

The tentative conclusion regarding the issuing of Decrees in the case of minority Cabinets is that the coalition typology offered earlier does not explain the necessity to issue Decrees either through a high level of fragmentation and polarization or through a "dictatorial" capacity to pass policy through the Legislature using any type of legislative resource. When focusing on minority Cabinets, the relations among legislative Opposition parties have to be accounted for, particularly how political and electoral calculations shape their legislative behaviour and the subsequent relation to the Executive. The current paper can be further improved by focusing on a larger sample of units of analysis (Executives) which have a minority legislative support.

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ANNEX 1: TABLES

TABLE 1: chain of delegation of power from Principals to Agents (from Lupia, 2003: 34)

Principal	Agent
Voter	A member of Parliament and/or a party (depending on the ballot list system)
Members of Parliament Parties	Government
Government	Cabinet Ministers
Cabinet Ministers	Civil Service
Civil Service directors	Civil Service employees

TABLE 2: DL and NPL in Italy since 1948 according to coalitional cycles.

Coalitional phases	DL presented	NPL presented	Success NPL
Centrism	3%	97%	90%
Center-left	7%	93%	86%
Solidarity	19%	81%	77%
Pentapartito	30%	70%	69%
Transition	75%	25%	58%
New system	29%	71%	84%
TOTAL ITALY	18%	82%	83%

TABLE 3: DL and NPL during the Transition period (1993-1996)

Executives	DL	NPL	NPL success rate
Ciampi	85%	15%	31%
Berlusconi I	53%	47%	76%
Dini	83%	17%	47%
Total	75%	25%	58%

TABLE 4: DL and NPL during the new political system (1996-2006)

Italian cabinets 1996-2006	DL presented	NPL	NPL success rate
Prodi I before constitutional reform	60%	40%	76%
Prodi I after constitutional reform	14%	86%	83%
D'Alema I	26%	74%	71%
D'Alema II	31%	69%	55%
Amato II	47%	53%	38%
Berlusconi II	37%	63%	97%
Berlusconi III	56%	44%	97%
Total new system	32%	68%	81%
Total without Prodi I before decision	29%	83%	88%

TABLE 5: DL and NPL success and amending rates in Italy between 1948 and 2006

Coalitional phase	I. DL issued	II. DL. success	III. DL amend.	IV. NPL issued	V. NPL success
Centrism 1948-1960	**3%** (105)	**97%** (102)	**53%** (54)	**97%** (4292)	**90%** (3894)
Center-left 1960-1975	**7%** (310)	**92%** (286)	**60%** (172)	**93%** (4310)	**86%** (3744)
Solidarity 1976-1979	**19%** (185)	**72%** (134)	**73%** (98)	**81%** (831)	**77%** (644)
Pentapartito1980-1992	**30%** (1068)	**52%** (564)	**82%** (468)	**70%** (2573)	**69%** (1786)
Transition 1993-1996	**75%** (810)	**28%** (231)	**78%** (180)	**25%** (273)	**58%** (161)
New system1996-2006	**29%** (401)	**83%** (333)	**88%** (296)	**71%** (999)	**84%** (839)
Total 1948-2006	**18%** (2879)	**57%** (1650)	**77%** (1268)	**82%** (13278)	**83%** (11068)

TABLE 6: DL and NPL success and amending rates for Transition phase (1993-1996)

Coalitional phase	I.DL issued	II.DL. success	III.DL amend.	IV.NPL issued	V.NPL success
Transition 1993-1996	**75%** (810)	**28%** (231)	**78%** (180)	**25%** (273)	**58%** (161)

TABLE 7: DNU and NPL for President Menem under a highly favorable Congress:

Legislative periods	DNU presented	NPL presented	NPL approved
Per. 113: Menem 01/03/1995 - 28/02/1996	7.5%	92.5%	68%
Per. 114: Menem 01/03/1996 - 28/02/1997	8.5%	91.5%	64%
Per. 115: Menem 01/03/1997 - 28/02/1998	12.4%	87.6%	51%

TABLE 8: DNU and NPL in Argentina 1983-2006.

Presidency	NPL presented	NPL approved
Raúl Alfonsín	98%	68%
Carlos Menem	82%	59%
Fernando De la Rúa	76%	69%
Adolfo Saá	40%	0%
Eduardo Duhalde	46%	57%
Néstor Kirchner	54%	57%
TOTAL	77%	62%

TABLE 9: Success rate of DNU in Argentina between 1983 and 2006.

Presidency 1983 -2006	Success rate of DNU
Alfonsin	100 %
Menem	99 %
De la Rua	94 %
Saá	100 %
Duhalde	99 %
Kirchner	100 %
TOTAL	99 %

TABLE 10: Ratio DNU/NPL in Argentina before and after the constitutional reform of 1994.

	DNU	NPL	NPL success
Before 1994	13%	87%	64%
After 1994	30%	70%	60%
Total 1983-2006	23%	77%	62%

TABLE 11: DNU success and amending rate for President Kirchner:

Legislative periods	DNU presented	Success DNU	DNU amending	NPL presented	Success NPL	Success NPL/DNU
Per. 121 25/05/2003 – 28/02/2004	48%	100%	0%	52%	77%	DNU: 55% NPL: 45%
Per. 122 01/03/2004 – 28/02/2005	49%	100%	0%	51%	62%	DNU: 61% NPL: 39%
Per. 123 01/03/2005 – 28/02/2006	49%	100%	0%	51%	47%	DNU: 67% NPL: 33%
Per. 124 01/03/2006 – 28/02/2007	37.5%	100%	0%	62.5%	43%	DNU: 58% NPL: 42%

TABLE 12: OUG and NPL in Romania since 1992.

Executive coalition	OUG presented	NPL presented	NPL success
VACAROIU	19 (5% aprox.)	Not available	369 (95% aprox.)
CIORBEA	39%	61%	91%
VASILE	58%	42%	77%
ISARESCU	78%	22%	91%
NASTASE	47%	53%	95%
TARICEANU I	51%	49%	95%
TARICEANU II	57%	43%	94%
TOTAL	48% (aprox.)	52% (aprox.)	93% (aprox.)

TABLE 13: coalitional dynamic and legislative output for the reformist coalitions of 1996-2000.

CABINET	OUG presented	NPL presented	NPL succes
CIORBEA	39%	61%	91%
VASILE	58%	42%	77%
ISARESCU	78%	22%	91%

TABLE 14: OUG and NPL in a "Dictatorial" type coalition (Nastase, 2000 – 2004)

Cabinet	OUG presented	NPL presented	NPL success
NASTASE	47%	53%	95%

TABLE 15: the legislative output and the recourse to OUG of the Romanian Executives, 2004 - 2007.

Coalition	OUG presented	NPL presented	NPL success
TARICEANU I	51%	49%	95%
TARICEANU II	57%	43%	94%

TABLE 16: the success and amending rate OUG in Romania since 1992.

Coalition	OUG	OUG success	OUG amend.	NPL presented	NPL success	Successful OUG/NPL
VACAROIU	19	100%	32%	missing info	369	OUG: 5 % NPL: 95%
CIORBEA	39%	82%	55%	61%	91%	OUG: 37% NPL: 63%
VASILE	58%	78%	27%	42%	77%	OUG: 59% NPL: 41%
ISARESCU	78%	73%	28%	22%	91%	OUG: 74% NPL: 26%
NASTASE	47%	92%	44%	53%	95%	OUG: 46% NPL: 54%
TARICEANU I	51%	93%	53%	49%	95%	OUG: 51% NPL: 49%
TARICEANU II	57%	99%	10%	43%	94%	OUG: 58% NPL: 42%
TOTAL	46%	87%	41%	54%	1893	OUG: 46% NPL: 54%

TABLE 17: OUG issuing and treatment before and after the 2003 constitutional reform.

	OUG issued	Success rate of OUG	Amend. rate of OUG	NPL issued	Success NPL	Successful OUG/NPL
Before reform	49%	83%	40%	51%	93%	OUG: 47% NPL: 53%
After reform	46%	95%	42%	54%	95%	OUG: 46% NPL: 54%

TABLE 18: Cross-country Executive accountability function of Decree success and amending rates.

Country cases	I. Decrees issued	II. Decrees success rate	III. Decrees amending rate
Italy 1947-2006 (High accountability)	2879 DL	57% (1650)	77% (1268)
Argentina 1983 – 2006 (Inexistent accountability)	699 DNU	99% (693)	0% (0)
Romania 1992 – 2007 (Low accountability)	1874 OUG (aprox.)	87% (1636)	41% (663)

TABLE 19: Volume of Decrees and NPL according to the success rate of NPL across country cases.

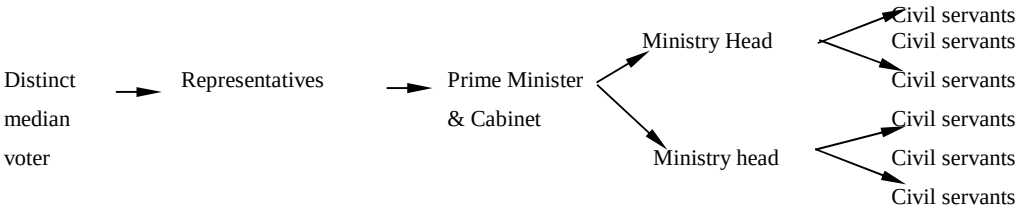
Country cases	I. Decrees issued	II.NPL issued	III.NPL success rate
Italy 1947 – 2006	**18%** (2,879)	**82%** (13,278)	**83%** (11,068)
Argentina 1983 - 2006	**23%** (699)	**77%** (2,331)	**62%** (1,435)
Romania 1992 – 2007	**48%** (1,874)	**52%** (2,023) (aprox.)	**94%** (1,893)

TABLE 20: Level of legislative acquiescence to the governance through emergency Decree.

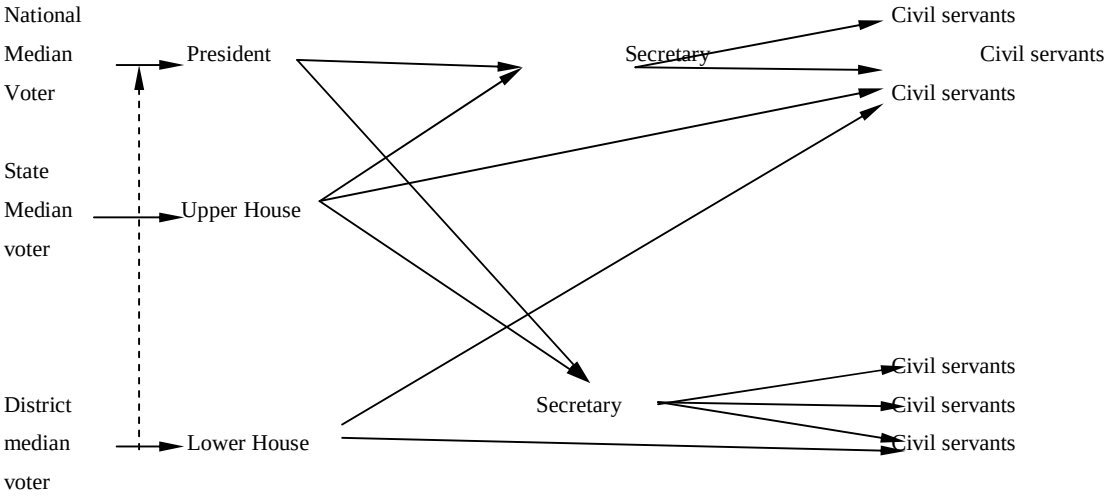
Country cases	I. DL issued NPL issued	II. Approved DL Approved NPL
Italy (1947 – 2006)	**DL: 18%** (2879) NPL: 82% (13278)	**DL: 13%** (1650) NPL: 87% (11068)
Argentina (1983 – 2006)	**DNU: 23%** (699) NPL: 77% (2331)	**DNU:33%** (693) NPL: 67% (1435)
Romania (1992 – 2007)	**OUG**: **48%** (1874) NPL: 52% (2023)	**OUG**: **46%** (1636) NPL: 54% (1893)

ANNEX 2: GRAPHS

GRAPH 1: Delegation and accountability under Parliamentary and Presidential Government: a) single-chain delegation model of a parliamentary system (based on Strøm, Mueller and Bergman, 2003).



b) multiple-chain delegation model of a US style presidential system:



Graph 2: negative linear regression